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Revenue Committee
March 03, 2011

[LB428 LB439 LB441 LR9CA]

The Committee on Revenue met at 1:30 p.m. on Thursday, March 3, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR9CA, LB428, LB439, and LB441. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Greg Adams; Deb Fischer; Galen Hadley; LeRoy Louden; Dave Pankonin; and Pete Pirsch. Senators absent: None.

SENATOR CORNETT: Good afternoon. I'm Senator Abbie Cornett from Bellevue. To my left is Vice Chair Dennis Utter from Hastings; Senator Deb Fischer from Valentine; to her left will be Senator Greg Adams from York. To my far right, Senator Dave Pankonin will be joining us. He is here as we speak.

SENATOR PANKONIN: From Louisville.

SENATOR CORNETT: Louisville. What did I say?

SENATOR PANKONIN: You always say "Louieville" and that's wrong.

SENATOR CORNETT: Louisville. (Laughter) Sorry. Senator Pirsch from Omaha will be joining us; Senator Louden from Ellsworth; Senator Hadley from Kearney. Research analysts today are Steve Moore to my right and Bill Lock might be joining us in a little bit. Matt Rathje to my far left is committee clerk. Pages are Marilyn Buresh and Amara Meyer. Before we begin the hearings today, I'd please ask everyone to turn your cell phones to either the off or vibrate position. Sign-in sheets for testifiers need to be...are on the tables by both back doors and need to be completed prior to testifying. If you are testifying on more than one bill, a sheet needs to be completed for each bill. Please print and complete the form prior to coming up to testify. And when you do come up, hand it to the committee clerk. There are also clipboards at the back of the room to sign in if you do not wish to testify but wish to indicate either your support or opposition to a bill. These will be included in the official record. We will follow the agenda posted on the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed closing remarks. As you begin your testimony, please state and spell you name for the record. If you have handouts, please bring ten copies of them, hand them to the committee clerk. If you do not have ten copies, we will make copies for you and hand those to the pages. We will begin the committee hearing today. Senator Schilz, you're recognized on LR9CA.

SENATOR SCHILZ: Thank you, Senator Cornett and members of the Revenue Committee. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I represent Legislative District 47. I bring LR9CA to you today in response to the trends that are occurring in Nebraska's agricultural land valuations. LR9CA is a constitutional amendment that

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would allow agricultural and horticultural land to be split into separate and distinct classes of property for purposes of taxation and to provide for different percentages of taxation within those subclasses. This is a response to the interim studies that we attended, all of you...most of you attended in Scottsbluff and Hyannis from last year I believe. And what...you know, part of what we're looking at here is trying to take into account some of the productivity of the land and try to find some ways to if not completely move in that direction, to at least recognize that there are different levels of productivity and that that can make a huge difference on how we tax that and how we should tax it going forward. So the other thing is that I think that it makes sense every once in a while to explore these types of issues, especially in the light of what we see. This...as you know, it won't necessarily do anything in and of itself but it would provide the way in the future to pass legislation to change those percentages. And with that, I would be happy to answer any questions. [LR9CA]

SENATOR CORNETT: Questions from the committee? Senator Adams. [LR9CA]

SENATOR ADAMS: Thank you, Senator Schilz. I'm going to ask a question that probably had I done my homework I wouldn't have to ask. But how do we impact greenbelt with this or do we? [LR9CA]

SENATOR SCHILZ: You know, I have to be honest with you and tell you that I'm not sure how that will affect it. And, you know, one of the things that I would ask is that...when this is all done and over with that we go ahead and hold this bill so that we can have those types of discussions to figure out what...how those...and how you want to approach those situations. [LR9CA]

SENATOR ADAMS: Okay. Thank you. [LR9CA]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LR9CA]

SENATOR SCHILZ: Thanks. [LR9CA]

SENATOR CORNETT: First proponent. [LR9CA]

JAY REMPE: Senator Cornett and members of the committee, my name is Jay Rempe, J-a-y R-e-m-p-e. I am vice president of governmental relations for Nebraska Farm Bureau here today on behalf of Nebraska Farm Bureau, and I'm also sitting in, representing the Nebraska Cattlemen, too, because they got delayed in a meeting and couldn't be here. So if I say something that sounds good, it's Farm Bureau; if I say something you don't like, it's Cattlemen, so. (Laughter) Right now our present constitution, as you know, ag land can be treated differently from other property sectors as long as the valuations, then taxes levied are uniform and proportionate within the value of ag land or within the class of ag. What LR9CA attempts to do is separate that

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out and say, we can treat ag...classes of ag land differently within agriculture as long as those classes are treated uniform and proportionately with each other or within the class. So it kind of goes a little further than what our present constitution language does. And part of the genesis of this idea that Senator Schilz has come last summer after we received many, many calls from folks upset over their increases in valuations. And a lot of those calls came from folks out in the pasture part of our state or pasture country of our state. After visiting with Senator Schilz and Senator Fischer and some other interested senators, we approached Dr. Johnson at the University of Nebraska about doing a study looking at an income capitalization approach to valuing ag land. And one of the things that came out of that study was when you look at returns on grassland...I think Dr. Johnson is going to come up here in a little bit and give you a little more in detail on the study, but one of the things that came out of that when you look at returns on pasture ground as a percent of assessed value of ag land, they lag considerably behind cropland and irrigated ground. So on the basis of an income approach then, the assessed values for grassland were significantly higher than what they would...you'd think they should be based on an income approach. And, in fact, if you use the same rates of return on grassland to value grassland as you would for irrigated or dryland, you'd see a drop in pasture ground values of almost 50 percent. So that's kind of the idea and we started looking at, okay, how can we address that situation. One of the ideas was, well, we have all ag land valued at 75 percent. Maybe we could drop pasture ground down somewhat below that to get more to what the income approach would suggest, but you can't do that because of our constitution. So what this does is it would go to the vote of the people, say hey, we want to continue our uniform proportionate clause in there but we just want to apply it within a class of ag land, not all of ag land together so you could treat pasture ground differently from irrigated or dryland is what we read it attempting to do. So with that, I would be happy to answer any questions and go from there. [LR9CA]

SENATOR CORNETT: Questions? Seeing none, thank you. [LR9CA]

JAY REMPE: Um-hum. [LR9CA]

SENATOR CORNETT: Next proponent. We'll move to opposition testimony. First opponent. Neutral. [LR9CA]

MARILYN HLADKY: (Exhibit 1) Good afternoon, Senator Cornett, members of the Revenue Committee. Thank you for allowing me to be here today. My name is Marilyn Hladky, M-a-r-i-l-y-n H-l-a-d-k-y. I'm the Seward County Assessor and I'm here today speaking neutral on behalf of the Nebraska Association of County Assessors on this constitutional amendment. What's being passed out for you are some listing of some concerns, issues, and questions that we would have as assessors if this were to be implemented. And I'll kind of go down to them. I guess one of our main questions would be, how would this be administered? Most parcels of agricultural land are mixed uses

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and have some of each type of whatever subclasses that are being used to differentiate agricultural land. How would assessors determine ag land values when the sales have those mixed uses? I mean, there's very few properties, parcels of land that are 100 percent grass, 100 percent irrigated. Yes, we do have them but the mixed uses far exceed, you know, a piece of property that has one total use to the property. And then if those seller not to determine what our ratio should be would be another question. How would the Property Assessment Division analyze the assessors on their values under these circumstances to show that we were compliant with the statutory levels of value? Could the Property Tax Administrator even be able to certify our levels of value? And what does this do to the tax burden within the counties and school districts? Obviously, the subclass that is valued lower would have a lower burden than the subclass that is valued higher because the same levy rate would be applied to both. Effectively, the dryland property owners, let's say at 60 percent, is carrying more of a load than the grassland property owner at 40 percent. Depending on the composition of the county, you could have some real serious budget and levy issues as a result. You would also have winners and losers across county lines. A school district in a county that is predominantly grassland, using this example, may be okay, but a school...a county that's primarily grass might be in a lot of trouble. Theoretically, the Legislature can make every soil a subclass under this resolution and decide who are going to be the winners and losers in this tax...that this tax shift will cause. There's already currently in statute 77-103.01 and 77-1363, and I've attached copies, that we are already doing subclasses. Assessors are already recognizing subclasses by the valuations we put on them. For example, my Seward County, I just sent my values. My top irrigated over my aquifer in my one market area is at \$3,500 per acre. My top dryland soils in that same area are at \$2,675. And my pasture is at \$700. We also recognize areas that have potential for water and some that don't, and we create market areas for this and other purposes. And like I just stated, we always set...also set different values for the different types of uses of land. How would protests be affected in further appeals? If a property owner appeals his value on, lets say only the 20 acres of grass on his 80-acre mixed-use parcel, how would that be handled? Currently, protests are on the property's total value. Would the other uses be adjusted accordingly if that protestor succeeded in his appeal? Again, we could have some additional computer programming costs associated with implementing this change. And I guess finally I'd ask if...does this proposed amendment meet Nebraska's Constitution, Article VIII, Section 1 for the uniform and proportionate use within the class of property? Thank you for your time and consideration. And if you had any questions, I'd be happy to try to answer them. [LR9CA]

SENATOR CORNETT: Questions? Senator Adams. [LR9CA]

SENATOR ADAMS: Marilyn, thank you for being here. And we've talked many times about greenbelt and I know you're more of an expert on it. Could you respond to that question that I asked of Senator Schilz? [LR9CA]

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MARILYN HLADKY: How this would affect greenbelt? [LR9CA]

SENATOR ADAMS: Um-hum. [LR9CA]

MARILYN HLADKY: My county, Seward County is a little bit different than let's say Lancaster, Douglas, Sarpy, maybe Washington, the counties. I'm only considered partially greenbelt. I have about the six miles in from Lancaster County that's my greenbelt area, and then I have another market area that's directly to the west of that that I call an agricultural area. And I do my analysis on that market area for the ag land that sells for ag land purposes. So whatever I set for those ag land values in that market area, if the parcels in the greenbelt area are used for ag, they get that same valuation. So in this whole scenario I guess I'm not sure what would happen with greenbelt under this proposal. I would have that concern also. [LR9CA]

SENATOR ADAMS: Okay. Thank you. [LR9CA]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LR9CA]

MARILYN HLADKY: Thank you. [LR9CA]

SENATOR CORNETT: Next neutral. [LR9CA]

ANIL KUMAR GIRI: (Exhibits 2-3) Senator Cornett and members of the committee, good afternoon. My name is Anil Kumar Giri, spelled A-n-i-l K-u-m-a-r G-i-r-i. I'm a graduate student at the University of Nebraska-Lincoln, Agricultural Economics Department. And in September of 2010, Nebraska Farm Bureau contracted our university's agriculture department to work on the mid-capitalized approach to get the assessed value. And I work as a graduate assistant for the project under Dr. Bruce Johnson, and I'm here to present the findings that we had in our research. In economics, there are two approaches, two approved methodologies to assess the value of real property, one being market approach and the other being income capitalizing approach. The current approach to get the...the current approaches for market assessed values...the current approach uses market approached values, whereas an alternative for this project we used income capitalizing approach. And basically for the income capitalizing approach, what we did was, first of all, we took the annual income and divided by the comparable property value to give the capitalizing rate; and after getting the capitalizing rate, we divided the annual income by capitalizing rate to get the property value. For this, we had to build a county-level data series for cash rentals, and in order to do so we used the data that was available from the USDA's Farm Service Agency and from the University of Nebraska-Lincoln's Nebraska Farm Real Estate Market Survey, which is annually done by Dr. Johnson. And the findings that we found after doing the research was that the net returns of the percentage of value for pasture

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was significantly low compared to the other two classes, dryland cropland and irrigated cropland. To be precise in the numbers, the returns as percentage of value for a parcel was 3.2, whereas the returns for..the returns for dryland cropland was 6 percent and 5.6 percent for irrigated cropland. So what...and we compared our findings on this research to the annual reported percentage of return for a parcel of dryland or cropland. That is published annually by University of Nebraska's agriculture department, which is also available at www.agecon.unl.edu, and the results were very consistent with what was reported. And to be precise on the numbers, the results that are reported for the year 2010 was 2.6 percent, 3.8 percent, and 4.4 percent for pasture, dryland, and irrigated cropland. So what it means is if the assessed values were to be...if we are to use the income approach to find the assessed value, then the current...for the...if we are to use 6.01 percent capitalizing rate, which is as of now for the dryland cropland, then the value of pasture would decline 53 percent. So that is what our basic findings were. If there are any questions. [LR9CA]

SENATOR CORNETT: Questions from the committee? Senator Hadley. [LR9CA]

SENATOR HADLEY: Thank you very much. On your second page, the return as a percentage of value, would there be any risk factor that would maybe account for the difference in return? I ask...I just wonder if pastureland, there's less of a risk in pastureland than there is in dryland and irrigated cropland, risk of the income...producing income. [LR9CA]

ANIL KUMAR GIRI: Yes, sir. To look into risk factor, I think we'll have to further analyze this. But what we basically took was we took the total cash rentals from the Nebraska FSA, from the USDA's Farm Agency Service and the university's, and we subtracted all the cost that had incurred to the pasture. And in that what we also deducted was liability costs of insurance and stuff like that and which were reduced for all ag land types, for dryland and irrigated too. So I think some of those factor risks factor to become sort of in that insurance premium that we deducted for the...for each of the classes, and after doing so we came up with that result. But... [LR9CA]

SENATOR HADLEY: And then one other question. Is not the price of a parcel of land, isn't that kind of a surrogate for the present value of the future earnings? Isn't the price of the land what we use as a surrogate for actually using an income approach? I had always thought that the price of any product is the present value of the future streams of income. [LR9CA]

ANIL KUMAR GIRI: I think that could...we'd need to do, again, a further analyze of this. We do not...we would need to further analyze this for that. But what we can see is for irrigated land types, particularly the price of...crop prices have gone tremendously up, so...but which have not been for pasture and the livestock prices have not gone significantly up. But the past trends do. So that one of the things that we checked

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against was the reported percentage earning that was done from that is annually published from the University of Nebraska agricultural department. And we could see that even in the previous periods like when we started the data building...building this originally in 1980, and so...but even then when the prices of the crops were not significantly higher, then, too, the percentage...the returns of the percentage of value was significantly low for the pastureland. [LR9CA]

SENATOR HADLEY: Okay. Thank you. [LR9CA]

ANIL KUMAR GIRI: You're welcome. [LR9CA]

SENATOR CORNETT: Senator Pirsch. [LR9CA]

SENATOR PIRSCH: Just have a question. And tell me if my understanding is right that under the bill, there's...it's divided out into three... [LR9CA]

ANIL KUMAR GIRI: Yes. [LR9CA]

SENATOR PIRSCH: ...ag lands. Divided out into pasture, dryland crop, and irrigated. Historically that's the way it's been treated. My question is, are there any significant value fluctuations within one category? In other words, take the category of pasture. Within that category, are there vast differences in the quality...the assessed value of pastureland? What's the deviation, standard deviation between the...within one category? [LR9CA]

ANIL KUMAR GIRI: I think it's a very good question in fact. And I...for this research particularly we do not look at the fluxes in the assessed land values prices. However, I think Dr. Johnson will be able to...Dr. Johnson will be able to give more...a little bit of outlook how it seems since he does all the research in terms of ag land prices and assessed market value for each year. [LR9CA]

SENATOR PIRSCH: Thank you. [LR9CA]

ANIL KUMAR GIRI: You're welcome. And, in fact, in the Web site, the Web site of the university we have...the report is published annually. So if you go there then you'll also be able to see that. And there is another report, there is another detailed report that the...it would...detailed version of the report that we have, and if any one of you'd like to get a look, I have some copies here on the procedure and how we did it. And this also has for pasture and irrigated and dryland, and this is a longer version of the report. [LR9CA]

SENATOR CORNETT: Anil, if you could provide the committee staff with a copy of that we would appreciate it. [LR9CA]

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ANIL KUMAR GIRI: Sure. I do not have ten copies but I have some if you could just make... [LR9CA]

SENATOR CORNETT: One copy and we can distribute it out afterwards will be fine. [LR9CA]

ANIL KUMAR GIRI: Yes, ma'am. Thank you. [LR9CA]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LR9CA]

ANIL KUMAR GIRI: Thank you. [LR9CA]

SENATOR CORNETT: Is there anyone else in the neutral capacity? [LR9CA]

BRUCE JOHNSON: (Exhibit 4) Good afternoon, Senator Cornett, members of the committee. My name is Bruce Johnson, B-r-u-c-e J-o-h-n-s-o-n. I'm at the University of Nebraska Department of Ag Economics, been there too long and work in this area over many years. I wanted to follow up with what Anil pointed out in terms of our work that we did for the Nebraska Farm Bureau contracted study. And what is passed out is something that we have kept track of for many years, so it does reflect an incongruity in terms of earnings to value for the different classes of land. And, ultimately, agricultural land is an income-producing property. All right. And you're quite right that the value should reflect expected future income flows. And obviously other things come into play. But that is...that's the fundamental basis of valuation for this kind of property. And historically for whatever reason, there are...there probably are several, the returns when you look at current earnings netted out relative to its present value from 1990 through 2010, you see the variation is pretty significant. pastureland has continually been far below that. As our reporters to our survey look at this and they basically are what we say here, they're trying to give us their sense of what the capitalized rate of return is derived from the market. Based on current values and current earnings, pasture continues to lag quite a bit. I don't think we can blame that all on Ted Turner either. I think it's a historical kind of pattern. And with that in mind, then when it gets down to the question of assigning assessed value with levies that go across the board, then we do have some issues as far as is there a burden in terms of tax obligation that's out of whack relative to its earnings capacity. And from this initial study, which could perhaps move into a more of an income capitalization basis of valuation, even before we do that, we would have to deal with the fact that one single capitalization rate would not work very well because, historically, these three classes of land work quite a bit differently and particularly the pasture relative to the cropland. I guess if we were in Iowa, everything is a little bit more consistent there, but we are blessed with quite a bit of diversity in this state. And so this breakdown into further subclasses under the agricultural land category probably is very much in need before we would move ahead

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with some resemblance of valuation relative to earnings. So with that, I would entertain any questions you might have and clarify. Yes. [LR9CA]

SENATOR CORNETT: One of the things that over the last two years we've looked at and have taken the Revenue Committee out to different areas of the state because we've heard of this discrepancy between is some of the poor soil gradients in the state have the highest taxation rate currently. [LR9CA]

BRUCE JOHNSON: Uh-huh. [LR9CA]

SENATOR CORNETT: Some of the methods that have been floated to look at that are possibly valuing the land by the soil gradient or soil grade because all of that is broken down and mapped, is that correct? [LR9CA]

BRUCE JOHNSON: Yes. [LR9CA]

SENATOR CORNETT: Instead of breaking it down by pastureland, wetland, dryland, grassland, should we be...how would you recommend we look at it? [LR9CA]

BRUCE JOHNSON: Well, I do believe that we have in place a pretty effective means of looking at its product...at the productivity of pastureland based on carrying capacity. And I think our Department of Revenue over many years has basically has that pretty well nailed that it takes so many acres to carry an animal unit. And as you follow it across the state, it seems to make quite a bit of sense. Now, again, within any locality or within any county there will be those gradations of grassland from, you know, one to four G, and they are supposedly picking that up. So I do believe that we have that gradation issue pretty well in mind here. But that...you know, and grassland is grassland, and I appreciate the assessor's comments that, you know, (laugh) you find parcels where you're going to have all three in a parcel, which does... [LR9CA]

SENATOR CORNETT: Well, that was the point that I was going to make next. [LR9CA]

BRUCE JOHNSON: Yeah, and that does complicate the issue somewhat. But I don't think it's insurmountable, that it could be addressed though that with the reality of the fact that, you know, the returns on pasture consistently will be lower and perhaps need a special kind of an adjustment, so. [LR9CA]

SENATOR CORNETT: Questions from the committee? I'm sorry. Senator Fischer. [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you for being here. [LR9CA]

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BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR FISCHER: In Nebraska we value our land on market, on current sales, correct? [LR9CA]

BRUCE JOHNSON: Yes. [LR9CA]

SENATOR FISCHER: I believe I heard you say earlier in response to a comment Senator Hadley made that the price of land really isn't based on the production in the state. Would you...did I hear correctly or am I just projecting a little? [LR9CA]

BRUCE JOHNSON: (Laugh) I guess I was trying to make the point that in theory and to a great extent the price of land in today's market is reflecting somebody's anticipated earnings in a present value sense, yes. [LR9CA]

SENATOR FISCHER: What other states around us do? [LR9CA]

BRUCE JOHNSON: Other states... [LR9CA]

SENATOR FISCHER: How do they value land? [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR FISCHER: Are we kind of a little island here by ourselves in how we do this? [LR9CA]

BRUCE JOHNSON: Well, of course our neighbors close by, both Iowa and Kansas, use an income-basis and they have for some...for many years. And, again, it comes back to the idea that it's an income-producing property, let's try to base it on that. And for most of the...you know, in most cases, the market will follow that. But it does create, you know, some issues because of all kinds of other factors that don't get, you know, calculated through an income. But, you know, certainly our close by neighbors are using this and many other states are too. We are I think...I haven't done a recent count, but we are a state that has relied on a market and we are in very much the minority. [LR9CA]

SENATOR FISCHER: Do you think this proposed constitutional amendment helps move Nebraska into maybe a fair way that we are...could be valuing ag land within the state? [LR9CA]

BRUCE JOHNSON: If we moved to a complete income basis evaluation or to make this adjustment here? [LR9CA]

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SENATOR FISCHER: Which would you suggest? [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR FISCHER: I mean, I kind of view this as, you know, a step we can do now maybe. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR FISCHER: And then moving into the income part too, but. [LR9CA]

BRUCE JOHNSON: Um-hum. No question about it. I think...maybe I'm speaking as a neutral here... [LR9CA]

SENATOR FISCHER: Right. [LR9CA]

BRUCE JOHNSON: But my opinion personally would be that there is a distinct difference and that this is a modest step to at least open up the conversation to deal with it in a more effective way as far as perhaps even reducing the assessment ratio, you know, downward for a pasture basis as what we did in our study. And as Mr. Rempe reported, if you did so, you would basically take pastureland down to a little over 50 percent of its current assessed value if you're really looking at earnings as a basis. [LR9CA]

SENATOR FISCHER: We're looking at census numbers now... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR FISCHER: ...with regards to redistricting. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR FISCHER: Do you know if there's any studies out there that would show population of counties, whether they gain or lose population based on what type of land they have, whether it's pasture, dryland, or irrigated? I mean, I could make my own assumptions when I look at the map. [LR9CA]

BRUCE JOHNSON: Yeah, yeah, yeah. If you look at the World-Herald front page the last few days... [LR9CA]

SENATOR FISCHER: Yes. [LR9CA]

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BRUCE JOHNSON: ...it's obvious. That's our grazing land areas of the state. You bet. [LR9CA]

SENATOR FISCHER: Yes. [LR9CA]

BRUCE JOHNSON: And that represents a real problem, I mean, in terms of even basing the...and we actually in another part of our work, we have been following assessed value increases for the state for the last couple of years. In the last two years if we look at X million dollars of increased assessed value, better than 50 percent of that has been on agricultural land, that's irrespective of development and whatnot happening in Omaha and metro areas and everything else in terms of commercial and utilities and residential. That means that the shift of this tax burden in terms of property is moving more and more onto ag. And I think in some cases the imbalance is getting to the point of, hey, we need to do something here. Now granted in probably the crop producers, you know, are going to have a good year this year. And in that regard, yeah, you know, the tax increase might not be that badly received. But, you know, for years we're not dealing with much of an income increase, in fact, some really income shortfalls through a good part of the area that is our major Sandhills, grasslands resource. [LR9CA]

SENATOR FISCHER: Yes. [LR9CA]

BRUCE JOHNSON: And that is important. [LR9CA]

SENATOR FISCHER: I think that's very important. I think we need to recognize that as a state. Everyone says we need to promote rural Nebraska... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR FISCHER: ...and we need to keep our young people... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR FISCHER: ...we need to have people move there, whether it's through technology improvements or whatever. But if you can't afford... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR FISCHER: ...to make a living on the land... [LR9CA]

BRUCE JOHNSON: Yeah, yeah. [LR9CA]

SENATOR FISCHER: ...because of how it's valued with regards to production... [LR9CA]

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BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR FISCHER: ...those families won't be there... [LR9CA]

BRUCE JOHNSON: That's right. [LR9CA]

SENATOR FISCHER: ...and they certainly won't be young families. [LR9CA]

BRUCE JOHNSON: And that's quite correct. You know, first of all, property tax is unforgiving if you get hailed out or a snowstorm wipes out your calf crop. It's still due. The other thing that's happening here is that as it relates to population and all of the dynamics, we do rely so heavily on our property tax to support these schools. And you all know that the state aid formula is based on need and capacity. And so our assessed values go up, you know, and so that capacity in the formula begins to say, okay, less state aid to these very rural areas to even create a greater detriment I believe in terms of tax burden and maintaining basic public services, education being primary, so. [LR9CA]

SENATOR FISCHER: Thank you very much. [LR9CA]

SENATOR CORNETT: Senator Hadley and then Senator Pankonin. [LR9CA]

SENATOR HADLEY: Senator Cornett, thank you. Doctor, thank you for being here. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR HADLEY: The couple of ways of doing it we've talked about, what's the cutting-edge research now? What are we looking at potentially 10 or 15 years from now as a way of trying to solve this kind of problem? [LR9CA]

BRUCE JOHNSON: Wow! (Laugh) I'm not sure I could really answer that. But I do believe that we have the capacity to get a lot more refinement into the process. [LR9CA]

SENATOR HADLEY: Okay. [LR9CA]

BRUCE JOHNSON: And, you know, not to say that GIS and all of the high technology is the total answer. But when we begin to start layering data sets, it gets to be pretty effective I think in terms of really getting down to some questions as to, you know, an earnings basis that we could live with. And even in a short period of time of three months that we worked on this kind of a back-of-the-envelope study, we were fairly pleased that we had some credible information that could be a basis of an earnings

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basis to come up with an income approach, whereas 25 years ago when we sat here and discussed the same thing, that was not as doable. [LR9CA]

SENATOR HADLEY: Okay. Remember the fairest tax is the one you pay and I don't have to pay, right? [LR9CA]

BRUCE JOHNSON: (Laughter) Yeah. That's always the case, isn't it? Yes. [LR9CA]

SENATOR CORNETT: Senator Pankonin. [LR9CA]

SENATOR PANKONIN: Thank you, Senator Cornett. Dr. Johnson, thanks for being with us. Listening to the conversation and the questions, the thing that I think is not empirical is not...whereas Senator Hadley asked earlier about some of these approaches, is I think there's other factors. There's emotional factors involved. There's emotional factors that could be grassland or cropland of that piece of ground is one I've wanted for my family for 40 years. It's available. That's a different.... [LR9CA]

BRUCE JOHNSON: Um-hum, um-hum. Yeah. [LR9CA]

SENATOR PANKONIN: That's a different price than if it's someplace 20 miles away. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: There's the factor right now that I think has been a big factor in this land boom is that the low interest rates... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: ...on potential other investments, I'm very familiar with a couple of transactions in my area on the cropland... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: ...where the individuals who were ag producers in their 70s wrote checks for large numbers... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: ...because the alternative investment on their CDs or savings was so small, and that even though it seemed like an unreasonable price, they were willing to pay it. [LR9CA]

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BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: So I guess the other issue here is, I mean, we can do income approach but there's other factors... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: ...in what people will pay for these things. [LR9CA]

BRUCE JOHNSON: You're quite right. [LR9CA]

SENATOR PANKONIN: And should those be...and it's the same way in houses... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: ...or maybe other pieces of property, location, location. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PANKONIN: But, you know, is that fair? Should those be factors in pricing? [LR9CA]

BRUCE JOHNSON: It's a valid point. And what happens there and even if you...you kind of notice over time from going from the hard times of the eighties up to present, that capitalization rate has come down as other factors kind of settle into the mind-set of the market. Okay. Well, it's been a pretty good year since the eighties and I really want that property and now is the time to buy it whether it really works well or not. And so, yeah, people have been willing to assume whatever they have to, to buy the land even though the return is a little less than they probably would feel comfortable with at the time. Yeah. [LR9CA]

SENATOR PANKONIN: So that's where the market approach is...I mean, to be fair to all involved, you know, to pay the tax if we're... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR PANKONIN: Doesn't that...? [LR9CA]

BRUCE JOHNSON: That can be the case, but then again comes into the market approach the fact that, hey, I want a duck blind out on the Platte River. Okay. And, well, it's only \$1,500 an acre and I can probably rent it out a little bit to run a few head on it,

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but when in fact the carrying capacity and the income basis might be far less than would merit \$1,500 an acre. Those are the kind of things that begin to creep in. And I know we work hard at trying to say this is an arms-length agricultural sale, but those things do factor into the market over time. [LR9CA]

SENATOR PANKONIN: But on the other hand if that piece of property has recreation value, shouldn't that be realized? [LR9CA]

BRUCE JOHNSON: That can be a factor, yes, it could be. Yes. Um-hum. [LR9CA]

SENATOR PANKONIN: Thank you. [LR9CA]

SENATOR CORNETT: Senator Louden. [LR9CA]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, as I look at this and the work we've done, this is I guess that you would say it's a tax shift. It'll take it from pastureland to irrigated land or different croplands and that sort of thing. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: Now as we've looked at the valuing this property, are we talking about making any difference in value and property or are we talking about funding the school system because this is what... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: ...drives your property tax... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: ...especially in your rural areas. [LR9CA]

BRUCE JOHNSON: It does, yes. [LR9CA]

SENATOR LOUDEN: Value of ag land has spiked so, and when you talk about why people invest in it... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: ...because ten years ago in my area you could have bought land for \$200 an acre... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

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SENATOR LOUDEN: ...and now it's selling for \$300 an acre. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: And I don't know unless you bought gold back then, why, (laugh) you'd...there was nothing that would beat this. [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR LOUDEN: And this is what drives it. Our money isn't worth anything, so you're either... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: ...you either buy gold or buy prime farm ground or something. And any trade magazine... [LR9CA]

BRUCE JOHNSON: Right. [LR9CA]

SENATOR LOUDEN: ...you pick up will tell you to go buy prime farm ground, you know, irregardless. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: Anyway, is this what we have to be looking more on whether we value the land doesn't make any difference as long as we're going to fund our school system with this property. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: All we're going to do is shift that funding of that school land from one piece of property to another. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR LOUDEN: Do we have to dig deeper and find a different way of funding our school system than by using ag land to do it with? [LR9CA]

BRUCE JOHNSON: Okay. To answer your last question I would say, absolutely. I think we have an imbalance in terms of particularly the funding of K-12 education, but...and education in general. But that aside...and there, too, we run quite a bit different from other states in terms of our magnitude of state aid coming back to schools and to local

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governments. So, you know, we do an awful lot of subsidizing metro areas and the rest of the country with good educated students coming out of rural areas and rural schools. But that's another issue, (laugh) you know. Let me try to get back to kind of what you're saying here. I think there's an issue of degree of fairness and appropriateness within the classes of land themselves. Okay. So we have irrigators and dryland crop farmers and cattlemen and basically sometimes people wearing all the hats at once. But if there is some degree of balance and fairness within the land class itself, there may need to be some adjustments here because one class has not really performed ever in the same kind of relationship as the others. [LR9CA]

SENATOR LOUDEN: But at the end of the day... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR LOUDEN: ...ag land will still be the prime supporter... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR LOUDEN: ...of your school system... [LR9CA]

BRUCE JOHNSON: Yes, it can very well be. Yeah. [LR9CA]

SENATOR LOUDEN: ...because we're shifting it amongst ourselves, amongst your little family of ag land... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR LOUDEN: ...but when we get down to it... [LR9CA]

BRUCE JOHNSON: Yeah [LR9CA]

SENATOR LOUDEN: ...our real problem is how we're funding our school system. [LR9CA]

BRUCE JOHNSON: And that's true. Now, but in a case if we were to say, okay, we will assess pastureland at 50 percent of market value instead of 75, that in turn makes Cherry County and counties like that show up in the school aid formula quite a bit different in terms of capacity. And the state aid flow would be into maintaining that public school system in the pasture...the heavily pasture-weighted areas of the state. And is that going to break the bank? Well, there are very few school districts, they aren't large. So I don't know if that would create, you know, any kind of a real imbalance from one area of the state to another. And even within the county, yeah, if it's 90 percent pasture, at least we have a little bit more state aid coming in because our capacity has

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now been valued differently and less. That's the way I would see it. Does that make... [LR9CA]

SENATOR LOUDEN: Well, I understand that and yes. The question then is, is how are we going to divide that state aid up because that... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR LOUDEN: ...that has a limit on how much state aid it could be? [LR9CA]

BRUCE JOHNSON: I know. It's a limited resource, isn't it? [LR9CA]

SENATOR LOUDEN: And, I mean, we've been there. [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR LOUDEN: I mean, we can divide that state aid on a per-pupil basis. We were there once upon a time. [LR9CA]

BRUCE JOHNSON: Yeah, yeah. [LR9CA]

SENATOR LOUDEN: But we're back to it again. Well, thank you for your thoughts. [LR9CA]

BRUCE JOHNSON: Yeah. Um-hum. [LR9CA]

SENATOR CORNETT: Senator Pirsch. [LR9CA]

SENATOR PIRSCH: I'm trying to get a sense of does this overall help, I guess, areas of the state that are heavily into agriculture or is this just a different way of dividing up the pot? Is it at the end of the day... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PIRSCH: ...the overall dynamic is going to shift or is this going to...you know, statewide or is this just, as I think Senator Louden was getting at,... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PIRSCH: ...within that same rural community, just shifting up between pastureland... [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

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SENATOR PIRSCH: ...dryland, and irrigated land? [LR9CA]

BRUCE JOHNSON: I think for the most part this modest adjustment in a constitutional clause is a fairly, you know, in-house, you know, movement within agriculture itself. Okay? [LR9CA]

SENATOR PIRSCH: So it's an attempt at fairness knowing that it's not overall going to shift the balance between perhaps you could say rural and urban overall payments. [LR9CA]

BRUCE JOHNSON: You know, I wouldn't see that being very much at all. [LR9CA]

SENATOR PIRSCH: No. [LR9CA]

BRUCE JOHNSON: I might...I would appreciate your thoughts on that too. [LR9CA]

SENATOR PIRSCH: Is this...sure. [LR9CA]

BRUCE JOHNSON: But it isn't a tax transfer onto a whole different group of properties. It's within ag. [LR9CA]

SENATOR PIRSCH: Yeah. And within ag, there's these three categories then that have been... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PIRSCH: ...pasture, dryland, and irrigated then. Are those...I mean, those have been the historical way we've kind of differentiated. [LR9CA]

BRUCE JOHNSON: Yes. [LR9CA]

SENATOR PIRSCH: But does that based on technology and does that make sense that we should have three categories or is soil gradient...I mean, type of soil or utilizing, you know, five gradients, is there a big... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PIRSCH: ...can there be big differences even within pastureland... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR PIRSCH: ...in terms of... [LR9CA]

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BRUCE JOHNSON: Oh, yes. Yeah. And, yeah, really is quite a bit of difference and even soil gradients tell part of the story. But, you know, in this part of the world in this state, it's what lies under the surface as far as water too. And so, you know, that's one factor but many other factors get into it. Climatic change from eastern to western Nebraska is as much as what you see from the Missouri River to the East Coast. So we are in such a dynamic...you know, there's a transition that happens across Nebraska like probably no other place in the country. And I think that's why we...you know, we probably need to have more refinement to work within just the agricultural land component. [LR9CA]

SENATOR PIRSCH: Thank you. [LR9CA]

SENATOR CORNETT: Senator Hadley or Utter. [LR9CA]

BRUCE JOHNSON: Yeah. [LR9CA]

SENATOR UTTER: Thank you, Senator Cornett. Dr. Johnson, thanks for coming. It seems to me like down through the years the assessment process has always been subject to an awful lot of question and... [LR9CA]

BRUCE JOHNSON: Yeah, yeah. [LR9CA]

SENATOR UTTER: ...as to whether or not it was being done fairly... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR UTTER: ...not only within the property owners within the county, but... [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR UTTER: ...from county to county. [LR9CA]

BRUCE JOHNSON: Oh, yes. Yep. [LR9CA]

SENATOR UTTER: Do you see this as a movement in this direction as a way to improve the assessment process or does it complicate it? [LR9CA]

BRUCE JOHNSON: Well, I'm sure that as the assessors would look at it, it represents another layer of data and analysis to work with. I do believe that it's an appropriate movement in the direction to have that...at least it's begin to acknowledge this differential because ultimately (laugh), you know, we would hope that a basis of taxation

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should be ability to pay. And that's on income. Yeah. So I think we...it is a step in the right direction and a modest one. [LR9CA]

SENATOR UTTER: Thank you. [LR9CA]

BRUCE JOHNSON: Um-hum. [LR9CA]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LR9CA]

BRUCE JOHNSON: Thank you. [LR9CA]

SENATOR CORNETT: Is there anyone else to testify in a neutral capacity? Senator Schilz. [LR9CA]

SENATOR SCHILZ: Thank you. And I won't take up too much time because I know you have plenty of things to do. I would like to thank everyone that came in to testify today. I think...and I'd like to thank you all for your questions and thoughts. As I said before, I think that this is a work in progress. I think that there needs to be some study on it and what it is. I think some of the concerns that were raised are real concerns that need to be taken into consideration. I do believe that it does move us in a direction that may get us to something that is a bit more fair than what we see today. And with that, I would just hope that you would indulge me a little bit, hold this bill, and let us do a little bit of work over the interim and see what we can bring back to see if this is worth getting out there or not. [LR9CA]

SENATOR CORNETT: I think you are free. [LR9CA]

SENATOR SCHILZ: Thank you. Thank you very much. [LR9CA]

SENATOR UTTER: Senator Cornett, you're recognized to open on LB428.

SENATOR CORNETT: Good afternoon, Chairman Utter and members of the Revenue Committee. My name is Abbie, A-b-b-i-e, Cornett, C-o-r-n-e-t-t. I represent the 45th Legislative District. Like Senator Schilz, I brought LB428 as something to look at as a means of addressing some of the issues that this committee has heard for so many years now. LB428 is a bill which I decided to introduce after several Revenue Committee hearings in the agricultural community. It is well-known that ag land owners pay a higher property tax here than in other states. The Legislature has tried various policies to reduce this burden over the years. In the 1970s, legislation was passed which allowed our taxable ag land values in growing urban areas to be based on agricultural use values. In the 1990s, we passed legislation allowing taxable value of ag land to be at 80 percent of its market value. We reduced that down to 75 percent in the recent decade. We have also over time increased school aid and other forms of aid,

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established tax rates or levy limits, and limits on local budget growth. Most recently , we added a property tax credit for all real estate owners, including ag land owners. One common feature of all these property tax relief measures is they benefit all owners of ag land. When the Revenue Committee took testimony in Bloomfield, Hyannis, and Scottsbluff, we heard a lot of complaints about rising ag land values. Taxable values are established by examining real estate market transaction. The testifiers at our hearing felt the market values paid were too high relative to their perception of value. They often complained that outside investors buying land for prices they felt were unaffordable for local buyers. They also talked about high market sales are used to value land for tax purposes, driving up local land owners' taxes. They asked for a reduction in their taxes. After thinking about all the options for reducing taxes on our farmers and agricultural producers, I realized that everything we have tried up to this point simply reinforces the rising market price of land. If property taxes are reduced for all owners of agricultural land, people who make their living on land-base will continue to compete with outside agricultural land purchasers. Both will benefit from lower taxes but the relative cost of buying and owning and growing fields in Nebraska remains the same. Lower property taxes for every ag land owner benefits our producers but it will also benefit the outside interests that our citizens complain about. I decided to introduce this bill which takes a different approach. This bill targets property tax relief to people who make their living from the land. Senator Dubas had previously introduced such a bill and she volunteered to join me in this effort. This bill is intended to target property tax relief to the people who own land and farm for a living. If other owners of ag land, including outside investors, got no share of this relief program, it would begin to level the playing field. Right now, approximately \$32 million of our property tax credit goes to the owners of agricultural land. If we gave \$32 million of relief to 32,000 owner-operators, they would receive approximately \$1,000 tax credit. If we targeted \$32 million to 10,000 of our most hard-pressed owner-operators of farms, we could give over \$3,000 of tax to each one. Targeting our relief to owner-operators who make their living on the land, we could benefit our agricultural economy and improve incomes of our state residents without further increasing competition on ag land prices. This a different approach. Over the course of the last two or three years, I had looked at what other states are doing in regards to production method or income method and what's called circuit-breaker legislation. When some of the methods...and this is, like Senator Schilz says, a work in progress. Some of the problems that we face are people buying land, agricultural land, at higher values than that land can produce for recreational use but still getting the ag credit because they have enough cattle on it or do enough to meet the basic requirement, but that land is not able to produce what they're paying for it. But that directly affects their neighbors and the cost. This is a different approach that my staff and I worked on based on some legislation that we'd seen in other states where the farmers that needed the most that are actual owner-operators would receive a credit. It is a different idea, like Senator Schilz, and I think that we're going to be working on this issue for the next few years until we are able to find some type of resolution on it. But Senator Loudon is completely right. Unless we look at how we're funding schools, it's

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going to be a very difficult issue, if not impossible. [LB428]

SENATOR UTTER: Senator Hadley. [LB428]

SENATOR HADLEY: Senator, thank you. Senator Cornett, I often wonder, we've had a lot of debates on the floor on aid to cities, aid to counties. We're going to be debating the school aid formula, and such as that. And it always seems...you know, I get concerned that we, at the state level, we have income taxes and sales taxes. At the city level we have sales taxes and property taxes. Schools basically have state aid and property taxes and the counties have just property taxes. I wonder if it isn't time also that we look at our ways of funding the different entities to maybe...maybe it's time to fund schools in a different way other than just relying on property taxes or counties funding them. [LB428]

SENATOR CORNETT: And I would agree with that. One of the things though that was very interesting, the people that came into the hearing out at Hyannis that were yelling the loudest about property taxes, as soon as Senator Louden brought up changing how we fund schools, it came right back to everyone wanting to maintain their local control... [LB428]

SENATOR HADLEY: Sure. [LB428]

SENATOR CORNETT: ...with their schools. Rather if we start funding schools completely through the state, then the state will take a large chunk of the control of those schools. So everyone is going to have to reach an understanding they're going to have to give somewhere. [LB428]

SENATOR HADLEY: There's going to be some trade-off. [LB428]

SENATOR CORNETT: Yes. [LB428]

SENATOR HADLEY: Something has to be given up if you want to get something. [LB428]

SENATOR CORNETT: Yes. [LB428]

SENATOR UTTER: Other questions for Senator Cornett? If not, I guess we're ready for the first proponent. Are there any proponents? Are there opponents? Is there anyone who would like to testify in a neutral capacity? Welcome back, Mr. Rempe. [LB428]

JAY REMPE: Thank you. Glad to be back. Again, my name is Jay Rempe, J-a-y R-e-m-p-e, vice president governmental relations for Nebraska Farm Bureau, here today in a neutral capacity on LB428. And I'm in neutral capacity basically for one

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reason, and we really don't have a policy directly on point on this approach to looking at maybe trying to address some of the issues related to ag land value and property taxes on ag land. And it's...but I wanted to get up and say we're interested and we're intrigued. And if this is something the committee wants to look into a little more, we certainly want to be part of that conversation. As Senator Cornett mentioned, this issue has come up over...from time to time. The first time, I remember Senator Dierks several years ago raised this type of an approach. I know it's been used in other states. Typically when we've brought it up with our members, they've been intrigued by the idea but they always...they defer to the programs like the property tax credit program and others that provide tax relief to everybody across the board. But we recognize now and the times have changed over the last few years and it may be time to resurrect this issue again, and we certainly want to be part of the conversation. [LB428]

SENATOR UTTER: Senator Louden. [LB428]

SENATOR LOUDEN: Yes. Thank you, Senator Utter. Were you around here when we first started state aid to schools years ago when the first batch around here, when the first state aid was so much per pupil? [LB428]

JAY REMPE: No. I started...I came in...I started shortly after LB1059 passed that was kind of in response to all the litigation over the per pupil. Yeah. [LB428]

SENATOR LOUDEN: That was...yeah. See, I was on the school board when we first got state aid from the state, and that was...I think it was either \$1,800 or \$2,200 for each student. [LB428]

JAY REMPE: Um-hum. [LB428]

SENATOR LOUDEN: And that was...we knew how much money we were getting, we knew what we could do with it, and we went from there and had to work otherwise. And then they got the ideas that these ag districts out there that were losing population and their valuations were going up were rich districts so they really shouldn't be receiving that state aid. And people were moving into the cities where there were more people and the valuation wasn't going up as high, so consequently that's where we ended up with the formula that we have now. [LB428]

JAY REMPE: Um-hum. [LB428]

SENATOR LOUDEN: And I just wondered where Farm Bureau...doesn't have anything to do with this really, I just wonder where Farm Bureau is on the issue like that with the state aid issue, if they're satisfied with the way it is now or if it should be looked at. [LB428]

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JAY REMPE: Well, actually and I was going to save this a little more for the next bill that Senator Heidemann is going to...delves a little more into school funding, but we do have some concerns. I'd back up a little bit. We've always been very active in working in trying to meet all the needs that the state aid formula was trying to meet, both on the tax side but also make sure that we have adequate funding for the schools. And we've always supported equalization in that approach. We've had some disagreements over the years of how the state aid formula has gone about it and how it's defined equalization. We worked for a number of years of trying to work in looking at not only property wealth as a factor for local capacity but income as well or ability to pay as well, and we've failed in that over the years. So while we'll support the underlying premise of equalization and trying to meet those goals, we've had disagreements on exactly how to go about that over the years. [LB428]

SENATOR LOUDEN: If state aid was given out at so much per pupil, would you call that equalization? [LB428]

JAY REMPE: That's a good question and I think... [LB428]

SENATOR LOUDEN: I mean, that would be equal amongst all the kids. They'd get the same amount of money. [LB428]

JAY REMPE: Yes, it would be, and if I recall correctly, again I wasn't here, but part of the reason we went away from that was litigation in other states have found that to be unconstitutional, that approach. And I'd have to go back and... [LB428]

SENATOR LOUDEN: I think Kansas and Missouri have done that for years, did they,... [LB428]

JAY REMPE: Have they? Okay. [LB428]

SENATOR LOUDEN: ...until they run out of money. [LB428]

JAY REMPE: Yeah. [LB428]

SENATOR LOUDEN: Okay. (Laughter) Thank you. [LB428]

SENATOR UTTER: Further questions for Jay? Thanks very much for your testimony. [LB428]

JAY REMPE: Um-hum. [LB428]

SENATOR UTTER: Further testimony in a neutral capacity? Seeing none, Senator Cornett waives her closing, (see also Exhibit 11) and I guess we'll proceed on.

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Somebody must have Senator Heidemann locked up somewhere, so hopefully they'll free him and he can come present his bill. Senator Heidemann, welcome. [LB428]

SENATOR HEIDEMANN: Just a second here.

SENATOR UTTER: (Laughter) You're recognized to open on LB439.

SENATOR HEIDEMANN: Senator Utter and members of the Revenue Committee, I'm Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, representing District 1 in the southeast corner of the state. I'm here today to introduce LB439. LB439 would reduce the valuation of agricultural and horticultural land and such land that receives special valuation for school district taxation purposes from 75 to 65 percent. Likewise for TERC purposes an acceptable range for school district taxation purposes is reduced from 69 percent to 75 percent to 59 percent to 65 percent of actual value. LB439 also amends the section of statute pertaining to adjusted valuation for purposes of the state aid formula for school districts. For agricultural and horticultural land, state aid value would be reduced from 72 percent to 62 percent of actual value. Agricultural and horticultural land would remain valued at 75 percent for other taxation purposes such as counties, NRDs, ESUs, and others. LB439 decreases the valuation of agricultural land for school taxation purposes. This in turn would trigger an increase in the equalization aid to school districts that contain agricultural land, allowing such school districts to lower their levy for property tax purposes. The number of schools that are non-equalized is slowly increasing. If we pass legislation to keep funding flat in the state aid formula for school districts next year, more districts likely--and I will say mostly likely--will become non-equalized. I realize that LB439 would increase state aid by approximately \$33 million, however, I feel that a change in ag land valuations is necessary as farmers and ranchers are disproportionately funding our rural school districts. Farmers and ranchers represent a very small percentage of the state population but shoulder a significant portion of the property tax burden. Ag values are...continue to increase more so than other property which enhances the problem and places an increasingly heavy burden on farmers and ranchers to fund our K-12 schools. From 2009 to 2010, the value of ag land increased by 11.75 percent compared to the total valuation of increase of 4.32 percent. And when you take that into account, that 11.5 was inside of that 4.3. Without that 11.75, that 4.3 wouldn't be a whole lot. For the two years before that, the value of ag land increased by 12.28 percent and 10.3 percent compared to 5.52 percent and 6 percent for all types of property. LB439 would help neutralize the effect of soaring agricultural land values and result in a decrease in state aid that burdens our rural communities when supporting K-12 school districts. I became interested in this...this is probably the reason I ran for the Legislature to be right truthful, is the burden we place on ag land when it comes to funding K-12 school districts. One of the first years that I was in the Legislature, it was actually in the interim, I received a call from somebody. And actually I was actually baling hay at that time and it was at night and I got home at 11:00 at night and my wife Robin said that there's a guy that adamantly wants to get

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ahold of you. And I says, Robin, it's 11:00 at night. And he says he farmed and he didn't care so I ended up calling him. And for the next hour I got a sermon on how high property taxes were in the state of Nebraska on ag land, and about 45 minutes into the conversation I began to realize that this guy lived down by the Kansas border and a little bit after that I realized that he wasn't even from Nebraska. (Laughter) But I go on and over the years--this was one of the first years that I was in the Legislature--this gentleman calls me on a regular basis, and he has been a good resource as far as what ag land valuations and the burden on ag land for school purposes are in Kansas and they are in Nebraska, because he actually has farmland on both sides of the border and very close. For instance, he just called me recently and he told me that he had just got his tax bills in actually in Nebraska, so this would have been back in December probably. He had a quarter section of ground that...and the valuation, the taxation purposes on that was \$3,000. Right across the border in Kansas, because they don't tax their ag land as far as supporting their K-12 schools like we do, a like quarter--and I believe this guy and I've actually asked questions of people living down in his area, they know him, he's somebody that's going to shoot straight--a quarter, a like quarter on the Kansas side of the border was \$880--\$880/\$3,000, over \$3,000. I find that just a little bit too much. I don't have a problem when it comes to help supporting our K-12 education. It's very important to our local areas that schools are one of the most important things in our community and we need to support it. But I do have a problem with how we fund our schools and how much burden we put on K-12 education. This last weekend, we had a meeting in Elk Creek on a matter, and there were people from all over southeast Nebraska, and there was a gentleman that had used to live in our area and he actually farms in Hamburg, Iowa, which is right across the river from us. And I hadn't talked to him for quite some time, and he was...started talking about taxes on ag land, and they have a little bit of farming interest still left where I'm from but the majority of it is around the Hamburg, Iowa, part of that state, and then he actually farms a little bit in Missouri also. So we started talking about property taxes for ag land. And I says, comparable land to where we're at right here. And he says, well, if an acre of ground here will cost us \$20, it'll be \$10 in Iowa; it'll be \$5 in Missouri. And when I look at this, I guess if you live in the central part of the state and you can't go too far to go farm, then I guess it just doesn't matter because you're kind of stuck there. I will say that we have some very good farmers in southeast Nebraska. When they go look at ag land, and we're 30 miles from the border of Kansas and some of them actually go down into Missouri where it's cheaper yet, they will go down into Kansas and buy a farm. I have a neighbor that is a very good farmer, a very good citizen in our community that just purchased a farm in Kansas, 500 acres, and you kind of wonder why. I guess you don't even have to answer asking the question why. Say \$10 an acre more for property taxes in Nebraska than in Kansas, five hundred acres, that's \$5,000. I hate to see us lose good farmers and go other places because of our property taxes. But it goes further than that that I think times have changed when years back you saw a little Class I school or elementary school every three or four miles. There was...at least in southeast Nebraska, there was a farm every quarter of section and the kids all walked to school and they got there, the

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local community support of that small school. We don't see that anymore. There's less and less children that come off of farms and those kids are going into...the larger communities are merged districts, but there's less and less children but there's more and more ag land valuation and ag land taxes going to support those school districts, and I just think it's becoming too disproportional. So with that, I think if you don't have my opinion on this by now you probably never will, but I would be happy to answer any questions you might have. [LB439]

SENATOR CORNETT: Senator Louden and then Senator Pankonin. [LB439]

SENATOR LOUDEN: Thank you, Senator Cornett. Senator Heidemann, I couldn't agree with you more. My first...my main question is, is if we Exec right after here today and kick that thing out with \$33 million, I presume that Appropriations Committee has got to figure it out how they're going to fund that. [LB439]

SENATOR HEIDEMANN: You know what? If you could actually do that, I'll work on the other side. [LB439]

SENATOR LOUDEN: Okay. [LB439]

SENATOR HEIDEMANN: I will say I would appreciate discussion, number one, in the Revenue Committee because this is a problem and I hear this time and time across the state of Nebraska on ag land valuations. I would at least appreciate discussion. You can take this bill and tweak it to a point that you could spread this out over more years and it would be probably fiscally doable. I appreciate your thought though about kicking it out, but I would appreciate, like I said, at least discussion and maybe kicking something out. [LB439]

SENATOR LOUDEN: Oh, you got my vote now. (Laughter) [LB439]

SENATOR HEIDEMANN: Four more. (Laugh) [LB439]

SENATOR LOUDEN: I can send it in by mail if you want. [LB439]

SENATOR CORNETT: Senator Pankonin. [LB439]

SENATOR PANKONIN: Thank you, Senator Cornett. Senator Heidemann, is the thrust of this legislation, is it a school bill or is it a ag bill, in your opinion? [LB439]

SENATOR HEIDEMANN: You know, it can be both. I think Senator Adams I saw, he has his hand up, we had one in Education that actually would have got more funding to our more rural school districts, which I think are very important. As we see LB235 and LB236 come down the pipeline, I think you're going to see more unequalized school

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districts. I have...I think our schools are very important to our communities. I have said before we're seeing less and less state funding to go to those rural schools. I think we need to realize the importance of our rural schools and fund them what I would consider properly. This bill, LB439, actually tends to go a little bit more on the taxation side for ag land purposes and hit it on the taxation side versus what the valuation side helps with the state aid formula. [LB439]

SENATOR PANKONIN: A follow-up question would be, Senator Heidemann, as you know, I get an income from a farm equipment dealership. I own farm ground. I wish I owned more of it right now. It's been a, you know, the best investment here in the last five years. I know you'd agree. And in our area, most of the farm ground is not selling to outside folks, it's farm folks buying it. Is it true in your area as well? [LB439]

SENATOR HEIDEMANN: The majority of it I would have to think. Every once in a while you see an investor come in but the majority of it because ag is doing pretty good right now. There is some cash in these farmers' pockets, as you know, and they're bidding each other up in buying ground. [LB439]

SENATOR PANKONIN: The other...I guess the follow-up to that is, when you represent an area like I do that also has communities and a lot of suburb people who commute into Omaha and some to Lincoln, and those folks at meetings will sometimes say, why do farmers' land get valued at 75 and my house is at 93 or, you know, or whatever, you know, the different classes. Do you have much of that in your area? [LB439]

SENATOR HEIDEMANN: Tends to be a little bit more rural. If you look at your fiscal note, I mean, it's going to...there's \$33 million for...will may be picked up by the state, the rest of it which must be about \$19 million, will be allocated to other sectors, whether it be commercial or residential. If you have all ag land, a district with mostly ag land, it's kind of funny because actually your levies will just go up. It wouldn't really help a whole lot into districts that are very rural, don't have a lot of communities in that district. So if you lower the valuation, they're just going to have to raise the levy to accommodate that. [LB439]

SENATOR PANKONIN: And that was my original question whether you...you know, your thrust is more on the funding of schools or an actual lowering of the ag valuation. [LB439]

SENATOR HEIDEMANN: Probably a little bit of both. [LB439]

SENATOR PANKONIN: Okay. Thank you. [LB439]

SENATOR CORNETT: Senator Adams, Senator Hadley. [LB439]

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SENATOR ADAMS: Thank you, Senator. Mine is probably more of an ongoing conversation that you and I have had for a long time. [LB439]

SENATOR HEIDEMANN: I'd say that we'd be going into the fifth year. (Laugh) [LB439]

SENATOR ADAMS: Yeah, yep. And you brought up the bill that you had in the Education Committee, and as I told you this morning, I think this is the way to approach it rather than that and for a host of reasons, but this is the way to approach it. You know, we can talk about the formula in and of itself and how we address needs versus resources. That's one issue that's always ongoing. We also have...and correct me if I'm wrong, we also have the issue I think that however we build the formula, as long as property tax and need are part of that calculation, we're going to see a disparity--wouldn't you agree--because once we get out of the Lancaster County, maybe even a bit in Buffalo and Adams County to some degree and certainly in Douglas and Sarpy County, there just simply is going to be more ag supporting the schools than there is residential and commercial. Now what we do with the formula or, as you're suggesting, what we do with the value of that ag land can make a difference in the amount of tax paid or the amount of state aid received. But the reality of it is whether it is in Crawford or York or Waverly, maybe Waverly, ag land generally is supporting most of our schools. So this becomes to me a more viable approach to dealing with it. And in regard to the \$33 million, if we don't move this out, can I have it anyway? (Laughter) [LB439]

SENATOR HEIDEMANN: We in Appropriations look for priorities, and K-12 education is a priority, don't get me wrong. I guess we'd have to have that discussion. I better not comment a whole lot more than that. [LB439]

SENATOR ADAMS: All right. Thank you, Lavon. [LB439]

SENATOR CORNETT: Senator Hadley. [LB439]

SENATOR HADLEY: Senator Cornett and Senator Heidemann, thank you for coming. Earlier today we talked about the trade-off between local control and the fact that with property taxes you try to have local control. Do you think is the state getting more and more to the idea that we need more...if we do more centralized funding of schools that we should have more centralized control of schools? [LB439]

SENATOR HEIDEMANN: I would have to think that we're already there. I think you're going to see that in LB235 and LB236 and I'm not going to go too far into that but I...you're having a state aid formula that is going to dictate to nonequalized school districts that get no state aid how they can spend their money. [LB439]

SENATOR HADLEY: Okay. Thank you. [LB439]

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SENATOR CORNETT: Senator Utter. [LB439]

SENATOR UTTER: Senator Heidemann, the...I think this is interesting from the...and I don't argue with your argument with your contentions in this bill at all. But it seems to me that somewhere we have to go for that revenue if in fact we are truly...cut everything to the bone, why somewhere or another we replace that revenue, whether it be \$33 million or whether it be \$300 million, whatever it needs to be. Would it be your contention that that should be...that we should go to the income tax or to the sales tax or where? [LB439]

SENATOR HEIDEMANN: It would be my thought if we could take LB439 if you was interested and if it gets passed to discussion point that you could maybe spread it over ten years like I did with the one in Education. It would slow down...it would probably cost you I think it says \$33 million. I remember talking about this. Every percentage point costs you about \$3.6 million, \$3.9 million. If you would start it at the second year, there wouldn't be any cost in the first year of the biennium. The second year of the biennium it would cost you, say, \$3.5 million, \$3.6 million. Hopefully we could find that amount of money. And then every year you would go up a percentage point or something like that. So you slowly would implement. And hopefully you could reallocate some funds and make it work. [LB439]

SENATOR UTTER: There are lots of exemptions out there. We hear about them in Revenue every year, folks wanting more for one reason or another. There are personal property tax exemptions, exemptions from personal property taxes. Do we go back and look there again? [LB439]

SENATOR HEIDEMANN: You know, I've been before this committee and actually introduced an exception for ag parts, and I don't do that lightly but I do that because Kansas, Missouri, and Iowa have those exemptions and we are losing machinery dealerships because of that. And I tell you that because I think you have to look and see what you're doing and see how it's going to affect you before you do that. [LB439]

SENATOR UTTER: A few days ago, I guess it was this week earlier, we heard a proposal from Senator Avery that we decouple our state income tax from the federal income tax, at least to the extent that the accelerated depreciation that's granted from a federal level not be granted on the state level. Does something like that appeal to you? [LB439]

SENATOR HEIDEMANN: You know, unless I misunderstand that, the bonus depreciation, the Section 179, you're going to lose revenue up-front, you're going to gain it back behind. There is no more or less revenue, it's just when you get it. [LB439]

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SENATOR CORNETT: And that would actually be the ruling that I had gotten also. [LB439]

SENATOR HEIDEMANN: I understand for cash flow purposes... [LB439]

SENATOR UTTER: So we haven't picked up any money. I'm trying to find this money somewhere so we can do this for you and you're not helping me much. [LB439]

SENATOR CORNETT: Senator Utter, my priority bill. (Laughter) [LB439]

SENATOR HEIDEMANN: If you can find a way to have discussion in this committee to start to implement this bill, hopefully it could become some...a priority of this state. This is a concern. You can go from Elk Creek, Nebraska, to Ogallala, to Valentine, to Hastings, to Chadron, Ellsworth, excuse me... [LB439]

SENATOR LOUDEN: Chadron is a little farther up. (Laughter) [LB439]

SENATOR HEIDEMANN: ...to even...I'm sure there's farmers around Kearney, the people that are paying a lot more for ground...pay for ground than they have in recent years and they see their tax bill goes up. This is a concern. And hopefully we could accomplish this, and it continues up on this way that it seems like it's getting worse and worse and worse, and we talk about it and we study it but we never do anything about it. And hopefully we...in my eight years, I have one year after this year, hopefully we'll be able to do something before I leave. But if nothing else, maybe I hope to start something. [LB439]

SENATOR CORNETT: Senator Pankonin. [LB439]

SENATOR PANKONIN: Thank you, Senator Cornett. Senator Heidemann, in other words, this deal when you talk about doing over ten years, you would do a percent a year. It'd go from 75 to 74 until we got there, right? Is that what you're... [LB439]

SENATOR HEIDEMANN: Correct. Yep. [LB439]

SENATOR PANKONIN: ...assumption I'm assuming. [LB439]

SENATOR HEIDEMANN: Yep. [LB439]

SENATOR PANKONIN: Okay. Thank you. [LB439]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB439]

SENATOR HEIDEMANN: Thank you. [LB439]

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SENATOR CORNETT: First proponent. [LB439]

JAY REMPE: (Exhibit 5) Senator Cornett, members of the committee, again, my name is Jay Rempe, J-a-y R-e-m-p-e, vice president of governmental relations for Nebraska Farm Bureau here today on behalf of Nebraska Farm Bureau in support of the bill. Also I was looking to see if Cattlemen had shown up. It doesn't appear they have so I'm here on behalf of them as well. And I do have a handout for the committee. And I'll try to make this brief because a lot of what I was going to say Senator Heidemann already mentioned, and we appreciate his efforts and his introducing this bill. What I'm passing out, I'll try to get out, around a little bit, it's kind of graphically showing or describing what Senator Heidemann talked to you about in terms of ag land values and the percent of ag land values. We have a map. I had a student intern a couple of years ago put together a map and it was done using 2008 values, but it plots the ag sector or ag land values as a percentage of total value within a county. And there's also a table accompanying it on the second page that kind of lists it out by a table. And why they chose the colors they did, I'm not sure. But if you look at the map, anything...and I'll just choose 50 percent of value, the purple, the bright pink, the kind of a pea-green color, the light blue color, and the brown color is a county where ag land is greater than 50 percent of the valuation base in that county. And as Senator Heidemann said...and I wanted to try to get some population figures to put with this, a number of farmers from the ag statistics, but I wasn't able to. But I think it's easy to see where you have in those counties, you have a minority of the population that's carrying the burden for funding the schools. And so that's the crux of the issue. And this was done in 2008. And as Senator Heidemann said, if you look at what's occurred over the last two or three years with the valuations, this probably would...you'd have even more and more counties that fall into that greater than 50 percent category. And in 2008, if my math is correct and I can still count, there were 63 counties that had ag land greater valuation base, 50 percent of the valuation base. So there are 63 counties where that occurs. I think...let me make one point that's a little different than what Senator Heidemann said. One of the things we often hear from our members...and it goes back to the principles of taxes paid related to benefits derived, we hear...very rarely do I hear a call from a member that is concerned about their local county taxes or maybe their NRD tax, property taxes. And I think it's because they can see that the services that they're paying for benefit their property in terms of maintaining roads or some of the services that the NRDs provide. The two areas where we get the most calls are community colleges and K-12 schools. And I think the frustration is that when you look at the benefits derived from providing a child a public education, they don't receive any more benefit than the person who lives in town, yet they're shouldering the burden of that. And so it's frustrating to them, and then it's also frustrating I hear from them what Dr. Johnson brought up earlier, the fact that we educate these kids and then they move out of our communities, move into Omaha, Lincoln, or elsewhere and become productive citizens and we miss out on that to the extent that their community misses out on that. So I think LB439 would help in two

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things: one, obviously as already mentioned would thin the local community. It'd help shift the burden of paying for that schools, one. And then, secondly, it'd help provide more state aid to reduce that burden locally as well. And for that we are supportive of the bill and I'd be happy to answer any questions you might have. [LB439]

SENATOR CORNETT: Senator Hadley. [LB439]

SENATOR HADLEY: Senator Cornett. Jay, thank you for being here. I probably won't ask this question right. But, you know, the three counties that obviously are the blue, which is zero to ten, are Douglas, Sarpy, and Lancaster. And they're probably the counties that have the most...obviously the most population. [LB439]

JAY REMPE: Um-hum. [LB439]

SENATOR HADLEY: So I'm sitting there thinking if I'm a citizen in those counties, do I really like this idea of lowering the valuation on ag land or do I say I really don't like that because I want them to pay more and I have the votes sitting in my three counties... [LB439]

JAY REMPE: Um-hum. [LB439]

SENATOR HADLEY: ...to make sure that this won't happen. [LB439]

JAY REMPE: Oh, I'm sure that they would love it. They would jump on it. (Laugh) Let me respond a couple of different ways. One, from a local standpoint, ag land is such a small percentage of their base it's not going to make any difference in terms of their local property taxes they pay. Secondly, I would argue that to the extent that...a couple of things, to the extent that Omaha and Lincoln and those communities, they benefit from having an educated person come out of that rural community because frankly, I mean, you look at the census numbers that came out the last couple of days. Where are those people going? They're moving into the more urban centers. So to the extent that they benefit from that education, we would certainly appreciate their willingness to help pay for that too. The third point I would make, and it gets back to a competitive issue, as Senator Heidemann noted, when we...you know, you look at the property taxes in Nebraska compared to the rest of our surrounding states, they're considerably higher on ag land. And we're starting to get a point where, you know, there's some competitive issues there. I, too, have heard stories of people moving or buying land in Kansas or elsewhere to farm, and that's not good. And so we need...agriculture is our number one industry, we need to do what we can to support that industry, and I'd argue that point too. [LB439]

SENATOR HADLEY: Okay. Thank you, Jay. [LB439]

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SENATOR CORNETT: Senator Louden. [LB439]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Jay, thanks. I've got stuff like this, we can get it every year from Ruth Sorensen. And you have 2008, it's a little bit behind because... [LB439]

JAY REMPE: Um-hum. [LB439]

SENATOR LOUDEN: ...Lancaster County and some of those, as they've developed more, there's less ag land in there now than there was. And the way I would see it, Senator Heidemann's bill would have very little effect on those counties. I think there's five of those counties that have very little...well, five school districts, I should say, that have very little ag land in their districts. And that would be the...most of them in Douglas County and I think even Grand Island and perhaps Hastings maybe. But that wouldn't affect the TEEOSA funding that much with Senator Heidemann's bill if you changed the ag land because they don't have any in there anyway. [LB439]

JAY REMPE: Um-hum. [LB439]

SENATOR LOUDEN: And as I've worked on this I think as a bill that I have out there that lowering it from 75 to 70 percent, there was 63 school districts that are at \$1.04 about, and those are the ones that would be affected lowering it from 5. So I'm sure with Senator Heidemann's bill if you lowered it down to 65, it's probably those same 63 counties plus a few more that would probably be affected by it. So I don't...this isn't something that would make a difference in the metropolitan areas... [LB439]

JAY REMPE: Um-hum. [LB439]

SENATOR LOUDEN: ...I wouldn't think. [LB439]

JAY REMPE: Yeah, in terms of locally, the local funding, I don't think it would at all. To the extent that it provided more state aid flowing out to those rural districts, you know, there might be some issues there, but. [LB439]

SENATOR LOUDEN: Well, I would think most of the \$33 million that he shows for expenditures here, that would go into rural areas because where it wouldn't affect the metropolitan areas now, that money that would go in there would actually go into your more rural school districts out there. [LB439]

JAY REMPE: Yeah. [LB439]

SENATOR LOUDEN: I'm sure of that, wouldn't it? [LB439]

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JAY REMPE: Yeah. Yep. I think so. [LB439]

SENATOR LOUDEN: Unless the rural school district has a real high valuation now. [LB439]

JAY REMPE: Um-hum. [LB439]

SENATOR LOUDEN: Okay. Thank you. [LB439]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB439]

JAY REMPE: Okay. Thanks. [LB439]

SENATOR CORNETT: Next proponent. Opponents. [LB439]

JOHN BONAIUTO: Okay. Senator Cornett and members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards. I had been in earlier this year and was an opponent of Senator Louden's bill that was similar to this bill, and I felt I had to come in and oppose Senator Heidemann's bill so Senator Louden wouldn't think I liked Senator Heidemann better. But really (laugh) the opposition to this bill is not so much that there isn't a real problem that needs to be solved here. There is a timing issue. I think you've been talking about the fiscal note and the \$33 million. And I also see the Revenue Department is going to take advantage of a few staff members to administer this if it passes. But the concern is as you look at state aid, and I have every reason to believe that later this session you're going to have a lot of discussion on the floor of the Legislature about the sustainability of the state aid formula, and we're talking at an \$810 million level. And if things get really, really good, we might be talking at an \$815 million or \$820 million level. But I look at \$33 million more dollars and I have to be listening to the discussion up-front and say if you were to look at this in a staircase approach and maybe over a period of years, maybe that's a better way if you're going to do something like this. But when I talk to school board members, they're talking about stabilizing funding, having it be sustainable. And I look at where we're headed, and I've said this to some of you before, that the direction we're headed is that it wasn't that long ago that we had under 30 districts in the state that were nonequalized or unequalized, I'm not sure which is the appropriate way to put that. I think that we're probably by the end of this session, and surely as we get into next session, we're going to approach a third of our 250 school districts that will be in that situation. So having your ag land, your farmers and ranchers, and many of my members are farmers and ranchers, those districts are going to be accessing their property value and relying on taxes. I'm not sure the way that money is moving that with loss of students and growth of valuation that it's going to be easy to get money to those rural districts through the state aid formula. So I'm hoping that there will be discussions about how we fund schools. I think that's where we're...you touched on

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this earlier, this is about funding schools. And we're so reliant on property taxes and we're trying to hold that \$1.05. So I...with that, I will conclude my testimony and say that I understand that there is a need and there is a real issue here. It's just how do we tackle this and fund schools? [LB439]

SENATOR CORNETT: Senator Fischer. [LB439]

SENATOR FISCHER: Thank you, Senator Cornett. So, John, you're telling me that school boards don't want another \$33 million in the TEEOSA formula... [LB439]

JOHN BONAIUTO: Oh, I think that... [LB439]

SENATOR FISCHER: ...that you want to stabilize funding and they want it where it is now and they don't want that extra \$33 million that this bill would bring. [LB439]

JOHN BONAIUTO: Senator, and I...that's a fair question. [LB439]

SENATOR FISCHER: I think so. [LB439]

JOHN BONAIUTO: It is a very fair question. I would have to say that as much as we would like to have that \$33 million, I know that I was sitting in this chair probably 15 years ago saying to the Revenue Committee, I understand you want to put more money in state aid but that means you have an obligation to do that year after year after year and it has to be there. And the Revenue Committee said our intent is to have that money there and to take more of the responsibility for funding schools and put it on the state and have less on the property taxpayer. I think that was the idea. [LB439]

SENATOR FISCHER: So what I'm hearing now is that you don't like this bill because it would basically stabilize the number of equalized districts we have. [LB439]

JOHN BONAIUTO: I don't know... [LB439]

SENATOR FISCHER: And you'd rather see districts become nonequalized districts so they can't get any state aid. [LB439]

JOHN BONAIUTO: No. I would rather have districts be equalized districts. I think we're moving in the wrong direction away from equalization, and I...if I thought this bill would help stabilize and get more districts into equalization, I would...I think that's a good idea. [LB439]

SENATOR FISCHER: I think that it does say that in the fiscal note. [LB439]

JOHN BONAIUTO: It does. [LB439]

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SENATOR FISCHER: That we would be seeing more of a stabilization in equalized districts. And in my opinion, that's a good thing. [LB439]

JOHN BONAIUTO: Well, that is. I would like to see that. And as I said, it's a matter of timing and where that \$33 million comes from and is it going to be there on an annual basis. We were at \$840 million in General Funds prior to the last special session; we're at \$810 million now. I'm worried the direction we're headed. And I... [LB439]

SENATOR FISCHER: So you don't want...seriously, you don't want an extra \$33 million if it means it would go to districts that might not be receiving state aid currently. [LB439]

JOHN BONAIUTO: No. I would love to have the \$33 million. [LB439]

SENATOR FISCHER: I can't figure out your opposition to this bill. [LB439]

JOHN BONAIUTO: Well, the property value and having districts be able to count on their local resources is what has been stable for districts, and state aid has been all over the place. And that's...so maybe I'm being too pessimistic, but I'm worried that we're not going to have this money to do what this bill would like to do. And that's why I say, maybe a stairstep approach over a period of years is a better approach than to do it all in one year. [LB439]

SENATOR FISCHER: Okay. Thank you. [LB439]

SENATOR CORNETT: Senator Adams. [LB439]

SENATOR ADAMS: Thank you, John. I wasn't going to continue the line of questioning but...that Senator Fischer started, but I have to because my mind has been on that ever since you took to the mike. I thought, too, why would state school boards come up here and say we're going to oppose the proposition, though highly unlikely, of getting \$33 million more into the formula right now. Why not? I mean, and the reality is, and I believe Senator Fischer and the fiscal note are right just given my simple mind about state aid is that if ag values come down, I think Senator Loudon is right, you're not going to see much of a TEEOSA impact on Lancaster, Douglas, and Sarpy County but you will see an impact everywhere else, granted it will be very mitigated given the amount of counties and school districts it would have to be spread out over, which would...given where we're going on aid right now, we are going to have more nonequalized districts. This would at least slow it down. Reverse it, and some other things would have to happen, but it would slow it down. I would think that the school districts that you represent in the rural areas would say, go in and support that. [LB439]

JOHN BONAIUTO: If the \$33 million were there and that was...our belief is coming up

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with \$33 million right now is tough. It's difficult, so if the money... [LB439]

SENATOR ADAMS: So let me ask you this hypothetically. If we knew we had \$33 million more, would state school board support this? [LB439]

JOHN BONAIUTO: Absolutely. But then it would need to be...again, we're going back to the...the \$33 million needs to be there beyond one or two years. It needs to...we'd need to have the state take that obligation on and it needs to be there because the trade-off again is giving up tax value. And the last time we had these discussions, district gave up levy to have the state take the responsibility of funding schools. We would much rather have the state have more districts in equalization and have state aid growing and to have it be stable. That would be our preference. [LB439]

SENATOR ADAMS: Thank you. [LB439]

SENATOR CORNETT: Senator Louden. [LB439]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, John, as you say it's...the state aid has been all over the place and everything. And I think you've been around here long enough, why not go back, what is it, \$810 million or whatever it is supposed to be this year and you put the \$33 million in? Now you're talking \$850 million; divide that up with the number of students in the state of Nebraska; give that out to each one, then it isn't all over the place. Everybody knows exactly what they're going to get. State funding you can probably plan at that because, you know, it's went...when I first came down here it was at \$700 million and it went up to nearly \$900 million... [LB439]

JOHN BONAIUTO: Um-hum. [LB439]

SENATOR LOUDEN: ...and nobody knew the difference. So what's your position on dividing it up on a per pupil basis? This way everybody would know exactly where they were. Everybody would be equalized because everybody has got some kids in school. [LB439]

JOHN BONAIUTO: Senator Louden, I can tell you from personal experience, rarely do we have a meeting of my members when a school board member doesn't stand up and say exactly what you just said (laugh). And because, you know, a number of my members have been on a school board for a number of years and they remember the fact that when aid was distributed that way they actually understood the formula (laughter) and they were able to figure out where the money was coming from and how much they were going to have. I know that it's a different time and as much as we'd like to go back to those days...the factors in the formula, I know that a lot of work is done to make sure we have a fair state aid formula, one that deals with needs as they exist. Our problem is just getting enough money to run through the state aid formula. If we had

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enough money to run through the formula, we don't have a bad state aid formula, it deals with the right factors. I'm afraid that if we simplified it to that point, although it would be much easier to understand and administer, it would not pass muster as far as being equitable and legal. So it... [LB439]

SENATOR LOUDEN: Well, the problem has always been is what was classified as needs. [LB439]

JOHN BONAIUTO: Yeah. [LB439]

SENATOR LOUDEN: I mean, what's needs in Omaha isn't needs in probably Gordon. Gordon doesn't have a swimming pool, and Chadron up there probably doesn't have as big a football field as some of the other schools around that's all maintained. And that's where your problem comes in is what's been needs. And as I said when that first came about, I was on a school board. [LB439]

JOHN BONAIUTO: Um-hum. [LB439]

SENATOR LOUDEN: It didn't take us long to figure out how we could get more state aid, and there was a lot of superintendents that had Ph.D.s and I'm sure it didn't take them very long how to figure out how to get more state aid by playing with that needs formula. And that was the problem I've always had with it. I don't think the needs have been described like they should. How many lobbyists you get to have. You know, how many...how much you're going to pay your superintendents. Are you going to put a cap on what you pay your assistants and all of those things like that. There's a whole bunch...there's a big problem with needs in there, and that's where the thing has led us to over the years. If it's a flat fee to everybody, then you can do whatever you want to with it. You know how much money you get and after that you can...you're on your own with whatever you want to do. It's between you and your taxpayers I guess. [LB439]

SENATOR CORNETT: Further questions? Next opponent. [LB439]

SENATOR LOUDEN: Thanks, John. [LB439]

SENATOR CORNETT: How many other opponents do we have? How many in a neutral capacity? [LB439]

MARK INTERMILL: Thank you, Senator Cornett and members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP and offering, I would say, soft opposition to this bill. We have heard the reasons that something like this is needed. I think there probably is a...we need to look at how we finance government. But the thing that caught my attention as I looked at the fiscal note was not the \$33 million but the \$19 million that would be shifted to other property

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taxpayers. We look at that \$19 million and estimate that about 53 percent would be shifted to residential property taxpayers. And when you look at the homestead exemption, about 4 percent of residential property taxes will be added to the cost of the homestead exemption. So I guess I'm here to say that that fiscal note may not be \$33 million but more like \$33.4 million in terms of adding the \$400,000 for the homestead exemption. We've talked about the need for sustainability of the homestead exemption, and I just wanted to bring that to the committee's attention. [LB439]

SENATOR CORNETT: Questions? Seeing none, thank you, Mr. Intermill. [LB439]

MARK INTERMILL: Thank you. [LB439]

SENATOR CORNETT: Are there any further opponents? Let's move to neutral testimony. [LB439]

MARILYN HLADKY: Good afternoon, Senator Cornett and members of the Revenue Committee. Again, my name is Marilyn Hladky, M-a-r-i-l-y-n H-l-a-d-k-y, the Seward County Assessor and here today testifying neutral on behalf of the Nebraska Association of County Assessors. And as I hear bills talking everything or when I read them back in my office, my mind always goes...the assessor mind is, how, if this passes, will all work, because we're at the end of the road and the ones that are out there in the counties implementing it and so forth. And so I just wanted to bring forth some things for you to consider if and how this would be workable and to let you know some of the things that I see that we would have to do out in the assessor's office. One would be maybe we would have to keep double records on the different values. Probably two sets of tax statements would be needed: one for those political subdivisions relying on ag and horticultural land at the 75 percent; and the one for the schools based on the 65 percent. We'd probably have to do two change of valuation notices sent out. These aren't really huge things to do but they are additional costs of programming and duplication of some forms that would have some additional costs there too. And I always relate back to protests. What does this do to protests? And that's going to be a big thing coming up here in June that assessors think about. Again, I'm going to say, could somebody protest the value on the political subdivision values at the 75 but not the school? If they win on that, does it automatically change the values on the other side? Vice versa? You know, how does that work on even the local level and even appealing on to TERC and even possibly the Supreme Court? So that would be some concerns that we would also have. Had a question on state aid but Senator Heidemann did a good job explaining that. So the only other thing I would ask is, is this doable under our current constitution with the uniform and proportionality, under that Article VIII, Section 1, if you have them at the two different levels? So thank you for listening to my concerns, and if you have any questions. [LB439]

SENATOR UTTER: Questions for Marilyn? Marilyn, you surely wouldn't think that

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Senator Heidemann would propose anything that's unconstitutional would you? [LB439]

MARILYN HLADKY: (Laugh) Well, I wouldn't think so, but the constitution is what it is. [LB439]

SENATOR UTTER: Thank you very much for your testimony. [LB439]

MARILYN HLADKY: Thank you. [LB439]

SENATOR UTTER: Further neutral testimony. [LB439]

JON EDWARDS: Good afternoon, Senator Utter and members of the committee. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s, here today representing Nebraska Association of County Officials in a neutral capacity as related to LB439. And I believe you just heard testimony from our assessors as to their concerns and the implementation of this. And following that lead, that brings us here to reiterate those concerns. I would also tell you that we did have a conversation with Senator Heidemann regarding this proposal, expressed our concerns to him. We certainly are willing to use our assessors and whatever expertise we can bring to the process to try to figure out if we can do this in a cost-effective way if we have to go to a bifurcated system here in terms of our ag valuation, and we told him we'd be willing to do that. So if the committee decides in terms of a policy to kind of go this way, we would just like to have the opportunity to be able to explore that concern a little bit further and see what that's going to take and those different types of issues. So with that, I'll conclude my testimony. [LB439]

SENATOR UTTER: Questions for Mr. Edwards? Seeing none, Jon, thanks for your testimony. [LB439]

JON EDWARDS: Thank you. You bet. [LB439]

SENATOR UTTER: Further neutral testimony. Senator Heidemann, you're recognized to close. [LB439]

SENATOR HEIDEMANN: Just briefly. We've had conversations about the constitutional part of it. We believe this would be all right. I would not bring anything to this committee that I didn't think was constitutional. We have actually had conversations with NACO as far as how this would unfold. And when we first started to bring this bill down, I worked with some people in the fiscal office and after a couple of days, we got to talking about, yes, your tax statements would look different because you would either have to have two of them or you could do it on the same one and there would have to be a differential between the ag land and the commercial or residential and we understand that. It would be different but we think it's doable. I'm going to continue on and say that I am a little bit

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disappointed with the school board association and John Bonaiuto. I want to say that I believe that he represents the soon-to-be 80 unequalized districts also and he should think about them. When we structured this bill, we didn't do it to reallocate funds; we did it to put funds on top. And I would sure think the school board association would want to come in and support that. When you eventually see what we're going to do this year and if it continues to go the way we are going and where there's unequalized districts, it's going to get to a point that the majority of the state is going to say, why are we at \$1.05? Why would we ever want to go down to \$1 because it probably isn't going to help us anyway? We should go to \$1.10, \$1.15, and \$1.20 because it isn't going to affect us, but it will affect the amount of sales tax and the amount of income tax that we pay. Senator Hadley, you had a good point. Why does Omaha and Sarpy County and Lancaster County, why would they care about this? And to be right truthful, probably not. They would probably want to come in and oppose it more than anything else. But you know what? I think Senator Adams was here in 2007 when we did Nebraska Advantage. And I support Nebraska Advantage. And when you look about where those tax exceptions go to, it's probably not Cherry County and Valentine or a lot of places out there, a lot of that money goes to Lancaster, Sarpy, and Douglas Counties. I voted for that bill. I support Nebraska Advantage because I think it's important to this state. And I would expect and I would hope that Douglas and Sarpy and Lancaster County realize the importance of the agricultural community of this state. It's the number one industry in this state and they would realize that and want to come in and try to help us out, too, just like we helped them with Nebraska Advantage. One more comment. Jay Rempé from the Farm Bureau had talked about in the rural areas, you don't really hear people complain about as far as supporting their schools. They want that. They realize the importance. And that's the reason I structured this bill is that we exempted the counties in the ESUs. We realize that counties already in the rural areas, a lot of them are up to their 50-cent lid, and we realize that we need roads to haul our products back and forth. So we exempted that because we realize that...people in the ag sector realize we need the roads to get our products back and forth. And they never complain about how much...not the least that I've heard, they never complain about how much money they have to pay to their counties. So it's the reason we set the bill up that way. I wish we could have some discussion in the Revenue Committee. I wish you could take this bill...I realize it would be very difficult, I think I would have one vote the way it sounds to kick it out the way it is, but I realize that that would be tough to do. But maybe there is a way to kick this bill out and make it doable, and I would try to support that in the committee that I work in. Any questions? [LB439]

SENATOR UTTER: Questions for Senator Heidemann? Senator Heidemann, you're free to open on the next bill. [LB439]

SENATOR HEIDEMANN: (Exhibit 6) Thank you. Senator Utter and members of the Revenue Committee, my name is state Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, representing District 1 in southeast Nebraska. I'm here today to

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introduce LB441. LB441 restores the property tax levy authority to fire protection districts by repealing their requirement that the county board approve the levy of the fire districts within the county boundaries. In 1996, LB1114 was passed by the Legislature. It placed levy limits on seven categories of local governments and required all other political subdivisions to be allocated taxing authority by either cities or counties. Since fire districts were authorized to be created by county boards, counties were responsible for allocating levy authority to rural and suburban fire districts. Counties are authorized but not required to allocate up to 15 cents of levy authority to the miscellaneous political subdivisions under their jurisdiction. However, any funds that a county allocates to miscellaneous political subdivisions are subtracted from the counties own capacity to pay for county services. Therefore, rather than to cut their own county's operations, a county could use the entire 45 cents of levy authority to fund its own operations deciding not to allocate any levy authority to the miscellaneous political subdivisions. Some counties have completely eliminated the taxing request of fire districts. Currently, we think there's problems with about eight counties that we are aware of. Emergency fire protection service and emergency medical services are absolutely necessary in each and every part of this state. If counties refuse to provide fire districts any levy authority, fire districts must go to the citizens asking them to support a vote to allocate levy authority to fire protection districts. If a vote is taken at a primary, general, or special election, the levy authority is effective for five years. In lieu of an election, a vote could be taken at a town hall meeting, however, the levy authority is only effective for one year under this alternative. When a fire district is forced to go to a vote either at an election or at a town hall meeting, the burden for promoting the levy approval falls on the volunteer department serving in the county. Volunteers trying to juggle their full-time job and the hours devoted to responding to emergencies as well as participating in training must now conduct informational meetings, go door-to-door to solicit support, place ads in local newspapers, etcetera, in an effort to educate citizens on the reasons why the vote is essential to continue with the emergency fire suspension and emergency medical services. Additionally, the fire district must also pay for the election. If a fire district is forced to go to a vote of the people, fire districts are capped at a levy of 10.5 cents for operations as set forth in their budget. LB441 would give fire districts the ability to levy their own taxing requirements without having to go repeatedly to the vote of the people or having to depend on counties to allocate part of their levy authority to them for such critical services for the residents. If some of you think this bill sounds familiar, I introduced similar legislation in 2009. LB308 was held by your committee through 2010. Further, LB1090 was introduced in 2008 by Senator Carol Hudkins. Maybe the third time is a charm. I do have a memo which I'll offer to committee, which is right here, I could pass out. It's purely technical and it doesn't change the bill in any matter, just technical in nature. If there are any questions, I could try to answer them, however, Jerry Stilmock who represents the state's volunteer firefighters will be testifying and will be better able to respond to questions regarding the specifics of this bill. I know there might be some questions on this bill. Jerry could probably answer them better. I think it's something that you could definitely discuss. I've had a conversation

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with Senator Louden. I think he has some interest in that. I'm not saying maybe the bill is going to come out as it is, but you could at least look at it and see what we could do to help these fire districts that aren't getting the proper funding that we...they actually need to operate. So with that, I would try to answer any questions. [LB441]

SENATOR CORNETT: Senator Adams. [LB441]

SENATOR ADAMS: Thank you, Senator, for bringing this, and maybe Jerry can answer the question more definitively. But initially my two questions were: (a) do fire districts have spending lids, budget lids, spending lids like other political subdivisions; and how did you arrive at the 15 cents versus 10 cents? [LB441]

SENATOR HEIDEMANN: That part you would probably have to ask Jerry. As far as...are you talking about 3 percent except they could go to 4... [LB441]

SENATOR ADAMS: Yeah, like schools and counties and everybody else. [LB441]

SENATOR HEIDEMANN: They have that. Yep, they have that. I sit on a fire board and actually I'm well aware of that. [LB441]

SENATOR ADAMS: Okay. Thank you. [LB441]

SENATOR CORNETT: Further questions? Seeing none. [LB441]

SENATOR HEIDEMANN: I'm going to see if Appropriations is still running. I'm going to waive closing. Thank you very much. You've been very kind. [LB441]

SENATOR HADLEY: Don't spend all our money. (Laughter) [LB441]

SENATOR CORNETT: First proponent. [LB441]

DONALD SOFTLEY: My name is Donald Softley, D-o-n-a-l-d S-o-f-t-l-e-y. I'm the chief of the Grant Volunteer Fire Department, Grant, Nebraska. I work or I serve for the Grant Suburban Fire District, that is in Perkins County. We have been out of the county allocation. This is our 14th year. The 15 cents you discussed just a moment ago is a part of the county...correct me if I'm wrong, county gets 35, they can have an extra 10, and then they can have an additional 5 if they have intercooperation for their total of 15. The fire districts, a rural and suburban fire district has a cap or an authority up to 10.5. So right now for example in my district, we have an election every five years. The last time we had a special election because the years didn't coincide with any primary or general election, we asked for 6.9. Today, we are at 5.9. However, the budget that I presented to my superiors that we're working on right now today is \$101,874, \$101,874. Now the budget that I'm going to propose to our governing board that's coming up is

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going to be \$106,874, everything else being equal. I will need that extra \$5,000 so that we can pay for the legal publication, the attorney fees, the accounting fees, the publication cost, to pay for the salary for the people to hold this election. Now a year from now, all things being equal, I'm going to ask for \$101,874. I'm here before you to ask for a 5 percent tax reduction because if you'll pass this bill, we don't need that extra \$5,000 to spend for an election. I don't have to have the publications. I don't need to go spend time visiting with the Lions Club and the Rotary and the red hatters and the Sawyer Extension Club and go to the senior center, which we enjoy doing anyway. But I don't have to go and explain to them, which we do every five years, why we have to have this special election. And then, finally, if you look at our membership in our volunteer fire department today have 26 members. A year from today, I could probably sit right here and tell you that I'll have 22 or 23 members because 3 or 4 or 6 of the 25- or 30-year-old members are going to quit because of the extra time that it will take in the next 365 days to put the documentation together, to do the envelopes, to do the door-to-door, to do the sales pitch on reeducating our citizenry of the five-year rationale that the state has required us to have a general election. Thank you for your time. [LB441]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB441]

SENATOR LOUDEN: Well, thank you for being here today and, yes, I've been involved in a rural fire district for years. In fact we have a fire truck at the ranch and all that kind of stuff... [LB441]

DONALD SOFTLEY: Good. [LB441]

SENATOR LOUDEN: ...and been through the times when somebody didn't pay attention and they screwed up the budget (laugh) and we didn't have enough money to pay the...pay it all. And we live in Sheridan County that was at their maximum, and we had to have our meetings and our elections and been through the whole thing. You're asking for...you could get 10.5 cents for a sinking fund. That's always been in statute, hasn't it? [LB441]

DONALD SOFTLEY: The sinking fund is actually separate from the 10.5. [LB441]

SENATOR LOUDEN: I know, but you could always... [LB441]

DONALD SOFTLEY: I could move, yes. That is true. [LB441]

SENATOR LOUDEN: ...you could always have that because that's really not a question. What you're looking for is a fund for the maintenance. Well, are you entitled to 10.5 cents? I thought it was somewhere around 1.5 or 3. [LB441]

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DONALD SOFTLEY: The rural district is allowed to allocate 10.5 cents, but that law from 16 years ago took that away from the rural board and you have to go and ask to the county board, be a part of it, so... [LB441]

SENATOR LOUDEN: Well, yeah, I know that. [LB441]

DONALD SOFTLEY: So the max you can ask from the county is 10.5, but in our county the county is giving us zero. We can go ask for it but it ain't going to happen. [LB441]

SENATOR LOUDEN: Okay, because I thought... [LB441]

DONALD SOFTLEY: It's not there. [LB441]

SENATOR LOUDEN: I thought the most we could ever ask for was about 3. (Laugh) [LB441]

DONALD SOFTLEY: No, actually you could ask for the 10.5, so... [LB441]

SENATOR LOUDEN: And that's the reason you have 10.5 into this bill? [LB441]

DONALD SOFTLEY: That's why I'm here asking that you give those farmers and ranchers that are on the board that authority to have the 10.5 again and forget this business of having an election. [LB441]

SENATOR LOUDEN: Now if they get that 10.5, how much is your community college levy out there in Perkins County? Are you in Western Nebraska Community College? [LB441]

DONALD SOFTLEY: Out at North Platte, we have Mid-Plains Community College. [LB441]

SENATOR LOUDEN: Mid-Plains. [LB441]

DONALD SOFTLEY: I do not have that breakdown. [LB441]

SENATOR LOUDEN: It's somewhere around 8 or 9? [LB441]

DONALD SOFTLEY: At least. [LB441]

SENATOR LOUDEN: Okay. [LB441]

DONALD SOFTLEY: At least. [LB441]

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SENATOR LOUDEN: And as... [LB441]

DONALD SOFTLEY: I'm not too sure it isn't 12 but don't quote me on it. It's not. Okay. I'm sorry. [LB441]

SENATOR LOUDEN: Okay, but anyway it's comparable to what we're doing here. And that's the reason I wondered because you can't believe the static I get from county people on the amount of money we're sending into that community college and we're looking for the same money. (Laugh) Are we going to let ourselves wide open for some more complaints about that fire district is sucking up too much of our money compared to...? [LB441]

DONALD SOFTLEY: It's a lateral move. [LB441]

SENATOR LOUDEN: ...compared to your community college? Your mill levy would be about the same. I guess what I should say, would you be satisfied with 5 cents or 6 cents rather than 10.5? That would be the easiest way to answer. You can answer that yes or no. [LB441]

DONALD SOFTLEY: Well, yes, but asking for the law that was established in 1939 to be reenacted, to allow that to continue, I mean, that's still on the books. There's just another law that supersedes it. [LB441]

SENATOR LOUDEN: But you would prefer the 10.5, but you would settle for something less? [LB441]

DONALD SOFTLEY: Yes. (Laugh) [LB441]

SENATOR LOUDEN: Okay. Thank you. That's all I need to know. [LB441]

SENATOR CORNETT: Senator Adams. [LB441]

SENATOR ADAMS: Following along that same line of questioning, Senator Louden opened Pandora's box for me, and let me understand. So in an effort to be empathetic with the situations of the fire districts, as counties are under the gun and now with county aid gone, they are probably less likely to give you any levy authority of that 15 cents, correct, that they could? [LB441]

DONALD SOFTLEY: You're saying of the counties? There are probably going to be more fire districts that are kicked out from the county allocation, that is my assumption. [LB441]

SENATOR ADAMS: Okay. All right. So, therefore, this bill would indeed help you get

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over that hump. [LB441]

DONALD SOFTLEY: Yes. [LB441]

SENATOR ADAMS: Okay. So the bill is authorizing you 15 cents, correct? [LB441]

DONALD SOFTLEY: No. [LB441]

SENATOR ADAMS: Where did I get 15 cents at then? [LB441]

DONALD SOFTLEY: It's 10.5. It goes back to the 1939 law. [LB441]

SENATOR ADAMS: All right. All right. Okay. Ten-and-a-half cents. And you talked about \$100,000, \$106,000, \$105,000, somewhere in that range is your operating budget. [LB441]

DONALD SOFTLEY: Right. [LB441]

SENATOR ADAMS: Of that, how much of that is bonded indebtedness or related to equipment purchase? [LB441]

DONALD SOFTLEY: Actually, as far as the bond of indebtedness, that is actually a separate item. For us on our bond of indebtedness, right now that is \$16,898, and that is actually separate from... [LB441]

SENATOR ADAMS: That's separate. [LB441]

DONALD SOFTLEY: That is a separate thing. [LB441]

SENATOR ADAMS: So the \$105,000, let's take the \$5,000 out for publication costs, so... [LB441]

DONALD SOFTLEY: There you go, back to \$101,000. Yes, sir. [LB441]

SENATOR ADAMS: All right. So the \$101,000 is maintenance of your equipment? [LB441]

DONALD SOFTLEY: For example, \$14,964 simply goes to insurance, property and casualty insurance; workers' compensation is \$3,180; repairs on the truck, \$7,500 is what we line-item budgeted; telephone, \$1,200 for the year, on and on. [LB441]

SENATOR ADAMS: So how much in your county, how much levy authority do you need to cover that \$100,000? [LB441]

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DONALD SOFTLEY: Okay. Today it's at 5.9, today. [LB441]

SENATOR ADAMS: All right. [LB441]

DONALD SOFTLEY: But we asked for 6.9 at the last election. [LB441]

SENATOR ADAMS: And the bill is asking... [LB441]

DONALD SOFTLEY: And we will probably ask... [LB441]

SENATOR ADAMS: And the bill is asking for 10.5. [LB441]

DONALD SOFTLEY: The bill is reestablishing... [LB441]

SENATOR ADAMS: Right. [LB441]

DONALD SOFTLEY: ...what was originally instituted in 1939 of 10.5... [LB441]

SENATOR ADAMS: Right. [LB441]

DONALD SOFTLEY: ...that a person could go to that, but... [LB441]

SENATOR ADAMS: Exact...that's my point. It could go to that, but you're hovering around the 5 and 6 mark now. [LB441]

DONALD SOFTLEY: Yes, yes. We could go to that if we asked to. [LB441]

SENATOR ADAMS: Right. [LB441]

DONALD SOFTLEY: But I assure you the five rural suburban board folks that I work for will not...they all own land. [LB441]

SENATOR ADAMS: Right. [LB441]

DONALD SOFTLEY: They're not going to raise the taxes that fast, that quick, without some very tremendous need for our fire district. [LB441]

SENATOR ADAMS: Or as Senator Loudon pointed out, and it kind of puts you in a precarious position as a testifier, if you got 5 cents or 6 cents, it's a better place than you're at right now. If you had that autonomy outside of the county board... [LB441]

DONALD SOFTLEY: Yeah, if we had...yeah. [LB441]

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SENATOR ADAMS: Okay. Thank you. [LB441]

SENATOR CORNETT: Further questions? Seeing none. [LB441]

DONALD SOFTLEY: Thank you. [LB441]

SENATOR CORNETT: Next proponent. [LB441]

TOM HAMERNIK: Good afternoon, Senator Cornett and the Revenue Committee. My name is Tom Hamernik, T-o-m H-a-m-e-r-n-i-k, and I'm the chair for the Nebraska State Volunteer Firemen's Association legislative committee and I'm also a fire chief in Clarkson, Nebraska. And in Colfax County, we do get our authority from the rural fire district, and we receive about 4.25 percent now or 4.25 cents. And we are new to the MFO, and so we have a countywide levy and we're pretty comfortable with that. I have two main points and one is that our rural fire board members are very conservative people and for the most part they're not going to ask for more than they absolutely need to have, which is in that 4, 5, 6 cents in a lot of our fire districts. And I think Jerry will identify the counties that are pushing that upper limit of the 10.5 cents in later testimony. But the other thing I wanted to say was that our volunteer firefighters and EMS personnel are really pressed for time right now. There are a lot more requirements on us through the federal government, through the state government, and through our own safety initiatives within the fire service. Way too many firefighters and EMS personnel are getting hurt or killed. And so there's a big push to increase our training requirements, look at physicals for firemen, and really work hard on the safety issues to try and keep our people safe. And whether you're a paid department or a volunteer department, you have the same requirements. You don't have...I mean, we have to find a time to do this kind of stuff. And I just...I think it's unrealistic. I applaud Don for the work that he's doing in Grant. I know how tough it is to get my guys and gals to do the training that we have to do and all the organizational issues, paperwork that's required, let alone to have to go out and actually raise the money to fund the fire district. I think I would have a definite problem in my district trying to come up with that much volunteer time to do that. And I believe right now we have eight counties in Nebraska and I believe it will get worse, as Senator Adams mentioned, the aid to counties being eliminated. I think there will be more counties next year and it will continue to blossom. To Senator Adams' questions, we have levy lids now, and so you're not going to go from 5 cents to 10.5 cents. We can get 3 percent, 4 percent with a majority of the rural fire board. As far as a split of our expenses, about 40 percent goes into operations and 60 percent into apparatus and facilities. And fire equipment apparatus is much higher than the rate of inflation of safety equipment, and the sinking funds that we have now are taking a bigger percentage of money as time goes on because that cost of that equipment is going up at a much higher rate. We recently purchased an engine. It's replacing an engine that's 22 years old. And we got a very basic one but it was

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considerably higher than we expected. And in another three years, we're going to be replacing an ambulance. And we had a department party a week ago, and their first ambulance cost them about \$2,000 and we're going to be looking at \$160,000 in three years. So that equipment is very expensive. With that, I'll close my testimony and answer any questions that I can. [LB441]

SENATOR CORNETT: Senator Adams. [LB441]

SENATOR ADAMS: I'll try to make this quick but I just want to get a complete grasp of this. So you're levying about 5 cents, a little bit below 5 cents. [LB441]

TOM HAMERNIK: Yeah, 4.5. [LB441]

SENATOR ADAMS: Does that pay for that new engine too? [LB441]

TOM HAMERNIK: Oh, yeah. [LB441]

SENATOR ADAMS: That's coming out of that 5 cents? [LB441]

TOM HAMERNIK: Yep, but they've been...there's a sinking fund that's been in place for 20 years to fund that purchase. [LB441]

SENATOR ADAMS: When you go out on an EMS call, do you charge? [LB441]

TOM HAMERNIK: Yes, we do. [LB441]

SENATOR ADAMS: Okay. Percentagewise, what portion of the cost of the run does that cover your charge? I know they're all different, but. [LB441]

TOM HAMERNIK: Our rescues...our squad, actually, we charge at a similar...slightly less than a private ambulance would do and we're actually going to be able to fund most of that ambulance purchase through those charges. [LB441]

SENATOR ADAMS: Your principal and interest payment annually on that? [LB441]

TOM HAMERNIK: Yeah, yeah. [LB441]

SENATOR ADAMS: Okay. Thank you. [LB441]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB441]

TOM HAMERNIK: Thank you. [LB441]

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SENATOR CORNETT: Next proponent. [LB441]

JERRY STILMOCK: (Exhibits 7-10) Madam Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, a registered lobbyist on behalf of the Nebraska State Volunteer Firefighters Association. A couple of quick background items. The exploratory legislation in 1996 that became law in 1998, the design I thought initially by Senator Jerry Warner was to put somebody in charge of fire districts, that being the counties as Senator Heidemann explained in his opening. If it was felt that that amount allocated to those fire districts was not enough, so if that 2 cents or 2.5 cents was not enough, the backstop was included in that legislation. The backstop was for the larger type of political subdivisions. They could go and have an election. The election would be good for five years worth of levy authority. The smaller entities, the smaller political subdivisions in terms of number and so forth included in that group were villages and fire districts. They could go to a town hall meeting. If they went to a town hall meeting, they had to have 10 percent of the voters from the last election to form a quorum, and they had to obviously vote, that 10 percent had to be voting in favor of it. A good idea and concept. What has happened in fast forwarding, we have eight counties...madam page, please, one of you, the backdrop of what has happened is...and not just in 2008 forward but before that, one of the counties actually started it right away in 1998. They said: hey, here's an idea. Let's take our 30 cents that we can spend on the county, then let's take our 15 cents to get to 45 cents, let's take that full 45 cents and let's use it all ourselves. And let's push those fire districts out the door and let's let those fire districts go fend for themselves, because what? They're volunteers. They're used to fending for themselves. And certainly the people are going to vote for it. Why wouldn't they vote for it? So we end up with 45 cents all being consumed by the county, and the fire district pushed out the door as an orphan and saying, why don't you just go ahead and do your own thing and we're confident that the people will support you. Let's go get that...let you go get that levy authority. If one philosophically believes that government at the state and local level is to provide the necessities and if you believe that one of the necessities is public safety, then look at the atrocities that have happened in the handout that I've given to you, the eight counties that I think are just abusive of what are happening to fire districts. They're pushed out the door. I would love to relay to you the conversations over the last 72 hours of the counties that I've spoken with, not only to get updates from them as to where they're at, but also to get their stories, and I can't do that. Time is too precious on your end. And so I won't burden you with that. But let me hit you with a couple of pleas. The first...and they're not numbered pages. I went alphabetically, but Cheyenne county including Sidney, the very first page after the cover page. I said, tell me what happened? She said, you know what? Initially we went to the town hall meetings. We thought that was the most expedient way. We could not get...we know that in some of the fire districts they could not get 10 percent of the people to come out and vote, so literally the volunteers and those interested in the cause were on the phone to their neighbors, to the people in the community saying, you guys got to come out and vote.

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We have no levy authority. If we don't get the 10 percent here tonight, we're not going to be successful. Story number one from Cheyenne. Story number two, Sidney. Sidney, they were met with fists, not in contact, but very upset citizenry that they didn't understand why are you doing this to us, county? Why are you doing this to us? The history in there itself is just amazing. The item on Franklin County. Franklin County has been doing this since 1998. Their last election was \$3,000 for the fire districts. I'm skipping quickly again because of the time that you all have sat here already this afternoon. Nuckolls County. If I could bother you, please, to take a look at Nuckolls County. [LB441]

SENATOR LOUDEN: Heart of the Hills is the one I'm in. [LB441]

JERRY STILMOCK: Nuckolls County 2010, levy for the county, the top line--32 cents. Fire districts are pushed out the door in that county, and I scratched my head and I said, why? You have 32 cents. You have levy room. Why in the world are you making these volunteer firefighters go out and beat on the doors to educate the citizenry to get this election so they can have money to vote? And the county clerk very politely said, well, we were at 48 cents and just in the last several years that has gone down. The levy has gone down, valuation of real estate has gone up in our particular county. It's offset the levy amount and it's shrunk. But we're going to continue to make the fire districts go out and go through the election process in order to raise the funding. Of those eight, you know, is it all-inclusive? I don't know. I've tried to...may I have another two handouts please? And this one as well, please. The last two items is a snapshot of...I said, okay, not only the volunteers but what about the cost. And Mr. Softley, the first presenter after Senator Heidemann, he talked about the expense of the fire district. One of the items that you're getting, I don't know what sequence you're receiving them in, the Perkins County Clerk supplied me with the cost of holding a special election for the various groups in addition to the fire districts, just over \$5,000. And then, finally, if it's of any interest, in Deuel County when they were being pushed out the door, the county board, county commissioners asked the county attorney to put together a letter, and they kindly obliged me with that letter, just to say, this is what is on the horizon. Look, people, in county government, this is in the second paragraph of the letter, it's undated but it's back in 2007. The Deuel County attorney wrote to those involved in running county government in Deuel County. This is what we've done so far in terms of 5 percent, 10 percent cut. We're taking the family off the health...the point is making cuts to county government. And he said in the third paragraph, but the county commissioners are also looking at pushing fire districts and the other miscellaneous districts out the door. And sure enough, Deuel County is one of those counties that have pushed fire districts out the door in order to sustain themselves. I wanted to say one item in terms of the multipage handout with the different levies for the eight different counties. For the fire districts, that does include both general fund and bonded debt. Sometimes as I spoke to the county clerks, they used the term "sinking fund," others used the term "bonded debt." I think maybe bonded debt is more closely to what it is. Bonded debt certainly is

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outside the levy limitation according to the law that was passed back in 1996. So some of those...the inform...I didn't split a hair when it came to the fire districts in terms of what their levy amount was just for operations. Senator Heidemann isn't here and I haven't asked him about this and it's his bill, but given the nature of the conversations of what has happened as to whether or not there would be some direct allocation so we wouldn't have this repetitive going back, going back, and taking the time of the volunteers. I appreciate the indulgence of the committee listening once again to this bill and would hope that you all would consider in advancing LB441. Thank you. [LB441]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB441]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, Jerry, since I put that other gentleman on the spot and seeing as I know you pretty well so I won't discuss whether or not you're a gentleman, but I'll put you (laughter) on the spot. Where are you at on this 10.5 cents? I mean, would you be satisfied with a number less I guess? [LB441]

JERRY STILMOCK: Jerry Stilmock would. Whether or not my client would and that's what you're asking, there's no sense playing those word games, but I don't have authority to go to something other than 10.5 cents. Frankly, Senator, I think to get some direct levy allocation so a public safety issue doesn't have to go to the shenanigans of, do we have enough people even to get a vote, I think the membership of the association would look strongly at something less than 10.5 cents, sir. [LB441]

SENATOR LOUDEN: Okay. And that would be that you're coming from the fact that most of these fire districts are run by local land owners or local people and that's how they control that, and at the present time, they've never went that high? Do you have any fire district I guess that have went that high I guess should be my question? [LB441]

JERRY STILMOCK: You know, anticipating because we've rehearsed this a few years ago, I did look Douglas County, Millard still has a fire district. I don't understand the legalities of it. Millard has a fire district that's a part of Omaha that levies 10 cents, 10.2. And Elkhorn is at 10.5. So...and when I say Elkhorn, I'm speaking of the rural, the district, whether it be rural or suburban. The district of Elkhorn is levying at 10.5. And...I can't read this, and Douglas County...Millard, pardon me, is 10.2. If I may, I don't have extra copies of this but I'll make it available to the committee because those are the highest ones that I saw. Valley was at 7 cents. Valley is still a part of, obviously, Douglas County. [LB441]

SENATOR LOUDEN: Okay. And that's what I'm wondering if we got to put a number in there that...you can't put a number in there that somebody is already above and then they got to back down or something like that unless there's...it could cause a little bit of stress on their operation I guess, so. [LB441]

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JERRY STILMOCK: And I don't have enough on that. The... [LB441]

SENATOR CORNETT: I was going to say, neither of those actually have fire departments. [LB441]

JERRY STILMOCK: That's true. [LB441]

SENATOR CORNETT: They contract with the city of Omaha. The fire districts are like separate school districts and weren't dissolved, so they levy and then pay the city of Omaha for their fire protection. [LB441]

SENATOR LOUDEN: Okay. Thank you. [LB441]

JERRY STILMOCK: Yes. [LB441]

SENATOR CORNETT: Further questions? [LB441]

JERRY STILMOCK: Thank you, Senator. [LB441]

SENATOR CORNETT: Seeing none, thank you. [LB441]

JERRY STILMOCK: Thank you very much. [LB441]

SENATOR CORNETT: Are there any further proponents? Opponents? [LB441]

LYNN REX: Proponent. [LB441]

SENATOR CORNETT: Oh, okay. Sorry. [LB441]

LYNN REX: I was just...I thought maybe you wanted a...Senator Cornett, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We do support this measure and I think that those ahead of me have outlined reasons why this is necessary. I'd like to just talk about a few things quickly. Senator Adams, you asked the question, where did you get the 15 cents. If you look on page 18 of the bill, it talks about the fact that in line 5, this talks about the levy. This is Section 77-3442. It's on page...did I say 8, it's 18, page 18 of the bill. If you'd turn there for a second, on line 14. So essentially what counties have is, counties have a constitutional limit of 50 cents. So when the Legislature passed LB1114 in 1996 with municipalities, we went from...basically our levies for first-class cities went from 87.5 cents down to 45 cents plus 5 to get to 50 cents. Because counties have the constitutional limit, theirs was reversed. So theirs...and this is how it reads starting on line 5. It talks about the fact that they will basically have 50 cents, but then they back out the 5 cents for interlocal agreements. The extra 5 is...so it's 45 plus 5 for cities for

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interlocal; 50 minus 5 for interlocal on counties. If you look at line 14, this is where it talks about the 15 cents. Of that 50 cents, actually the 45 cents, "The county may allocate up to 15 cents of its authority to other political subdivisions subject to the allocation of property tax" levy to levy taxes as authorized which do not collectively see the 15 cents and so forth. So what that basically says is that the Legislature at that time took all of these districts and others, too, and put them into one area. Airport authority, cities...you may remember, Senator Adams, and Senator Hadley maybe remember this as well and I don't know, Senator Pankonin, if you were mayor at that time or not, but municipalities absorbed other districts, too, within our 50-cent limit. So these other districts were all absorbed. One of the things I just wanted to underscore is that at the time that LB1114 passed, the backdrop to that was that there was proposed constitutional amendments to basically strap down the state of Nebraska in what you could spend, the revenue that you could raise. And essentially Senator Warner and others, after a year of study, came out with this proposal which resulted in the passage of LB1114 to say, you know, there's some parts of the state where property taxes are not high enough; there are other parts of the state where property taxes are too low. Let's have some uniformity in all of this, and that's why these levy limits were put in. But in addition to that, the Legislature said to us as we were working with a wide coalition of over 50-some organizations opposing those initiative measures, please help us oppose this so the state doesn't get so strapped that the state can't do business because as circumstances change, if it's in statute, we'll be able to deal with this. Passage of LB1114 I think...no, unquestionably helped defeat some constitutional amendments that were out there. But I do think since 1996, the time has come to make some modest changes. It is unfair in our board's opinion to require volunteers in particular to go out and try to just beg people for money to do what is basically an essential public service, and that's fire protection and safety. This we think is a very modest proposal. I don't know if the 10.5 cents is the right number. That's something you're going to have to talk to them about. But, for example, if you look on page 19, lines 15 and 17, that would give them independent authority on page 19, lines 15 to 17, that gives them independent authority so they don't have to do the "Captain, may I" with the county board. And in defense of counties, I understand why some fire districts are very upset and I understand the terminology that Jerry Stilmock used. But I do want to say I can't speak for those eight counties, I don't know their financial situation, but counties are strapped for funds too. Counties are going to be increasingly strapped for funds. So I would see that this situation is going to be occurring more frequently, not less frequently. And, again, I want to underscore, these are volunteers, volunteers who spend their personal time going out and getting training. They're doing things, number one, I'm incapable of doing, but, secondly, even if I was capable of doing it, I wouldn't do. I mean, they're spending a lot of personal time doing the things and meeting all the mandates the paid fire departments, quite frankly, have to meet too. So it just seems to me that this is a fair proposal. Again, the amounts, I think you need to talk to the Volunteer Firefighters Association about that. But the time has come for the Legislature since 1996 to basically do something to assist these folks because if you don't end up with volunteers and you

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have people that decide, you know, enough of this already, then what's going to happen out there for those people that rely on them for protection? With that, I'd be happy to respond to any questions that you might have. [LB441]

SENATOR CORNETT: More of just a point. We have the financial information for the counties or what their levy rates are, and most of them are right... [LB441]

LYNN REX: Okay. And I don't have that. I haven't seen that. [LB441]

SENATOR CORNETT: I was going to say most of them are right at the line except for one which is significantly under and has chosen to do this, which doesn't really make any sense to me. [LB441]

LYNN REX: Yeah. I don't know. I don't have the numbers, Senator, that you have. But I can see why counties that are right up against it... [LB441]

SENATOR CORNETT: Oh, yeah. [LB441]

LYNN REX: ...they feel like they have no choice. And this really is very modest. So I'd be happy to answer any other questions you have. If not, thank you very much for your courtesy. [LB441]

SENATOR CORNETT: Thank you. [LB441]

LYNN REX: Thank you. [LB441]

SENATOR CORNETT: Further proponents? Opponents? Neutral? (See also Exhibit 12) That closes the hearings for today. [LB441]