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Revenue Committee  
January 20, 2012

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[LB750 LB762]

The Committee on Revenue met at 1:30 p.m. on Friday, January 20, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB750 and LB762. Senators present: Abbie Cornett, Chairperson; LeRoy Loudon, Vice Chairperson; Greg Adams; Lydia Brasch; Deb Fischer; Pete Pirsch; and Paul Schumacher. Senators absent: Galen Hadley.

SENATOR CORNETT: Good afternoon, and welcome to the Revenue Committee. My name is Senator Abbie Cornett from Bellevue. To my left is: Vice Chair Loudon from Ellsworth; Senator Deb Fischer from Valentine; Senator Greg Adams from York will be joining us. On my far right: Senator Schumacher has...will be joining us, he has a bill in another committee; Senator Brasch from Bancroft; Senator Pirsch from Omaha; and Senator Hadley I do not believe will be with us today, from Kearney. Our research analysts are Steve Moore to my right; Bill Lock will be joining us later. Matt Rathje is to my far left and is our committee clerk. Our pages are Michael Killingsworth and Matt McNally. Before we begin the hearing, I'd like everyone to please turn their cell phones to either silent or vibrate. Sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, please hand your sheet to the committee clerk. There are also clipboards in 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 sheets will be recorded and included in the official record. We will follow the agenda posted on the door today. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the right for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies for the committee and staff. If you only have the original, we will make copies. Please hand the handouts to the pages to circulate to the committee. With that, we will open the Revenue Committee hearing. Senator Loudon, you are in charge.

SENATOR LOUDEN: Okay. Thank you, Senator Cornett. We will have LB750, our first bill. [LB750]

SENATOR CORNETT: Good afternoon, Vice Chairman Loudon and members of the Revenue Committee. My name is Abbie Cornett and I represent the 45th Legislative District. I'm appearing here today as introducer of LB750, which is a bill designed to fix a problem identified during the Revenue Committee's November 18, 2011, public hearing on interim study LR350. The focus which is an examination of issues pertaining to the process and procedures used to value and equalize real property, including the examining of comparable sales guidelines set forth in Nebraska revenue (sic) Statutes Section 77-1371. During that hearing, much testimony focused on a particular county

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

assessor's determination that residential land located in a platted and zoned subdivision that included a lake was comparable land for the purposes of determining the value of land beneath a farm home site. Statute Section 77-1359 defines a farm home site to mean not more than one acre of land contiguous to a farm site which includes an inhabitable residence and improvements used for residential purposes. And such improvements include: utility connections, water, sewer systems, and improved access to public roads. In light of that, there's a sense that these two home sites could not be reasonably considered to be comparable properties for the purpose of real property taxation. LB750's purpose is to fix that problem by amending the Statute 77-1371 to clarify that residential land located within a platted and zoned residential subdivision is not land comparable to land that is part of a farm home site as defined in Section 77-1359. Senator Louden will be following me with a bill that is fairly similar to address the same issue. With that, I'd be happy to answer any questions. [LB750]

SENATOR LOUDEN: Any questions for Senator Cornett? Senator Adams. [LB750]

SENATOR ADAMS: Thank you, Senator. Senator Cornett, you used the language platted and zoned. Help me out a little bit. Would an SID fall under that same category? Are they platted and zoned? [LB750]

SENATOR CORNETT: Yes, and they usually have the improvements that we're talking about, where your farm home sites don't. What we were seeing was homes that are acreages but residential in nature being used as comparable sales to a farm on that first acre. [LB750]

SENATOR ADAMS: Thank you. [LB750]

SENATOR LOUDEN: Other questions for Senator Cornett? Seeing none, thank you. [LB750]

SENATOR CORNETT: Senator Louden, since you have a similar bill, I will waive closing on this. [LB750]

SENATOR LOUDEN: Okay. First proponent for LB750. Welcome. [LB750]

SENATOR LAMBERT: Good afternoon, Chairman Cornett, members of the Revenue Committee. I'm Paul Lambert, L-a-m-b-e-r-t, and I represent the 2nd Legislative District. I'm here today to say thank you to Senator Cornett and Senator Louden specifically and to the whole Revenue Committee in general for introducing and hearing testimony on these two bills. As you know, I was appointed in October to represent District 2 in the Legislature. One of the first issues brought to my attention was a longstanding disagreement between the landowners and the Sarpy County Assessor. And this was about how the land, that first acre of a farmstead, was valued. My predecessor, Dave

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

Pankonin, told me that over three to four years he had discussed the problem and possible solutions numerous times with Sarpy County residents and representatives from the Department of Revenue. He also told me the Revenue Committee introduced LR350 to study the issue. He was very grateful for the committee's willingness to look for a solution to this problem, and I share this sentiment. Last year on November 18, your committee held a hearing on LR350. I attended the hearing as an observer and was impressed with the attentiveness and the reception afforded to the individuals who appeared before you. The introduction by Senator Cornett and Senator Louden of the bills you have before you today indicates that you didn't just listen to the message you received in November, you really heard it. And I truly appreciate that. Some people from whom you will hear today appeared before you at the same hearing in November on LR350. These are my constituents. These landowners are carrying a heavier burden than are landowners in most of the counties in our state. I know I can speak for my constituents and myself when I say we appreciate the fact that you offered proposals to address this dilemma. They have struggled for several years to get this addressed. Thank you for your willingness to hear our concerns. Thank you, everyone. [LB750]

SENATOR LOUDEN: Questions for Senator Lambert? Seeing none, thank you, Senator. [LB750]

SENATOR LAMBERT: Thank you. [LB750]

SENATOR LOUDEN: Next proponent for LB750. [LB750]

JAREL VINDUSKA: (Exhibits 1-4) Senator Cornett, members of the Revenue Committee, thank you so much for having us here today and thank you, Senator Louden, too, for your efforts to try to help us out here. I'm hoping this can be resolved once and for all because property owners, especially in Sarpy County, have wasted a lot of time and money over this issue. I know...how much time to do I have? I forgot what you said. [LB750]

SENATOR LOUDEN: Go ahead, just keep a-going. If you get too long, why, I'll give you... [LB750]

JAREL VINDUSKA: Okay. Okay. I'll make it quick because I know we got a lot to say. I'll have a brief synopsis of the problem we're confronted with here. [LB750]

SENATOR CORNETT: Sir, could you please state and spell your name for the record? [LB750]

JAREL VINDUSKA: Oh, sorry. Jarel, J-a-r-e-l, Vinduska, V-i-n-d-u-s-k-a. I'm from rural Gretna area. Each year, the Sarpy County Assessor's Office does a rural land model. I've handed out one of them to each of you, along with several other documents. This

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

rural land model is based on a typical five-acre acreage in Sarpy County. So the numbers are adjusted to fit a five-acre parcel. That's been an ongoing problem all along in Sarpy County, even when we had the recapture amount. The assessors have this problem where they think that you can assess land how it could be someday instead of as it actually is on January first of each year. That's statutorily what is required. The model, if you'll look at the model, the first page of this model, on this that I handed out here, the right-hand column is the selling price per acre; the middle column is the actual market value of the whole parcel. As you can see, it goes from smaller to larger. And, of course, like real estate always is, the smaller the parcel, the less...the more you pay per acre. It's just supply-and-demand economics. That's the way it always is in our country. If you buy more of something, you get it at a cheaper price. Well, anyway, here's a typical five-acre piece. If you went by the actual market value per acre, the total price of it--an average in Sarpy County is \$98,200--if you divided this undeveloped piece by the acres, most people would conclude that it's approximately \$19,640 per acre. But with the Sarpy County model, there's a thing comes into play called diminished marginal utility or contributory value of that diminished marginal utility. This we can prove by actual sales. This is based on speculation, based on the assessor's view that when a person moves into the country, he's only interested in a place to build a house, and all the extra land is extra land that he really doesn't want. So based on that premise that's "unsubstantiable" because there's no sales to represent that, they have concluded that there's the top, the first acre is \$62,000; the next three are \$10,000; and anything over that is \$6,200 per acre. So the question is, how did we get to this \$62,000 figure? The \$62,000 figure is only evident in lots and subdivisions. Namely, in Sarpy County this first year, for 2009, it was one lot, and even that lot didn't sell for \$62,000. It sold for \$40,000 and was extrapolated up to \$62,000. So there's only one property that has even a smidgen of evidence that shows that there's a \$62,000 acre. But we've got a...and how I can show you how that hurts the intent and negates the intent of special assessment, say this person...you don't have to enroll in special assessment. This guy could choose not to if it wasn't agricultural or horticultural land, and he would pay on the total value. This guy, if he's producing agricultural commodities, he can enroll four of those acres in special assessment. But the problem is, because this price has been inflated so high, it negates the special assessment. This land in Sarpy County that rates as agricultural and horticultural land might range anywhere, depending on how rough it is, from \$800 an acre up to \$3,000 an acre. So if it's...say they take the high number, \$3,000-an-acre land, he's saving \$7,000 there, \$7,000 there, \$7,000 there, \$3,000, \$200 there--\$7,000 times 3 is \$21,000, plus another \$3,000 is \$24,000. So he would be assessed...save \$24,000 of assessment here. But because his first acre wasn't assessed at the actual value of that acre of \$19,640, he's getting a net loss of \$42,000 of additional...\$43,360 of additional assessment. So everything that he gained here is more than negated here. He has no special valuation anymore. It's just taken totally away from him because this has been put artificially high. Okay. So you would think that, Senator Cornett, your proposal to get rid of the subdivision lots would take care of this. Unfortunately, it won't take care of it. Because since I've been to the TERC a couple of times, Tim Ederer, our

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

agriculture assessor, has stated at the TERC several times that he doesn't need those lots in the subdivision, that this \$62,000 was just a mere coincidence, that the \$64,000 was a mere...three years in a row it was a mere coincidence that the highest-priced lot was the one that was chosen as the first acre in Sarpy County. Three years of a coincidence. And so I asked him, since I went to him the other day, the day before yesterday, and asked, if we are able to eliminate the lots in subdivisions, will that take care of it? Will we get these to be more realistic figures? And Tim said, no, it won't; we're going to assess this exactly the same--which I figured he'd say because he's said that all the time in front of the TERC--that I've got a mathematical equation, some kind of regressive curve, that if I carry the curve long enough, I can get to where I want to be. Well, of course, you determine where you want to be first and then you adjust the curve to be the spot where you want to be. So I brought out a copy of the 2011 model and I asked him. I said...if you wouldn't mind turning to that model, to page...it's the second page from the back. And by the way, Assessor Pittman corroborated that this is true, that nothing is going to change if this law is passed this way, that the assessment will be exactly the same. And he'll corroborate that. I know he's going to speak, he's behind me here. If you turn to the model on that page, there's 40 properties that were used to produce...as comparable sales to produce this model. I had Mr. Ederer, those are his marks not mine, those little check marks, I had him mark the properties that would be left to use if this bill were to be approved, that we couldn't use platted subdivision lots. As you see, there's nine of them there. And if you take a quick look at one of the columns there, SPAC stands for selling price per acre. And you quickly go through those yellow ones. The top one there, the top one that's highlighted in yellow, is \$14,945, and down the line a ways is the lowest-priced one, \$4,344. When you average those out, average those nine sales in Sarpy County that are actual farm sales, it comes to an average value of \$9,193. Now these guys both look at me with a straight face and say that all they have to use is those nine sales that average \$9,193 and they can still come up to that the first acre on the farm is worth \$62,000. I'm not very good at math, but that's a tricky thing to do, I think by anybody's standards, if you have no evidence. So that's why I wrote up an amendment that I think is very necessary to add to one of these...one or both of these bills, and I submitted that also to you. And if we could go through one more thing to show you why this is so unreasonable and irrational, if you'd bring out this picture and just take a quick look at it, this aerial photo right here. This is the infamous lot that started this whole mess in 2009. This is Thousand Oaks subdivision about six miles south of Gretna on Highway 31, right on the highway. Our farm is another mile and a half down the road from this. And as you can see, it's approximately 40 acres, maybe 39 when you cut a little off where the highway jogs there. And surrounding it is an L-shaped piece that's the remainder of that quarter, which is 120 acres undeveloped, no improvements on that quarter. If you look at the front page again, of this model, 120 acres--I've got it highlighted--120 acres is worth \$6,760 an acre. The total price of the property that size in Sarpy County in that area...well, average price in Sarpy County would be \$811,200. Now Mr. Pittman went to a professional land appraiser, actually Dr. Steven Shultz, who teaches land appraisal at

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

the University of Nebraska, in economics. And he went to him for advice to corroborate whether the way he's doing it is right. And in his letter--I've got a letter of it--he states, yes, you could use lots in subdivisions but only if you subtract the value of the amenities that it took. So, anyway, take a quick look at the map here. Okay. You got two similar, very similar pieces--cropland, timber, hilly, same terrain, views, and everything like that. But what did it take to make this Thousand Oaks subdivision? Well, somebody had to invest...40 acres is worth \$315,000. Somebody had to either take out a loan or have \$315,000 sitting around. He had to buy that piece of land. He had to do engineering. He had to put in expensive pavement. He had to put in a commercial-grade well with treatment systems. He had to put it...bury it under...buried lines. He had to put underground utilities. He had to devote several of the acres, looks like about six or seven acres, to a lake. He had to pay surveying. He had to pay advertising. He had to sit on it for years waiting for the lots to sell. He had to pay real estate people. And he had to tack in a profit for himself. So after you remove all of those things that I just listed and probably a lot more that I didn't list, what are you back to? You're back to this bare piece of land over here, the 6,760-acre parcel. Because if some farmer were to put a house on there, it didn't come up to this \$64,000. That \$64,000 was because of all these things that was done. And if the farmer puts in a gravel driveway and he puts in a septic system, that's assessed on the improvement side. He's already paying for that assessment in taxes. So what is that piece, what is that acre on this 120 acre worth? It's \$6,760. And what if somebody wanted to buy this to make this Thousand Oaks? They would have to put the same expenses in Thousand Oaks. And, yes, then their \$6,766 acre would become a \$64,000 acre, but not until that's done. And so that's the basic argument we have here. You know, we can clarify it easily if we just...this amendment that I wrote--no use in me reading it, you can read it yourself--that's going to take care of it. And Mr. Pittman agrees. If...I read this to him, too, and I gave a copy of it to him. If this was in place, he's got to assess it. It doesn't leave no wiggle room. He's got to assess it for the price of an acre here. And it will be consistent through all the counties. And it's going to be the intent of the greenbelt laws. The intent of special valuation was you get a break on the farmland; you pay the actual market value on the land that doesn't qualify. Well, this 6,000-some acres is actual market value on this, and this \$19,600 is actual market value on a five-acre piece. Now the only complaint that Mr. Pittman has relayed to me is he's afraid it might screw up the homestead rule, where if this guy is paying \$19,640 for his acre under the house and the farm next door is only paying \$6,700, that it might form a contentious issue. But I don't really understand why. That's the nature of property tax. I mean, I don't...believe me, I don't believe in property tax, but that's our system. If you've got an expensive house, you pay on an expensive house. If you've got an expensive piece of land, you pay on an expensive piece of land. A piece of land...an acre on 120 is not worth the same as an acre on a 5 or an acre in a subdivision. They're different prices. So I don't want to take up all the time. There's other people that want to talk. But I think I've covered it all, our position. And I think it's a very easy fix. I just really hope you'll advance this and help us out. [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

SENATOR LOUDEN: Okay. Questions for Jarel? Seeing none, well, thank you for your testimony and your presentation. [LB750]

JAREL VINDUSKA: Thank you. Thanks. [LB750]

SENATOR LOUDEN: Next proponent for LB750. [LB750]

CONNIE ANDERSON: Hello. My name is Connie Anderson, and I'm a resident of just outside of Gretna, Nebraska. And I'd like to thank Senator Cornett and Senator Louden for bringing up this bill. I'm a proponent of your bill but I also agree with our previous speaker here, Jarel, that it needs to be clarified even further. Because I do know that it's going to continue to be a problem with Mr. Pittman's idea of diminishing marginal utility. I'd like to make a few statements about that assertion. That is a totally subjective assertion, that he can discern what the desires are of a buyer or owner on the property and that he is saying that the primary purpose that that owner has bought that property is to build a residence and therefore any of the superfluous acres that are out there doesn't really add value to that, it's all...or most of it is centered in that acre on which the house is built. But that's not true, for farm properties especially. Farm properties I like to think of as kind of like a factory. You have a big, large factory that's producing something, and you also have an area with the office room, with the offices that runs the factory. Now the office isn't producing anything, but it's needed to go and be able to produce things in the factory. But when you go to tax purposes, the office area isn't singled out and said, well, the area underneath this office is worth more than the area that's underneath the factory. That's not the way it works. All the land is taxed at one...one way, and then the improvements, the factory, the office, is taxed separately. And that's the way it is on a farm. Our houses are taxed separately. Our roads are taxed separately. Our wells are taxed separately. And then the land is taxed in a different way. I'm not at all opposed to going and having the acre underneath my house taxed to be not in production. But I don't think it's fair for an assessor to be sitting there saying, well, you must value this acre underneath your house far more than any of the other acres that are there. That's not the case. I see it kind of like also if you look at a motorcycle. A motorcycle can get somebody around. And then you compare that to a semitruck. A semitruck could also transport somebody around. But they can't be compared. They're both methods of transportation, just like the farm home site is an area of residence and the high acreage...small-acreage lot is a residence. But their utilities are different. The truck has got a different utility than the motorcycle. And the utility of our properties is reflected in the zoning. Agricultural zoning is different than the small plots that he's been using. And I don't think it's right to be going and comparing our properties to those properties that are in a different zoning class, and that's what he's been doing. So I would say that if you went and based any taxation, that the comparables have to be based on the same classification of property, the same zoning classifications. That's all I've got to say. [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

SENATOR LOUDEN: Okay. Questions for Connie? I have a question for you. [LB750]

CONNIE ANDERSON: Sure. [LB750]

SENATOR LOUDEN: In this proposed amendment that you've circulated here and then the last line is, "Farm home site and farm site acres have the same actual market value per acre as the other acres of the parcel they are part of." In other words, the dirt underneath the farm is worth the same valuation as the dirt that you're plowing up. Is that...that's your contention? [LB750]

CONNIE ANDERSON: That's what my contention is because we can't separate out the acre that's underneath our home. It would...if it would be all sold, it's all sold as a joint property, and then that means that the value of the land that's underneath your house is also reflected in the total price there. Anything that's added onto that acre to go and have your house on there is already taxed separately. Our roads are taxed separately. Our house is taxed separately. The amount of cement on my driveway in front of my garage is taxed separately. My well is taxed separately. [LB750]

SENATOR LOUDEN: Now is that...we've had this argument around the house a few times here. When you have something like that, the first thing they say is that isn't farm ground anymore, agricultural ground, that it's residential or something because you have a residence on it. Should there be something in there that that dirt underneath there should be valued at 150 percent of the value of the parcel that they're connected to? Could you live with something like that? Set it as...and have something like that statewide. Right now, we're all over the place all over the state of Nebraska. What's your feelings on having something on that order? [LB750]

CONNIE ANDERSON: Well, certainly what you have to do if you're going to go and clarify that is to remove the subjective nature of what Mr. Pittman has been doing. What...what Mr. Pittman is doing is totally subjective, and if you're going to do something, it needs to be objective. It needs to be something that you can put down there in dollars and cents for this. You know, and it can't be based on what he supposes somebody's desire is for that particular property. Myself, I would say that the state has gone and decided that 20 acres is considered an agricultural-size limit. And if you're going to do anything where you wouldn't take into account that somebody has 300 acres or somebody has 600 acres or somebody has 200 acres and adjust it that way is go and say, what's the lowest that you can still have that acreage down to and still qualify at the same zoning which would be agricultural? Because that whole parcel is agricultural. It cannot be split up. If it's split up, then it's not agricultural anymore. It has to go to the zoning board. It has to be rezoned and replatted. Like I say, his five-acre plots that he's bringing in, they're not zoned agricultural. These are residential RE2s or something like that. They're not in the same classification as mine. [LB750]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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SENATOR LOUDEN: Okay. Other questions? Seeing none, thank you for your presentation. Next proponent for LB750. You can sign that paper later there. We'll take your testimony then. [LB750]

JOHN KNAPP: Okay. Yeah, I don't want to waste your time. [LB750]

SENATOR LOUDEN: Just state your name. [LB750]

JOHN KNAPP: (Exhibits 5-6) Oh, here it is. My name is John Knapp, J-o-h-n K-n-a-p-p. I'm here to represent myself and Sarpy County Farm Bureau. And I agree with the testimony of the previous testifiers. And I hope that when you work on this legislation, you review the testimonies provided during the hearings and the LR350 hearings also. And I think in answer...a lot of my letter here has been covered by Jarel or Connie already. And I wanted to say that Connie brought up the example of the car and the truck...or the motorcycle and the truck. Mr. Pittman considers a wheel as the base...as a marginal utility. One acre, one wheel, and then from that point on any extra wheels are marginal utility. Well, one wheel would only work on a unicycle. The motorcycle, he doesn't reach marginal utility until he gets to the second wheel...after the second wheel. He decides if he wants to carry a spare on the back of his bike or ride without it. Same way with a semi. He needs 18 wheels before he reaches his...and if you look at economics, it's described as utility. And then they break it down into marginal utility. There's actually diminishing marginal utility, and there's actually increasing marginal utility also. But you don't start deducting...something is not in excess as a diminishing marginal utility until you reach your maximum utility. And so on the 18-wheeler, you get to 18 wheels before you get to the extra marginal utility on the...if you want to carry a spare. And same way with a farm. Mr. Pittman looks at the home site as we're putting the farm as the excess property on a home site and...when it really should be that the home is placed as a diminishing marginal utility on the farm site. And it's a lot of cases the farm site and home site were put on the less...either close to a well because they needed a well or on a piece of marginal land that really they didn't feel was as productive as the rest of the land. And so I think the whole idea of his theory of marginal utility, it's different for lots in town, it's different for small acreages, five acres, and the different zoning classes. And on Jarel's graph he gave you, the graph he gave you on the...in my handout it's, like, page 3, the plots...and he said pretty much the assessor's office uses an equation, and so they just arbitrarily pick. If they don't have the values up there, they just extend their graph. Well, I'm not sure they're using proper mathematical equations to arrive at that, those unknown points. And, again, I don't think they're accurate anyway. This graph is based on the theory that everybody's...once they get their first acre, they're satisfied with all other...that's met their utility. And I was just going to say at the...and as the TERC hearings for my 2009 protest, I pointed out that the amenities were not subtracted from the same price of the lot in Thousand Oaks subdivision. That was supposed to be the comparable used to arrive at the first acre of assessed value of \$64,000. And Mr. Ederer told the TERC board that the sale of the

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

property was depressed and that the assessor's office felt that all the values of the improvements were already discounted at the distressed sale price. And I guess that the TERC board agreed because they made no changes on my appeal. The comparable property used for the 2011 formula also has amenities that haven't been deducted to reach the \$62,000 assessed value for the first acre. And I don't know why the assessor keeps including these improvements and amenities for these first-acre land sale values. If you deduct all the amenities on a lot in town or any one of these subdivisions, you would get back down to, as Jarel pointed out, the bare-acre value. And there is...and any amenities that you can't deduct visibly--it's something that you can see that you can deduct--the other things, like proximity to town, that's built into the sale price. My farm is several miles from any...five miles from the closest small town. And Mr. Pittman claims that all the...for the farm acres, home site acres, there's a uniform market area throughout the county and that all 850 farm sites, farm home acres, are in the same market class. We're all valued the same. And I really don't think that's the case. And on the second page of my...I guess third page in my handout, the first...I didn't know Jarel had both models here, so my models up-front are basically the same as Jarel's. I brought the '10 and '11 years; the model is the same. And the 2009 is different, so that's why I included that. But on the page here with the sales, there are several properties here that their sales are mentioned. All the ones that say Cornish Acres are within...on my same section, and...for these five-acre tracts, some of them are four. And Mr. Pittman has claimed that any five acres in Sarpy County is worth \$100,000. Well, you see these are probably the closest ones. I think there's one for \$82,000 in there. And there are...these properties are on the south side of the section, I'm on the north. And when I asked the...at the TERC board hearing, when I asked Tim Ederer what...wouldn't my property be depressed? They couldn't explain why this was depressed...they said it was depressed property, are why these property values were down. And I said, well, why wouldn't my...wouldn't my property be depressed? And he said, no, not necessarily; there's no evidence of that. So basically what he's telling me is, you know, when I get ready to sell my property, it may not be worth what he's doing or what it is because this is a depressed...I think it's really a different market area, is my own personal opinion. And so anyway, that's what these pages are for. And in conclusion, I think you need to do...get rid of this graph here that's based on diminishing marginal utilities and adopt the amendment that Jarel has proposed. Thank you. [LB750]

SENATOR LOUDEN: Okay. Questions for Mr. Knapp? Senator Fischer. [LB750]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mr. Knapp, for being here today. You mentioned the amendment and that you support the bill with the amendment, correct? [LB750]

JOHN KNAPP: Yes. [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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SENATOR FISCHER: You also talked about being before the TERC board in 2009. Do you think if this bill would be passed with this amendment, if it had been passed with the amendment in 2009, your outcome would have been different before the TERC board? [LB750]

JOHN KNAPP: Well, I would hope that it would be getting down to a level where I wouldn't have to go to the TERC board in the first place, because I was upset with the fact that we went from around \$20,000 or \$10,000, \$10,000 to \$20,000, I'm not sure right off the top of my head, but in that neighborhood to \$60,000 in one year. And I didn't see anything that really changed other than this formula that this graph is based on. And as Jarel said, the legislation as proposed in LB762 and LB750 would not correct that. And, hopefully, the amendment would get us down to, you know, where it should be. And I think it should be based on actual sales, as I think it was...I don't know if it was Connie or Jarel who said the subjective nature of, you know, not necessarily just Mr. Pittman but any assessor. [LB750]

SENATOR FISCHER: Do you believe that Sarpy County is the only county where this is occurring? [LB750]

JOHN KNAPP: To my knowledge it is. I mean, all the adjacent counties around Sarpy County: Saunders County goes from roughly \$17,000 to \$28,000 on their first acre; and Cass County was in the \$17,000 to \$20,000 range; and Omaha this year is finally starting to raise all the properties adjacent to Sarpy County to \$50,000. But otherwise they're, you know, down in the \$17,000-\$20,000 range. [LB750]

SENATOR FISCHER: Did the TERC board give any reasoning why they would support Sarpy County assessing land differently than the rest of the state? [LB750]

JOHN KNAPP: Well, they...it's kind of...our county board, our Board of Equalization approved Assessor Pittman, even though the independent referees disagreed with his values. The Board of Equalization said that the voters elected Mr. Pittman and, therefore, they felt that, you know, if Mr. Pittman agreed with the referees, then they lowered it or changed it. And if they didn't agree with Mr. Pittman, the Board of Equalization left it the same. So we got the Board of Equalization approving. The state Department of Revenue said they do the sales and assessment ratios, and they work out. And if you look at the graphs, really, all they're doing...he's not changing the sale...if the sale price was \$100,000, he's not changing it. He's just moving the valuation from one end, from all the property to putting the majority of it on the one acre. And so it really defeats the whole purpose of special assessments. And if...so they...the Department of Revenue says, well, it's working; he's doing it right; the sale/assessment ratio comes out. And then we get to the TERC board, they say, well, these other guys approved it. And then they made the comment and the ruling that I was willing to accept the different valuation for my...the special assessment and therefore I should be willing

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

to accept a different assessment for my home site valuation. And so we lost. I'm scheduled for I think it's February 8 for...they combined, under the new regulations, to combine 2010 and '11. So, you know, I have to see what happens there for those protests, but... [LB750]

SENATOR FISCHER: So you continue to go back and have costs incurred that you have to keep paying, then, too. [LB750]

JOHN KNAPP: I'm trying to; I'm stubborn. [LB750]

SENATOR FISCHER: Thank you, sir. I appreciate your frustration. [LB750]

SENATOR LOUDEN: Other questions for Mr. Knapp? Seeing none, thank you for your testimony. [LB750]

JOHN KNAPP: Thank you for your time. [LB750]

SENATOR LOUDEN: Other proponents for LB750. [LB750]

CRAIG HEAD: Good afternoon, Senator Louden, members of the Revenue Committee. My name is Craig Head, it's C-r-a-i-g, last name is H-e-a-d, and I'm the state director of government relations for the Nebraska Farm Bureau Federation, here today to offer our support for LB750. I just want to start out by saying that we greatly appreciate Senator Cornett bringing the bill and for her work with the folks in Sarpy County, and also Senator Louden for the legislation that he's introduced. We have a longstanding interest in this issue, going all the way back to 2003, where we had worked with Senator Tom Baker on a piece of legislation that's actually currently in statute that tried to address this issue going back that far. And so our policy is pretty straightforward, in that we think that active farm sites should be compared against other active farm sites and not against residential property when we're looking at assessed value. I guess the issue that I want to make sure that we're trying to tackle today is that the folks in Sarpy County are treated fairly with our other members across the state and their neighboring counties, at this point. And that's the major concern. In terms of LB750 and the language in it, I know there's been a lot of discussion about whether that is the right language or not. I think there may be some uncertainty about whether it is. That's obviously been expressed by the folks from Sarpy County who have come today. We have seen the amendment that they offered earlier. In terms of that amendment, I'm not sure that that looks at the broader picture. But I guess our issue is we want to work with the committee and the folks in Sarpy County to try and find a reasonable solution to the issue. So with that, I would conclude my testimony and be glad to answer any questions that you might have. [LB750]

SENATOR LOUDEN: Questions for Mr. Head? Senator Fischer. [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mr. Head, for being here. Always good to work with the Farm Bureau. [LB750]

CRAIG HEAD: Thank you. [LB750]

SENATOR FISCHER: What do you hear across the state on this issue? [LB750]

CRAIG HEAD: Not much, other than Sarpy County. [LB750]

SENATOR FISCHER: I'm sure we'll hear in the next bill, though, from across the state on this issue...or a similar issue, correct? [LB750]

CRAIG HEAD: We'll see, I guess. I'm not sure about that. [LB750]

SENATOR FISCHER: Okay. You mentioned the terms "active farm sites." [LB750]

CRAIG HEAD: Um-hum. [LB750]

SENATOR FISCHER: How do you define that? [LB750]

CRAIG HEAD: I think in our members' minds, an active farm site is a farm site when you drive by and you see a tractor and buildings contiguous to farmland. And I think when you talk about residential sites, I think folks are thinking of farm sites...or sites, residential pieces of property where you don't have the common ownership, you don't have the active farming operations. And particularly in Sarpy County where you're comparing it to a true residential site. [LB750]

SENATOR FISCHER: Right. So an active farm site would be like my family ranch, where our sons live and they go out and they get in that tractor and work it every day, correct? [LB750]

CRAIG HEAD: Correct. [LB750]

SENATOR FISCHER: It's not a recreational farming operation or, would you say, a weekend farming operation. This is truly a income-producing farm site. [LB750]

CRAIG HEAD: I think that's where our members would believe that to be. Yeah. [LB750]

SENATOR FISCHER: Thank you. [LB750]

CRAIG HEAD: And I do know there are questions about that one from ever different aspects, in terms of how people use those acreage sites. But I do think from our

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

members' standpoint that's where most folks would fall. [LB750]

SENATOR FISCHER: Do you think there should be a number of acres that should be required for an active farm site? [LB750]

CRAIG HEAD: I would hate to venture a number at this point, I guess I'll put it that way. [LB750]

SENATOR FISCHER: Okay. Thank you very much. [LB750]

CRAIG HEAD: Yes, thank you. [LB750]

SENATOR LOUDEN: Senator Adams. [LB750]

SENATOR ADAMS: Thank you. Craig, then following that same line of questioning, obviously we don't want to make judgments based on is there a tractor there... [LB750]

CRAIG HEAD: Right. [LB750]

SENATOR ADAMS: ...a windmill there. [LB750]

CRAIG HEAD: Right. [LB750]

SENATOR ADAMS: But does this language about "platted and zoned" go a ways to clarifying what your organization is looking for? [LB750]

CRAIG HEAD: You know, it's funny you raise that, because when I looked at the "platted and zoned" language, the one thing that came to mind is, you know, we don't have zoning or have not had zoning across the state for a long time. I mean, obviously, most counties are now zoned. I don't know if that raises questions--is one of the things I thought about--I'm not sure if that raises questions in counties where you do not have zoning, that wouldn't be zoned, or you would have acreage sites or whatever viewed as acreage sites in agricultural areas that are zoned as agriculture and if that would have some varying terms of how they would view that comparable sale. [LB750]

SENATOR ADAMS: Okay. Thank you. [LB750]

SENATOR LOUDEN: Other questions? Senator Brasch. [LB750]

SENATOR BRASCH: Thank you, Senator Louden. And thank you, Mr. Head, for your testimony here. As I'm new to the committee and listening very closely, I'm trying to compare why this bill was brought forward. And I do understand that I'm just looking at...we live on a farm and I would be very hard pressed to classify it as residential. We

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

don't have streetlights; we have a pole lamp. We don't have cable TV; we're lucky enough to be able to get satellite at this point. We don't have snow removal, but we wait for the road maintainer, take our turn. And there's just so many...you know, we have well water. There's just many, many things that, you know, as I see residential, you think the term would be more...and I'm not a Realtor, I'm a farmer; I would think it would be more collective housing that have public utilities and things like that. So I'm happy to see this move forward but curious how it even got to this point. So...but I want...any other things that I've missed here on...? [LB750]

CRAIG HEAD: No, in fact, and I apologize for this. We're trying to do a little bit more investigation what is being done in these neighboring counties to address this issue and why it's different in the neighboring counties and what's happening in Sarpy County. So I'd like to be able to give you some reason why, but I'm not sure. [LB750]

SENATOR BRASCH: Thank you for your testimony and your support. [LB750]

CRAIG HEAD: Yes. Thank you. [LB750]

SENATOR BRASCH: Thank you. [LB750]

SENATOR LOUDEN: Other questions? Seeing none, thank you, Craig, for your testimony. [LB750]

CRAIG HEAD: Thank you. [LB750]

SENATOR LOUDEN: Other proponents for LB750? Are there opponents? Oh, proponents? [LB750]

MELISSA JARECKE: I'm Melissa Jarecke, and I live on Platteview Road, 50th and Platteview Road. [LB750]

SENATOR LOUDEN: Would you spell your name, please? [LB750]

MELISSA JARECKE: J-a-r-e-c-k-e. When we bought our land 34 years ago, we were able to buy it because it was marginal land. The farmer that had all the land around it didn't want to go to the expense of cutting down all the trees and trying to do something with the crazy terrain. It wasn't worth his money to do that. So we were able to buy our land at a very reasonable price. Not terribly reasonable. We were schoolteachers. Okay. We bought 27 acres. We had another friend, a husband and wife who were teachers, that wanted five acres. We had to go through rezoning to get...be able to sell them five acres so that they could build a home there. We have no streetlights. We have no snow removal. We have a gravel road. We have no pole lights. What we produce on our farm is oxygen. We have trees. That's all we have. You know, we have a little meadow, have

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

a little hay there to feed the horse. That's it. So when I listen to what is a farm and what isn't, when we bought our property we were told that a farm was anything over 20 acres. Mr. Pittman says that isn't true. He said...and then he went on to tell me that not only am I not zoned a farm, they changed the zoning and I'm now residential estate, although I was never notified of that and the land was never posted. What we have going on in our county is we have a county assessor who makes the rules and has a county board that backs him up even though appraisers come in at great expense. I asked him personally. I said, how many appeals do you have on your tax assessments and how much does that cost? I said, maybe if you just gave everybody a little break on their taxes you'd save money. And the truth is we would. The appeals are tremendous in this county. Not only that, I'm a Realtor. I sell real estate. And we're taught that the true value of property is what a seller is willing to sell it for and a buyer is willing to pay. In Douglas County, you can walk into Roger Morrissey's office and show your HUD statement and say, this is what I paid for the house, and he realizes that's the value of the house and the price will be adjusted as to the tax assessment. The same thing is true of Cass County. This is not true in Sarpy County. In Sarpy County, he says, well, it was in bad shape or it was a repo or it was this or it was that. It has no validity. It has no importance to Mr. Pittman at all. And he also has explained to me that it is...he is required by the state to use comparable sales that are two years old. Now I've been a Realtor for 44 years. Even when we do a market analysis, the comparables are not supposed to be over six months old. Now that isn't what he would have said if prices were going up. That's what he says when prices are going down. What we need are some guidelines. We need to know what the rules are so that when we go in to appeal our taxes, even just to talk to him, we don't get whatever story he has for the day. And that's the situation we have in Sarpy County. Land under a house is not worth \$65,000 if you've got 100 acres with it. Okay. The principle of diminishing returns has something to do with land. We all know you can sell one acre for a lot more per acre than you can sell five acres. You can sell 5 acres for a lot more per acre than you can 10. You can sell 10 for more an acre than you can 20, and it goes on. So what has to be done...and there has to be some legitimacy here. What happens in all the counties? I don't know. If you've got wonderful land and it produces X number of bushels of corn in Douglas County or Nance County or wherever it is, maybe all that land is worth the same if your cost of making a profit is the same. But what's happening right now is not right. [LB750]

SENATOR LOUDEN: Just a minute. [LB750]

MELISSA JARECKE: I'm sorry. [LB750]

SENATOR LOUDEN: Did you sign that sign-in sheet? [LB750]

MELISSA JARECKE: I did. [LB750]

SENATOR LOUDEN: Okay. You got the sign-in sheet? That little yellow paper. [LB750]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

MELISSA JARECKE: Oh, no, I just signed the roster when I came in. [LB750]

SENATOR LOUDEN: No, you got to sign the little... [LB750]

MELISSA JARECKE: I'll sign whatever you want me to sign. (Laugh) [LB750]

SENATOR LOUDEN: Okay. Thank you then. Other proponents for LB750? Come on forwards then. Anybody else? Any other proponents? Can you raise your hands? If there are, please take a chair up front here so we can get on with the thing. [LB750]

LARRY TIMM: I'm Larry Timm, T-i-m-m. Thank you for the opportunity here. I didn't really intend to testify. I came more in support of both Senator Louden and Senator Cornett's bills and I appreciate what you've done. I did testify at the initial hearing on November 18. And, you know, it's been interesting to sit and listen to the testimony. I know when I saw a copy of the bills, I thought, boy, I really appreciate it. That's great. I think that will address the issues. So I was a little bit taken aback when...and I did hear this yesterday as well, so it wasn't a complete new revelation that perhaps because of this marginal utility model being utilized, that it wouldn't address the issue. So, you know, I don't know. I'm concerned that perhaps, you know, maybe we need testimony from the assessor's office as far as whether it will or won't. And that would be helpful, to my way of thinking. I appreciated Senator Fischer's inquiries there, and they seemed to center around somewhat the size of parcels that would be deemed agricultural. And I found that line of inquiry interesting. But also as I thought about it a little bit, I do know a number of instances in the county where you've got, let's say, a quarter section and it's owned by an individual, but perhaps there's 15, 20, maybe even 5 acres of it that's owned by a son, you know, on there or perhaps a corporation, if it's a regular chapter C corporation or chapter S corporation. So it's still operated as one farm, but the building site, for business purposes, has been subdivided out as a separate business entity. So I think you'd have to be a little careful with that line of consideration. I see you nodding. You understand what I'm saying as far as specific acreage restrictions on that. You know, the thing is, you know, a picture is worth a thousand words. I mean, we kind of all know when you drive by a farm, you know one when you see one. But to put it in writing is another issue. So I guess I'm interested in hearing testimony perhaps from the assessor's office as, is this true, does this not address the issues, as your bill has been set forth, Senator Cornett. And so I guess I personally, as a resident, would like clarification, and as a taxpayer. [LB750]

SENATOR LOUDEN: Okay. Questions for Larry? Senator Cornett. [LB750]

SENATOR CORNETT: More of a statement. One of the reasons that the bill was changed, to begin with, with Carol Hudkins, the underlying law, is we did not want to define what was agricultural based on the number of acres, particularly with your

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

smaller organic farmers and your vineyards. [LB750]

LARRY TIMM: Yep. [LB750]

SENATOR CORNETT: So we moved away from the size of what is agriculture into what is...more defines agriculture, I guess would be... [LB750]

LARRY TIMM: And I think Lancaster dealt with kind of an issue, didn't they, with...there was one that...they were producing flowers or... [LB750]

SENATOR CORNETT: Yes. [LB750]

LARRY TIMM: Yeah. And I'm familiar with that. [LB750]

SENATOR CORNETT: It was, like, seven years ago now, I think, six years ago. [LB750]

LARRY TIMM: Yep, I know Larry quite well, her husband, so... [LB750]

SENATOR LOUDEN: Other questions? Thank you for your testimony. [LB750]

LARRY TIMM: Thank you, sir. [LB750]

SENATOR LOUDEN: Any other proponents for LB750? Okay. Seeing none, is there opponents to LB750? Is there anyone in the neutral position for LB750? [LB750]

MIKE GOODWILLIE: Senator Cornett, Senator Louden, members of the committee, my name is Mike Goodwillie, G-o-o-d-w-i-l-l-i-e. I'm with the Douglas County Assessor's Office and I am speaking in a neutral capacity on LB750. Let me start with a disclaimer. Okay. I am not intimately acquainted with the facts of this particular assessment-practice dispute. I don't feel comfortable sitting here and acting as some sort of super-second-guesser over what the Sarpy County Assessor did, nor do I feel comfortable in saying, well, to you property owners, here's why you didn't prevail at TERC. You know, I mean, I wasn't there. My testimony is more about the underlying approach of LB750, and I must say I have some misgivings about a legislative solution to what appears to be an appraisal-practices dispute in one county. There has been some testimony that seems to indicate that, you know, this is...I don't want to say a uniquely Sarpy County problem but there hasn't been anybody come forward to say, gee, we're having this problem in Cass, or we're having this problem in Frontier...well, Frontier you wouldn't have, but in Hall County or anyplace like that. And so I'm really concerned about saying, okay, we're going to craft a legislative remedy for one county's issue. A large part of mass appraisal, which is what assessors do, is gathering data of what's going on in their county, sales data, for example, and listening, if you will, to what that data is telling you. And the goal, statutorily, is to assess property at market value or,

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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in the case of agricultural land, 75 percent of market value. And the best data that you have out there is what buyers and sellers will tell you when they agree on a price. If you restrict by law the data that an assessor may consider, you potentially mute the voice of the market that is available to the assessor. As long as assessors are required to assess at market value, you have to be a little concerned with any kind of limitations on what you may consider as you gather data and try and make some reasonable judgments about what value ought to be. Appraisal and assessment is a judgment business. You know, on the residential side, Senator Cornett or Senator Louden, you and I may walk through an identical house and I fall in love with it and I'd be willing to pay as much as \$220,000 for it. Perhaps Senator Cornett is a little bit more exacting than I and you'd only pay as much as \$180,000 for it. Well, you know, that's quite a spread. Where does value go, for tax purposes, within that spread? What it means is somebody has to exercise some judgment based on what they're seeing in the marketplace. And so I guess, as a practical matter, I would say even at first blush there might not be a need, in this particular instance, to use a sale as a comparable. There could be instances where you might. As I look at the discussion of, there's "farm home site" and "farm site" and all that stuff in 77-1359, and I think the language borrows the, what, "farm home site" language? Okay. I was around in 2000 when all that stuff passed. And I can remember a lot of discussions about what in the heck that means, and nobody came to a real firm consensus. But you could make a reasonable argument that, well, the farm home site is one acre contiguous to the farm site. The farm site is a plot of land that has agricultural improvements on it and that happens to be contiguous to land that is actually being farmed. So your farm home site might be the piece next to the piece next to the piece that's being farmed. You could...I suppose you could envision an example where that farm home site piece could easily be broken off and sold and it might actually be more comparable to the zoned, platted subdivision across the road. It might be an unusual situation, but, nonetheless, under this legislative solution, you have removed the ability to consider that even if that would be a good comparable for at least that particular piece. And so I guess my main concern is the notion that we're going to say, okay, here's a subspecies of sale, assessor, that you can't look at, ever, period. And I think that's just bad public policy. And with that, I would take any questions that you have. [LB750]

SENATOR LOUDEN: Questions? Senator Cornett. [LB750]

SENATOR CORNETT: Mr. Goodwillie, this has been an issue now in Sarpy County for four or five years. And I've been in Revenue, and I'm the Chair of Revenue for four years now. And I have not introduced a bill prior to this even though there was the issue, because I thought honestly that it would resolve itself since this was the only county with this issue. It hasn't resolved itself. The taxpayers are just as unhappy as they were four years ago. What is your suggestion if you have one county that is raising red flags? Because I agree. I don't think that we should have to micromanage or specifically eliminate certain sales. But on the other hand... [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

MIKE GOODWILLIE: I don't know that I have a particularly happy solution that's going to make everyone, you know, jump up and click their heels with joy. In another life I practiced law more actively than I do now, and sometimes I won cases and sometimes I lost cases. But just because I lost cases didn't necessarily mean the system was flawed. Theoretically you have a county board protest process. You have a process to go to the Tax Equalization and Review Commission. There certainly is the ability, I think, statutorily, of the Department of Revenue to review both level and quality of assessment. I think there are mechanisms in place that most of the time will solve this kind of problem. Sometimes you end up with a situation where I don't know what the data is telling the assessor, but just because people disagree a lot doesn't necessarily make one side all right and all wrong. We had a go-around with a rather prominent residential property owner in Douglas County that took four, five years and a whole bunch of mediation to finally remedy. But just because we were in a dispute every year didn't mean that we felt our data was incorrect. I'm talking around this, kind of hoping a brilliant suggestion will flash down from the sky... [LB750]

SENATOR CORNETT: I was going to say... (laugh) [LB750]

MIKE GOODWILLIE: ...like a bolt of lightning. And it really isn't there. I simply think that, you know, from an appraisal standpoint, you gather the data, you make the judgments as best you can, and I guess in the end if the citizens don't like the assessor, they can kick his...they can kick him out. [LB750]

SENATOR CORNETT: That's difficult in this case because the county is predominantly residential rather than agriculture, so it... [LB750]

MIKE GOODWILLIE: Well, I understand. [LB750]

SENATOR CORNETT: And I'm not saying that that is the solution either, by any means. But I'm going to liken it to something I said this morning to somebody that came up to me about this issue. Last year we dealt with the wheel tax issue outside of Omaha... [LB750]

MIKE GOODWILLIE: Sure. [LB750]

SENATOR CORNETT: ...taxing into other counties. It was allowable under the law. But just because something is allowable doesn't mean you should do it. [LB750]

MIKE GOODWILLIE: Okay. [LB750]

SENATOR CORNETT: Do you see what I'm saying? And you've got a lot of...the people that are affected are very unhappy. We've been hearing about it for quite a while, and it

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

is the only county that we're hearing about this in. [LB750]

MIKE GOODWILLIE: Sure. I am curious, have...and, you know, it's probably late in the day to ask about it, but when those property owners went to the Tax Equalization and Review Commission, did they get an appraisal done? I mean, I guess I'm at least a little bit puzzled about what... [LB750]

SENATOR CORNETT: The ones that I have seen did. [LB750]

MIKE GOODWILLIE: Did they or didn't they? [LB750]

SENATOR CORNETT: Did. [LB750]

MIKE GOODWILLIE: Did. Okay. [LB750]

SENATOR CORNETT: I've got some in my office. I can't do specifics because... [LB750]

MIKE GOODWILLIE: Okay. Then I guess it's a question of whether the commission viewed that evidence as persuasive, because typically the way that process works is it isn't enough just to beat down what the assessor did. [LB750]

SENATOR CORNETT: No. [LB750]

MIKE GOODWILLIE: I mean, you do have to take a step forward and say, okay, I think \$62,000 or \$64,000, whatever that number is, you know, is arbitrary and unreasonable and it's not supported by anything. But that's not the end of the inquiry. [LB750]

SENATOR CORNETT: No. [LB750]

MIKE GOODWILLIE: And certainly we in our county have had some experience with folks that go to the commission, and they do a wonderful job of, you know, calling us stupid and drunk and, you know, derelict and everything else they can think of. But in the end when the commission says, well, what do you think the property is worth, either the person doesn't have an opinion or they don't want to say or they don't have any kind of a backup. And under that circumstance at least, the commission doesn't have a lot of choice but to say, well, gee, we sure don't love what the county did but there's no evidence to support a different value. I don't know if that's what was going on. I mean, after three years I wouldn't think that's still going on. [LB750]

SENATOR CORNETT: Last question. [LB750]

MIKE GOODWILLIE: Sure. [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

SENATOR CORNETT: Is this how Douglas County assesses? [LB750]

MIKE GOODWILLIE: We do not consider a property within sanitary improvement districts when we do the valuation of essentially farm home sites. We believe the SIDs are more development-worthy, more development-ready; they seem to fit a different market. What we tend to look at are sort of undeveloped, vacant parcels that sell throughout the county, and our big determinant is location. We also may pay attention to things like view or topography or even access. But we see plenty of SID sales and we see enough of these sales to, at least in our appraisal staff's mind, see a distinction between the two. I don't know what's out there for the Sarpy County Assessor's Office to look at. [LB750]

SENATOR CORNETT: Senator Pirsch. I'm sorry. Bad (inaudible). [LB750]

SENATOR PIRSCH: Oh, did you have something, Senator? [LB750]

SENATOR CORNETT: No, no, no. [LB750]

SENATOR PIRSCH: Okay. And I have to apologize to start with. I had to introduce a bill over in Government Committee, and so I may have missed some of your comments and I apologize if this is covered territory. But as I seek to frame the issue in my mind as you see it, is it the case, then, that there's a broadness in terms of what is allowed under this statute for...in terms of appraising the... [LB750]

MIKE GOODWILLIE: Our standard, okay, for actual or market value... [LB750]

SENATOR PIRSCH: Um-hum. [LB750]

MIKE GOODWILLIE: ...is set...well, I mean, that is our standard. For nonagricultural property, meaning non-crop-producing or non-, you know, livestock-bearing, not predominantly used for agricultural purposes, for that kind of property we are aiming at 100 percent of actual or market value. [LB750]

SENATOR PIRSCH: Okay. [LB750]

MIKE GOODWILLIE: Within that, we have a number of possible approaches that we can use, depending on the type of property. [LB750]

SENATOR PIRSCH: Okay. [LB750]

MIKE GOODWILLIE: But with respect to the sales-comparison approach, which seems to be the best for this kind of property, you know, you gather the data of the properties

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Transcriber's Office

Revenue Committee  
January 20, 2012

---

that have sold in your jurisdiction and you try and stratify that by area or any other factors that may have some impact on value, and you make your very best judgment on what represents the marketplace in your county. [LB750]

SENATOR PIRSCH: Okay. And so to that end...so there's a broadness in the permitted approaches in terms of reaching that fair-market value, right? And what I want to discern, then, is, are no two counties exactly the same in the way that they do that, or is there a great similarity in all counties but Sarpy in the way that, in this type of property, they approach the valuation? And in terms of...though within the statutory...I mean, an approach in general, it's not within the...where other counties are in this approach. [LB750]

MIKE GOODWILLIE: I would say, Senator Pirsch, almost always what happens is dependent on what data you're seeing in your market in your county. [LB750]

SENATOR PIRSCH: So there's no variations between, say, for instance...the same amount of variation would occur between Washington and Box Butte as occurs between Sarpy and Box Butte or etcetera? [LB750]

MIKE GOODWILLIE: I guess I wouldn't really be prepared to... [LB750]

SENATOR PIRSCH: Okay. [LB750]

MIKE GOODWILLIE: ...to say that one way or the other except that, you know, counties have different markets. You see buyers and sellers that are going to pay different things for different types of property in different counties. And so...and, quite frankly... [LB750]

SENATOR PIRSCH: But that... [LB750]

MIKE GOODWILLIE: ...we're not all that concerned with what they're doing in Box Butte County. [LB750]

SENATOR PIRSCH: Sure. [LB750]

MIKE GOODWILLIE: We have enough to do in Douglas County. [LB750]

SENATOR PIRSCH: Sure. I guess...so I guess the question is in terms of, is there a norm or approach...is every county so different from every other county there isn't a norm or a standard type of approach? [LB750]

MIKE GOODWILLIE: I wouldn't say that, but we're all aiming...we're all aiming at actual or market value. And as measured by the Department of Revenue and reviewed by the Tax Equalization and Review Commission, for nonagricultural property, we're looking to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

get our level of assessment to between 92 and 100 percent of market. [LB750]

SENATOR PIRSCH: Right. Well, I understand that's the goal, right? [LB750]

MIKE GOODWILLIE: Okay. [LB750]

SENATOR PIRSCH: But now I'm talking about actual practices permitted under the statute. There's many different approaches. And I guess...and I'm not doubting that every approach is actually statutorily permitted and is designed to get at that goal of actual fair market value. But what I'm saying in terms of actual, the practices, are they all, every county is closely grouped together, or does--and this is why I'm asking, you know, in your knowledge, and trying to pick your brain--or is the approach that is utilized in Sarpy substantively different than that which is utilized in other counties? [LB750]

MIKE GOODWILLIE: I don't get invited to meetings where... [LB750]

SENATOR PIRSCH: Okay. [LB750]

MIKE GOODWILLIE: ...Assessor Pittman and his staff are setting the value... [LB750]

SENATOR PIRSCH: Okay. [LB750]

MIKE GOODWILLIE: ...so I really can't tell you what they're doing. [LB750]

SENATOR PIRSCH: Okay. And I did sit in with respect to the first testifier. Were you able to...? [LB750]

MIKE GOODWILLIE: Yes. [LB750]

SENATOR PIRSCH: And he had a chart that he was holding then, and he was...in the way he perceived matters, that there was...he was explaining to...in his knowledge, which, you know, and I don't have any knowledge of where that was obtained, but that the actual process was substantively different in the way that they...in the value. Were you able to...were you here during the explanation of...? [LB750]

MIKE GOODWILLIE: I have no idea what's on Mr. Vinduska's chart. [LB750]

SENATOR PIRSCH: Okay. [LB750]

MIKE GOODWILLIE: I mean, in general I heard the discussion, but I don't know what he was looking at. [LB750]

SENATOR PIRSCH: Okay. Okay. So I guess the...what I'd take away is, really, with



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

respect to my question, you wouldn't be in a position to answer that at this time. [LB750]

MIKE GOODWILLIE: I don't think I'd feel comfortable doing that. [LB750]

SENATOR PIRSCH: Okay. Well, and that's what I'm trying to get at. I think that's an important question. And perhaps those who testify later...is I think we in the Legislature probably...you know, obviously there is the same goal, which is fair market valuation, but a number of different permitted paths to reach that. Over and above the fact that we set the overarching goal that's required, would you agree, does the Legislature have a duty, and out of fairness and equity, to make sure that amongst the various counties, that they are following similar paths and procedures to get at that goal? [LB750]

MIKE GOODWILLIE: Well, I think, in terms of the state law that talks about the approaches that are permitted and requires us to use professionally accepted mass appraisal techniques, when you couple that with the measurement process where we get graded every year on the level of our assessments, I think you sort of already have. [LB750]

SENATOR PIRSCH: So it's getting...to do more, the Legislature insisting more from where it's at, might be getting too nit-picky and that you...there are some times you just can't reach a greater amount of, given the differences of counties, fairness? [LB750]

MIKE GOODWILLIE: I think in the end, Senator, no matter what you do legislatively, unless you actually just pick a number and say for this kind of property it's all going to be valued at X amount of money or this property is going to be all X amount of money, you are, to a degree, always going to be dependent on some level of judgment and discretion on the part of that elected county assessor. [LB750]

SENATOR PIRSCH: Thank you. [LB750]

SENATOR LOUDEN: Other questions? Senator Schumacher. [LB750]

SENATOR SCHUMACHER: Just a brief question. In a county where there is zoning and where residential developments are platted, are the assessors going to be able to find comparable nonplatted farm site...or sites to compare? [LB750]

MIKE GOODWILLIE: You know, I'd like to think so, especially in the more rural counties. But, you know, the market is funny. You may go awhile without having a lot of useful comparable sales. You know, we find a way to make do, and I suspect most folks will. [LB750]

SENATOR SCHUMACHER: Thank you. [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

SENATOR LOUDEN: Other questions? I have one for you, Mike. You mentioned about whether it's something statewide. Sheridan County, the one that I'm familiar with, yes, they raised theirs from \$2,000 to \$2,500 over the protests of the county commissioners. And the reason the county commissioners didn't proceed any further: they didn't want to go to the TERC committee because the county not only had to pay the defense for the county assessor, they also had to pay the defense for themselves. And they decided at the time they got done it was going to cost too much and it wouldn't be worth it. The other thing is when you get into some of those rural counties that's raised...and some of those people don't protest that much because if it's a 7,000- or 8,000- or 10,000-acre ranch and you raise it that one site \$500 and your tax levy is \$1.79 or so, there isn't that much difference in your tax, so most everybody just... [LB750]

MIKE GOODWILLIE: Sure. And I've had that discussion with taxpayers who call and they're irate over, say, a several-thousand-dollar difference between what we've got them on at and what they think they ought to be. And I say, look, I'm not trying to discourage anybody from protesting. That's your right. But you may want to sit down with a pencil and paper and multiply that difference by the tax rate, and then figure out how much it's going to cost you to drive to and from Lincoln and what your time is worth to generate the information that you would use at the hearing. That's a judgment call that any potential litigant would have to make in any kind of a legal setting. [LB750]

SENATOR LOUDEN: Now, the reason you see it down here, yeah, when you start talking about \$62,000 on that one acre and it's a smaller farm, then that starts to get to be a significant amount of money, and your tax levy is a lot more than \$1.79 per \$100. So this is the reason when we say we don't see it statewide. Some of those areas it's happening, but the people are...don't like it but it isn't worth going to the TERC or anybody. [LB750]

MIKE GOODWILLIE: Sure. [LB750]

SENATOR LOUDEN: And like you say, when you go to the TERC, you want to remember: you're guilty until you prove yourself innocent there. You have to prove innocence. You don't have to prove guilt before the TERC committee, and... [LB750]

MIKE GOODWILLIE: Guilty is such a loaded word, Senator. [LB750]

SENATOR LOUDEN: Well, that's the way it is. I would load it onto the TERC because I've been there a couple of times or so, (laughter) so I have a problem with that, so...thank you for your testimony. [LB750]

MIKE GOODWILLIE: Thank you. [LB750]

SENATOR LOUDEN: Any other person in the neutral? [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

DAN PITTMAN: Good afternoon, Chairman Cornett and Senators of the Revenue Committee. My name is Dan Pittman, D-a-n P-i-t-t-m-a-n. I'm a Sarpy County assessor, and I appreciate the opportunity to appear before you to talk about the legislation that's been proposed, specifically the proposed changes to the use of land sales in platted subdivisions for the purpose of assessment. Assessors in counties with rural land enrolled in the agricultural special valuation, or greenbelt, program face a challenge of placing two separate values on one parcel of land. That portion that meets the definition of agricultural land provided in the statutes is valued according to the assessment regulations, and it's a fairly simple process. There's a lot written in the state regs that tell us how to value actual agricultural land. However, that portion of land that is part of agricultural land that does not meet the definition of agricultural land--that's typically the home site and any land with buildings on it--presents a challenge, as the assessment regulations do not provide guidance beyond stating that assessors should perform a market study before valuing the land, which Sarpy County did before you moved any values. Assessors in greenbelt counties differ on how non-ag land should be valued, and this difference is reflected in a comparison of the assessed value of similar land from county to county. This disparity in assessed values will continue until such time as assessors are working from a common standard, much like we do when we value agricultural land. It's my opinion that eliminating certain land sales from the assessor's consideration will not have a significant influence on the current valuations, and I'm certain that it will not satisfy the concerns of property owners when they see that substantial differences in the assessed values of similar properties persist from county to county. I believe that the most positive results would be achieved by county assessors working with the Property Assessment Division of the Department of Revenue in developing procedures and practices for the assessment of nonagricultural land associated with ag land. The procedures would assist those owning homes in the rural area in their understanding of how the assessed value was determined, provide county boards of equalization with some criteria for reviewing their county assessors' work, and it'll lessen the disparity in assessed values between counties that we currently have. That's it for my narrative, but I'll be ready for any questions. [LB750]

SENATOR LOUDEN: Okay. Any questions for...Senator Adams. [LB750]

SENATOR ADAMS: Thank you. And thank you, Mr. Pittman, for being here. Then what you're saying as a county assessor--and I'm assuming, you correct me if I'm wrong, that you're basing it on discussions with other county assessors--that there is disparity from county to county in the procedure that's used for identifying that parcel where the buildings sit. Is that correct? [LB750]

DAN PITTMAN: Yes, there is. [LB750]

SENATOR ADAMS: So you may not have knowledge of other practices, but let's take

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

Lancaster County: there's acreages. Seward County: there's acreages. Are those assessors faced with the same dilemma that you find yourself in, not really having a set procedure, and therefore there is that disparity? [LB750]

DAN PITTMAN: I believe that the lack of set procedures cause a disparity. However, assessors have done the best they can with what they've been given. Basically that statement is saying that you're to perform a market study, and that leaves an assessor to go out and determine what market they're going to study and what adjustments they'll make to sales to make that represent what is actually out in the rural areas. So lack of standards, I think, is the real problem in counties being similar in the way they value first, second, third acre or the non-ag portion of an agricultural property. [LB750]

SENATOR ADAMS: This methodology of diminishing utility, diminishing marginal utility, are you aware, are there other counties, like Lancaster or Seward for instance, that use that same methodology? [LB750]

DAN PITTMAN: Well, it's obvious, by looking at sales, that it's apparent to every assessor. It is documented in the International Association of Assessing Officers policy and procedures manual. I don't believe it's a policy and procedures manual. It is a handbook of their standards. They do recognize diminishing marginal utility, and it's seen in large pieces of land selling for less per acre; smaller pieces are more per acre. So it's a good example of diminishing marginal utility. All assessors are aware of it. Whether that is part of their analysis when they set the value for this particular piece of properties...type of property that we're talking about today, I don't know. [LB750]

SENATOR ADAMS: So if...I'm just thinking here, and you correct me if I'm not thinking right. So if I'm going to use diminishing marginal utility, I understand by basic economic theory that the demand is highest for the first acre, and then it diminishes; the utility diminishes, therefore the demand diminishes, so on and so forth it goes. But the issue here, then, is that starting point. It is that first acre that we then diminish away from in set value. And is Sarpy County unique in terms of its development that has precipitated the disparities, I mean, the number of SIDs? Do you see that, or are you that familiar with other counties? [LB750]

DAN PITTMAN: I am pretty familiar with other counties, and what has made me more familiar with them is...and this is going on...we're going into our fourth year, and there was a lot of disagreement when the new values actually rolled out. And that would make anyone start looking to their peers, to ask them: How are you doing your values? If you see something wrong in what I'm doing, I need to talk about that. And we've visited with the Department of Revenue's Assessment Division about our processes. We met with a professor from the Department of Real Estate Economics at UNO to go over what we're doing, to check our methodology. Our methodology is an accepted mass appraisal practice, basically, of taking the qualified sales of nonimproved rural land that are

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

outside of SIDs and city services, have to provide their own well, septic, sewer, typically on secondary roads or gravel roads. Array those sales on a scale or graph with an x and y axis, y axis being dollar amount per acre, the x axis being number of acres. Run those on the scatter graph, only qualified sales, and generate a line of best fit through those sales. And so what you typically see...well, what you do see, in a large way, is that the more...the smaller the sales, the higher the price per acre. When you get to an area where you're called upon to value an acre and you're in a county that zoning does not permit the sale of one-acre property, you're not going to have sales. It's strictly rural property. You'll see those one-acres in improved subdivisions. So the challenge is to determine what is that one acre worth based upon the data you do have. And the line of best fit runs in, you know, to infinity both directions, and that's how you determine your lower value, by where the line of best fit runs on that graph, out of your body of sales data that you have. That is how, in a nutshell, how we do it in Sarpy County, and we have to make adjustments to some of those because there's certain areas in Sarpy County where the cluster of sales just are lower, and we have to make an adjustment to the first acre because they're selling lower for whatever reason. And we can see it in the market data, it rises right up out of there and we'll make those adjustments. [LB750]

SENATOR ADAMS: So it...final question for you, and I realize you're here in the neutral, but do I hear you correctly saying, this is what I'm doing based on my understanding of how it ought to be done. And if it needs to be done some way different, you're asking for guidance? [LB750]

DAN PITTMAN: I want to be in step with other counties and how they're setting their values. It is not...I live in Sarpy County. I pay taxes in Sarpy. I don't own agricultural land. We share a common levy with Douglas County on, say, the...well, the biggie is the Learning Community. And when assessed values...if you're the same levy and assessed values are different, one side of the line is paying more money. And that's not a pleasant situation, and that's what upsets a lot of people. What...other issues, too, on valuation. So I would like to see, to answer your question, standards applied to all counties, maybe just even greenbelt counties. I don't believe the Department of Revenue could come up with some standard and say, here's exactly how you do it and (inaudible) the box, everything will fit. Guidelines, just like we get on the ag land portion. If you read those, they're pretty straightforward and you're not seeing too much complaint about that. It's just that part that's nonagricultural land, that all assessors need standards to address that issue. [LB750]

SENATOR ADAMS: And what I'm wondering, and I know I said I would conclude, I apologize, Madam Chair. But we have political subdivisions across county lines, ESUs, other school districts, where you have ag land being valued in Seward versus Lancaster versus York versus Saline, and are we hearing the same problem? I have not. I guess that's what I'm wondering. And indeed if it's a problem, then we ought to be hearing that land is being valued differently in Seward than it is in Lancaster, yet ESU 6 slides

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

through both. But I can also understand your need for a common procedures. Thank you. If you want to respond to that, you can. [LB750]

DAN PITTMAN: If I could just briefly. Going back to maybe 1990, 1991, before I was assessor, you know, I was familiar with the operations in the assessor's office; someone had made a point that residential property in Douglas County was assessed lower than residential property in Sarpy County. And the person complaining happened to be in an Omaha school district that looped down into Sarpy County out of Douglas County. And that person happened to be the real estate appraiser. Pulled all the market data for her to prove it to the county board that, you see, you know, here's a similar neighborhood. We're much higher. Our county board...our assessor on his own brought down the level of assessment from, like, 95 to, like, 92 in order to get as low as he could to try and tighten that up. But then the county board stepped in and lowered it further, I think as low as they possibly could at that time. So that issue we've dealt with in Sarpy County before, about, you know, a shared levy. [LB750]

SENATOR ADAMS: Okay. [LB750]

SENATOR LOUDEN: Senator Cornett. [LB750]

SENATOR CORNETT: Mr. Pittman, when...because Sarpy County is the only one we're hearing from on this issue and because it has been going on for four years, and the other assessors are doing it, apparently, differently than you are, have you thought about changing your practices so we don't have to change the law? [LB750]

DAN PITTMAN: Absolutely. Yes, I have. In fact, we... [LB750]

SENATOR CORNETT: I hate to be at this point. [LB750]

DAN PITTMAN: As do I. When you think about agricultural land itself being about 2 percent of our tax base, it's on my mind 90 percent of the time because of this issue, of this nonagricultural portion attached to ag land. Sarpy County is sticking out like a sore thumb because that first acre value... [LB750]

SENATOR CORNETT: Oh, go ahead. [LB750]

DAN PITTMAN: ...is so high. [LB750]

SENATOR CORNETT: Are you subtracting the improvements on that first acre from the valuation that you see on the acreage that...in the SID that you are comparing it to? Are you subtracting out the sewer system, the lights, the snow removal, paved roads? [LB750]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

DAN PITTMAN: We don't use sales from SIDs. [LB750]

SENATOR CORNETT: Well, not SIDs but... [LB750]

DAN PITTMAN: ...or ones in the city. We don't...but you know, rural... [LB750]

SENATOR CORNETT: But the improved. [LB750]

DAN PITTMAN: In rural subdivisions, ones that are on a gravel or secondary road, they're simply a piece of land where there's five or six of them clustered together but they're rural, that have the same common need, you know, they have to have well, septic, and sewer, those are...share the same plight as the actual, you know, well, farm site. [LB750]

SENATOR CORNETT: But they have more improvements than the farm site per se. Are you...because I believe one of the testifiers said that a letter from one of the universities said that you could do these comparable sales if you subtracted out the improvements. [LB750]

DAN PITTMAN: And what that was addressing was that we could actually use rural subdivisions who had a lot of improvements, let's say streetlights, paved, maybe a community well or a sewage lagoon. If we could put a dollar value on those, we could pull those out and strip it down to what, okay, now, this is just land without the improvements. That would be pulling the cost of all those items out. I think Mr. Vinduska talked about that, too, where... [LB750]

SENATOR CORNETT: I wasn't...I honestly don't remember who mentioned it. [LB750]

DAN PITTMAN: Okay. But we could, if it was...if we had the ability to do it. I'm not saying we don't, but this is mass appraisal and, you know, we're dealing with a whole universe of properties at one time. [LB750]

SENATOR CORNETT: How many sales are we talking about...or how many farm properties are we talking about in Sarpy County? [LB750]

DAN PITTMAN: Well, when we sent out the change of valuation notices the first time, I think it affected roughly 800 parcels and we had, like, 400 protests. That was the first time. And so I'm saying right around 800 parcels as a rough number of what's concerned here. I will tell you, if I could, that, you know, I've looked into the history of the greenbelt law, and I've gone all the way back to when it was first being introduced. I went to the archives or whatever, the librarian for the Legislature, and she helped me find the documents for all the legislation, the minutes of the meetings, so some of that narrative. At one time, to get into a greenbelt you had a lot of requirements. You had to

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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have so many acres, be...prove that you were on so much income off it; it had to be zoned properly; it had to be outside an SID or a city. And it was pretty strict. And it wasn't difficult at that time to look at the whole. If they met all those requirements, hey, this is a farm. When that started getting stripped down to where it said, well, zoning is not that big a deal, we don't need a...we're going to quit using the income requirement because that's so, you know, subjective. It changes from year to year, and if we're going to use it, we should use, like, a three-year. So they quit doing it. Then they removed platting. It used to be if you were in a platted subdivision, you're not going to get greenbelt. They took platting out. They kept stripping it down to what we have today. It's much easier to get into the greenbelt program. But what I'm getting at is, at one time when it was very strict, it was very easy for someone to take a look at someone who qualified for greenbelt as having been really tested because of the income and where they were located, not being platted and all that. You really knew that was really an agricultural piece of property. And back in those days, it was a little bit before my time, but Sarpy County did have a value that was more like each acre had a value based upon its market value. So if it was five acres, you'd divide it by its total value, that's its value, because it wasn't a real stretch to call that piece of land, even under the house, agricultural land. As that changed through the years, it got much tougher to identify what really was agricultural, in my opinion, and it's eroded to where we're at now, where we're called upon to...and nowhere else am I called upon to take a piece of land, and say, value this, but over here, forget that's there for now. Value this, then forget that and value this. And it presents difficulties, because nowhere else are we asked to do that. [LB750]

SENATOR LOUDEN: Senator Pirsch. [LB750]

SENATOR PIRSCH: Thank you. And, first of all, I'd like to thank you for being here, because it really does help, you know, frame the issue to have you here, and so thank you for that. So I guess, in the ultimate...one of the important questions I wanted to ask you is, the methodology...of course, the overall arching goal is...essentially all that the state gives, you know: fairly value it at market value. Is the methodology that you employ, and I know you've explained it with...that it's an accepted...generally accepted methodology procedure, as others are, and that you truly believe in the results of it, but...and that may well be as it may be. But does it give, by utilizing the methodology, substantively different results as to valuation, then, from Sarpy County as opposed to other counties which may not be using...may or may not be using as sophisticated of procedures to get at the valuation? [LB750]

DAN PITTMAN: Yeah. The answer is yes. And if you just laid the greenbelt counties side by side... [LB750]

SENATOR PIRSCH: Yeah. [LB750]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

DAN PITTMAN: ...and say, you know, show us how you handle that first acre, you know, we're going to stick way up there... [LB750]

SENATOR PIRSCH: Um-hum. [LB750]

DAN PITTMAN: ...way up there, as to, you know, first acre at \$62,000, second at \$10,000, \$10,000, \$10,000, and \$6,200. [LB750]

SENATOR PIRSCH: Um-hum. [LB750]

DAN PITTMAN: Then you go to the other counties. Douglas County. Douglas County at one time was at \$20,000 for the first acre. I had some discussions with Barry Couch from Douglas County, and--he's one of the deputies--and they moved it to \$30,000 an acre and got so much flak over it they rolled it back to \$20,000. But now they're moving back up again, as I understand it. That's just from...I haven't gone on their Web site and looked at what they've got on them now. I think Mike Goodwillie from Douglas County had mentioned they went to \$50,000 closer to Sarpy. But, yes, you'll see just by looking at that little amount of data that ours is higher. But I can't speak to...as to what methodology... [LB750]

SENATOR PIRSCH: Sure. [LB750]

DAN PITTMAN: ...each county is using to get to where they're at. [LB750]

SENATOR PIRSCH: But just the substantive, empirical results do vary... [LB750]

DAN PITTMAN: Um-hum. [LB750]

SENATOR PIRSCH: And so it's hard to know what the other exact processes are going on in the other counties. I appreciate that. And, you know, and I think everybody...so it may well be that there's not...and I think your point is there's not enough specificity, perhaps, placed--not in the outcome but in the recipe, the procedure, so to speak... [LB750]

DAN PITTMAN: Right. [LB750]

SENATOR PIRSCH: ...that should be pursued and maybe...so it's not enough to list the outcome but more specificity in the processes as...so you might end up with everybody using great efforts diligently and acting in good faith, and yet end up with substantively different outcomes in terms of valuations simply because there's too much leeway. That is a...that would be an example, though, of that the state does have an interest in making sure that...whether it's, you know, the latest cutting-edge methodology that's employed or whether it's not quite the latest cutting-edge methodology that's employed.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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Uniformity amongst counties may be a more important determinant than the actual use of cutting edge. I mean, is that fair to say? [LB750]

DAN PITTMAN: Yes, it is. [LB750]

SENATOR PIRSCH: Okay. In which case, it probably falls upon this body to maybe look at ways to make sure that the methodologies are closer together, would you say, within this sector of property? [LB750]

DAN PITTMAN: Well, I'm going to show my ignorance about the authority of the Legislature here, but if laws were able to be written that moved us closer to a similar methodology, you know, that would fall, of course, in a... [LB750]

SENATOR PIRSCH: Do you think that they possibly can? Can we give greater specificity in terms of recipes to...you said you mentioned that in the non...I'm sorry, in the ag lands, right, that there was greater specificity in the formula. Is that right? [LB750]

DAN PITTMAN: When you do ag land, yes. [LB750]

SENATOR PIRSCH: Right. [LB750]

DAN PITTMAN: And it's really not so much a formula as steps, that this is what you're going to do, this is where you're going to get your sales, this is the classification of land. [LB750]

SENATOR PIRSCH: Is it possible that...I mean, it isn't an impossible task, you don't think, that we could more closely emulate that along...in this property categorization? [LB750]

DAN PITTMAN: In my opinion, we could. And only because I just envision, you know, if assessors...if the Department of Revenue was called upon to establish policy and procedures in this one area, I assume that they would bring other assessors in from the greenbelt counties and try and determine a methodology that would work. We'd probably all present our methodologies and then compare them to what's accepted standards in the International Association of Assessing Officers manuals and see if it, you know, would work. And then get...what would come out of that would be some procedure that would be applied to all counties with, hopefully, a smaller variance in the outcome. [LB750]

SENATOR PIRSCH: Yeah. [LB750]

DAN PITTMAN: Of course, hopefully, the only variance would be just the market data. [LB750]

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Transcriber's Office

Revenue Committee  
January 20, 2012

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SENATOR PIRSCH: Yeah. Well, I kind of look at this...and kind of by analogy in, for instance, the accounting, where in looking at inventory, assessing the value of inventory, you've got various, within that realm, acceptable practice. LIFO: last in, first out; or FIFO. And in terms of depreciating assets, there's a number of different acceptable processes. But I think it's...if one of your counties is on FIFO and the other is on LIFO, you're going to have substantive differences in outcomes that...and I think part of our duty here is to make sure that those type of fairness issues in the Legislature are addressed. Thank you very much. [LB750]

DAN PITTMAN: Thank you. [LB750]

SENATOR LOUDEN: Other questions for Mr. Pittman? Seeing none, thank you for your testimony today. [LB750]

DAN PITTMAN: Thank you. [LB750]

SENATOR LOUDEN: (See also Exhibit 8) Anyone else testifying in the neutral? Seeing none, then this would close the hearing on LB750. And with that, we'll get on to LB762. Senator Cornett, you're back in the driver's seat. [LB750]

SENATOR CORNETT: (Exhibit 7) Thank you, Senator Louden. Before Senator Louden begins his testimony, I would like to read in support of LB762 from Al Davis and also LB750 and LB762, written testimony from Mr. Vinduska. [LB762]

SENATOR LOUDEN: Good afternoon, Senator Cornett and members of the Revenue Committee. My name is LeRoy Louden and that's spelled L-o-u-d-e-n, and I represent District 49. I've introduced LB762 today to address a problem that arises whenever there is a revaluation of agricultural land. LB762 has two purposes. The first purpose of the bill is a proposed solution to a particular problem involving the application of the comparable sales approach to valuing a farm house site. And as we discussed this with Senator Cornett's bill at length, my bill addresses the same problem, so I won't go into that part that much. I will point out that the second...I guess I would point out that, as we talked about that today, that those first-acre values are all over the place in the state of Nebraska. We have, like, Hayes County I think has \$3,000 for the first acre; Pierce County has \$100,000; Jefferson, \$10,000; Keya Paha has \$1,500; I think Sheridan County is \$2,500. So it's wherever they seem to be. Kimball is at \$5,450; Custer, \$7,700. So I think there needs to be something addressed here, and I haven't...as I think one of the testifiers was looking for the white horse or the...and I say I'm looking for the silver bullet, but I don't know if we've found it yet. But with all the shooters that I have for colleagues, I'm sure we can come up with something. The second purpose of LB762 is change the comparable sales guidelines set forth in Nebraska Statute Section 77-1371. The way farm home sites have been valued across Nebraska has been an

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

issue of contention. And my understanding is that we will probably address that problem. The 12 guidelines in that section have been in statutes for years. LB762 lists the guidelines as (a) through (l). Now, at one time they were (1) through (12), and they asked that they be used for a qualified sale. And Section 2 describes a qualified sale and lists sales that can be used for a comparable sale to value agricultural land in a county. It also lists sales that are not to be used as qualified sales: a sale of nearby agricultural land when such land was acquired for the purpose of expanding a preexisting operational agricultural business--also, land within one mile of a preexisting operational agricultural business shall be considered nearby property--and a sale of agricultural land when the sale transaction is a like-kind exchange under Section 1031 of the Internal Revenue Code if the closing date of the transaction to acquire the like-kind property is within 60 days prior to the final date. I would point out on these guidelines in here that when we had this hearing last summer, Director Sorensen from the Property Tax Division testified that she thought those guidelines should be completely done away with. And this is part of the reason I brought this bill forward. I think they need to be tweaked, and I think they need to be in statutes because this is the only thing that people have to have some yardstick on where their valuation of their agriculture property should be. Those were put in, I think, clear back in the '80s sometime, when some of this was revamped. I did have some of that history on that as I worked on some of the other issues. In fact, last year I had LB69 in here, and we address some of that. And part of the problems with that was that some of the people thought that it affected commercial property also, and they were concerned about if we put those in, it was in LB69, that it would affect commercial property and there would be properties that couldn't be used at all that needed to be used. And I forget what all the list was of the things that they thought was wrong with that. So I worked on this thing through the summer and I've come up with LB762. And I think it probably is something that we need to look at. It probably is something that needs to be somewhere in statute because we do need to have some kind of guidelines and also some yardsticks on how our land and especially ag land is to be valued, because ag land right now is some of the major valuation in the state of Nebraska. In fact, ag land is probably supporting more school districts than any other sector of property in the state. So with that, I would be willing to answer any questions. [LB762]

SENATOR CORNETT: Senator Pirsch. [LB762]

SENATOR PIRSCH: You're going to have people testify about the...anticipate this problem. [LB762]

SENATOR LOUDEN: Well, I hope so. [LB762]

SENATOR PIRSCH: Okay. Then I'll hold my questions. [LB762]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you,

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Transcriber's Office

Revenue Committee  
January 20, 2012

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Senator Louden. May I see a... [LB762]

SENATOR LOUDEN: Well, there's testimony sent in by e-mail (inaudible). Some of the folks live a long ways out there. [LB762]

SENATOR CORNETT: Pardon me, Senator Louden. May I see a show of hands for the proponents? Okay. Could everyone please be ready to testify and move towards the front? It is getting later towards the afternoon. May I please have the first proponent? And try and keep redundant testimony to a minimum. [LB762]

JAREL VINDUSKA: Okay. Jarel Vinduska, 19506 South Highway 31, Gretna, Nebraska; it's spelled J-a-r-e-l V-i-n-d-u-s-k-a. I won't repeat some of the stuff I did on the first time. I want to just use this opportunity...well, to, first off, to support Senator Louden's bill and thank him for his efforts. But I'd like to use this opportunity to answer a few questions that some of you senators have posed that I didn't know you were going to ask or I would have answered them the first time. First off, bear with me if I sound a little simplistic. I've kind of lived this for three or four years and I've left no rock unturned, so I understand the dynamics of what's going on around here. And so the first question I would like to answer is, Senator Louden was asking...well, actually he didn't ask it, he kind of identified why this is a problem just in Sarpy County and not some of the other counties. And the reason, he hit the nail on the head. I can give you an example. First off, all the county...there's no consistency in the counties, but all of them, I feel, are doing it wrong, in the wrong legislative intent. For instance, in Saunders County, if they're at \$17,000 an acre for the home site, the average land in Sarpy County even with these high ag prices now is under \$7,000 an acre, about that area, some of it's a little bit more and some a little bit less, but say \$7,000 an acre. And if they're at \$17,000, they're only \$10,000 too high for the acre under the house if you go by my premise that, as Mr. Pittman states and I think the other assessors will collaborate on this, there's nothing on the property that adds value to the acre because all that's assessed separately. You're just assessing the land, the actual market value then. What's on it adds no value whatsoever to the land. So if they're just \$10,000 high and it costs them \$150, \$200 more a year, it isn't worth taking the time. We have people here that weren't able to show today. I have a good friend and neighbor that's got a bull calf that prolapsed and he wanted to come down here, but he's got to work with that calf. It's a \$900 calf and it's suffering; besides the value of the calf, it's suffering. So he couldn't come. And that's the way with a lot of farmers are. You know, you got to pick your battles. It just so happens in Sarpy County the battle...did you ever hear the cliché, with government, the idea is to tax just short of a revolt? Well, the revolt happened in Sarpy County, because it's costing each of us, you know, \$800 to \$1,250, some people it's \$1,500, \$1,700 a year more, so that angered people enough that it was worth spending some time to work on it. But, you know, Senator Louden was asking for a silver bullet, and I think the amendment I submitted was a silver bullet. It might sound overly simplistic to you, but, really, the work is already done in this model, just like I said in my

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Transcriber's Office

Revenue Committee  
January 20, 2012

---

letter. I mean, it's been an established appraisal fact of life ever since the beginning of (inaudible). That's why there's an incentive to break land from larger to smaller pieces. When you break it up, it inherently gets more value because the pool of buyers becomes bigger for it. And the reality is, where the big hang-up is in this whole issue is the assessor, particularly in Sarpy County but all of them are doing it this way, is hung-up that, like this acre, because its method of assessment has to be different by actual market value versus farm value. They're treating it like it's a separate piece of property, which it's not. It's part of a 5-acre piece, part of a 20-acre piece, part of a 40, and these prices reflect that. Every assessor knows. It's so simple. I've never...I don't think I've ever run into anything in my life that's so simple. And, like I say, bear with me if I sound overly simplistic, but we know in Sarpy County what a 5-acre piece sells for, so that's what an acre is worth. We know what a 10-acre, we know what a 40, we know what 160. It's simple. There's certain classes of property, and we know what that acre is worth. What's on the property adds no value to the property; it's just what the acre on that... [LB762]

SENATOR CORNETT: Mr. Vinduska, we've already went over this on the first bill. [LB762]

JAREL VINDUSKA: Okay. All right. All right, so why isn't... [LB762]

SENATOR CORNETT: And we have your written testimony. If you have something new to say... [LB762]

JAREL VINDUSKA: Okay. [LB762]

SENATOR CORNETT: ...that's not in your written testimony and that you haven't said on the first bill, please feel free to. [LB762]

JAREL VINDUSKA: Okay. The other question I'd like to answer was...several of you asked, two of you at least, why we lose at the TERC. The reason we lose at the TERC is the same reason that Property Tax Administrator Ruth Sorensen cannot certify this to be correct, is because property records, when a property sells, only is of the whole property. It doesn't parse out what one acre on that property is worth. So there are no records to show if Mr. Pittman is just blue sky that he's trying to sell of...there's no records whatsoever to get the property assessment-to-sales ratio. And when you go before the TERC, the burden of proof is on the taxpayer. You know how attorneys work. Attorneys always save their best ammunition for last, so in their closing statement, they always hold up this certification paper with Ruth Sorensen's seal on it. And when she says on there...she says that these farm home sites are residential property, and she says: It is my opinion that the level of value of class of residential real property in Sarpy County is 90 percent of actual value. It is my opinion that the quality of assessment for this class of resident property in Sarpy County is in compliance with generally accepted

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

---

mass appraisal practices. When they hold that up and the TERC says...it knows that she's the final word in Nebraska, as if these assessors are doing it right. You lose by default because you can't come forward with any evidence of comparable sales because there is no sale of...that you can come forward with of an acre on a farm. So you always lose because of default. Now Ms. Sorensen tried to, right from the beginning of this mess, fix it. She tried to rein in Mr. Pittman, but unfortunately she has--and, like I say, I'm not talking out of turn, I've talked to all these people and I wouldn't say nothing here that I wouldn't say to their face--she has an assistant that's her assistant assessor that advises her on assessment techniques. Name is Denny Donner. He believes in diminishing marginal utility, so he counsels her that way. So he's telling her that Mr. Pittman is doing it right, even though she tried from the beginning...this is a letter of July 12, 2010; it says: On January 29, 2010, a letter was sent to you regarding the methodology used in Sarpy County to assess farm home sites. At that time, a general opinion was offered as to the distinction between valuation and classification. The letter indicated it is important that valid comparable sales are used to value farm home sites. That's the other thing I...I'm going to go on. But that's the other thing. Mr. Goodwillie, I couldn't disagree with him more. Your bill, Senator Cornett, and Senator Loudon's, is not removing comparable sales from the pool to use. They're not at all. These home sites in residential subdivisions are not comparable sales. You're just removing stuff that shouldn't be in there. They're not a comparable sales. And it's based on the...I'm not... [LB762]

SENATOR CORNETT: Because of the hour and the number of people left to speak, I'm going to ask you to wrap it up. [LB762]

JAREL VINDUSKA: Okay. I'm just going to...well, let's... [LB762]

SENATOR CORNETT: You can submit Ms. Sorensen's letter. [LB762]

JAREL VINDUSKA: You what? [LB762]

SENATOR CORNETT: You can submit Ms. Sorensen's letter. We can read that. [LB762]

JAREL VINDUSKA: I don't have copies for everybody, though. [LB762]

SENATOR CORNETT: You can send it in. That's not a problem. [LB762]

JAREL VINDUSKA: Okay. Well, let me just add one sentence then. In light of the foregoing concerns, what the concern...she said up here, if I had time to read it, was that the property is supposed to have comparable market characteristics of size, location, use, and zoning. These aren't the same size. This is one acre of part of a larger property. The use isn't the same. The location isn't the same. The zoning isn't the

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Transcriber's Office

Revenue Committee  
January 20, 2012

---

same. They're all...that's why your bill is okay, because this isn't...those aren't comparables. But anyway, I'll jump down to the conclusion. In light of the foregoing, concerns have been raised regarding the method of valuation used in Sarpy County to value farm home sites; the methodology used does not appear to recognize the diversity of the market in Sarpy County. Such a method concludes that Sarpy County has uniform market influences from one end of the county to the other. And then she makes the statement: The market influences in Sarpy County are not uniform across the county. So that's all you need to know. You can't have 850 properties in the county the same valuation. That's what Mr. Pittman did, yet she put a certification knowing that that was impossible. That's why you lose at TERC. [LB762]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB762]

JAREL VINDUSKA: Thank you. [LB762]

SENATOR CORNETT: Next proponent. Could the remainder of the proponents move forward to the front row? [LB762]

PETE McCLYMONT: Chairman Cornett, members of the Revenue Committee, for the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. It's Friday afternoon, the hour is long, so I'll be direct and to the point. We're here to support LB762 and Senator Loudon; the primary reason is the language in reference to 1031 exchanges. If you're a rancher in the Sandhills or the Panhandle, Senator Loudon and Senator Fischer know, you see people in the Front Range that have seen urban sprawl, that have seen their land values go up tremendously. So Nebraska is a bargain. They move here. And so they have those monies to spend, and so it's been a frustration and discussion within our association for over a decade. So with that, I will conclude my testimony and be happy to answer any questions. [LB762]

SENATOR CORNETT: Thank you, Pete. Questions from the committee? Seeing none, thank you. [LB762]

PETE McCLYMONT: Thanks. [LB762]

SENATOR CORNETT: Next proponent. [LB762]

JOHN KNAPP: John Knapp, again, Sarpy County. Again, thank you for the time and to testify. And I appreciate the efforts on both bills. And on this diminishing marginal utility, it's a very complicated subject. And I think all sites have utility. And it's...and Mr. Pittman is comparing all sizes of property as the same thing. And the person that...and I don't think we should be limiting...I don't like the idea of limiting acre size for, you know, to be classified as a farm. Each person, even on a five-acre tract, if you're buying this



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Transcriber's Office

Revenue Committee  
January 20, 2012

---

five-acre tract because you want to be further away from your neighbors, that doesn't mean...actually, the outside acres, the ones around your house, are as valuable, probably more valuable to you than the house acre because they're the acres that push you away from the residential area. And so I think Mr. Pittman treats everything: the land is what the utility is on. And it's really the size of the property. And somebody that's buying a residential property, that's not interested in the farm, isn't even going to be in the farm market. In the farm market you're going to have farmers, the investors, and developers, and they may all be one and the same. And so that's a completely different market...group of market people that are competing for that land; and the smaller you go, you can get more people able to buy. But anyway, so I think you have to look at your utility as being...and if you read the economics books it says you got to be careful. You got to compare apples to apples and oranges to oranges. And so these different...the city lots, suburban acres, and urban acreages do not...they're all different. And I think you got to remember that the assessors were talking about, well, this can be broken off and sold very easily next year. This farm...my farm home site is on an 84-acre piece. It is not subdivided. I can't go out and sell it to you tomorrow without going through planning and zoning and getting everybody's approval. Like, in Sarpy County you can't even sell the acre. And so it is a process that takes place. But today, as it is assessed today, it is a part of a farm. And I think the original language in the original bill is pretty clear. It says that the farm site and the home site do not...cannot receive the special assessments. Well, my parcel is an 84-acre piece. I got approximately 78 acres of farmland, and so it'd be very simple just to say, okay, the farm is an 84-acre, go to Mr. Pittman's model that he developed... [LB762]

SENATOR CORNETT: I was just going to say you're regressing back on to the first bill. [LB762]

JOHN KNAPP: Well, I'm applying it to both bills. [LB762]

SENATOR CORNETT: Okay. [LB762]

JOHN KNAPP: I want my stuff that I submitted on the first bill...I guess I should have said that, I want you to consider it for the second bill. [LB762]

SENATOR CORNETT: Okay. [LB762]

JOHN KNAPP: You know, anything, I think, is an improvement. We're trying to improve. I would like you to add Jarel's amendment, but I'll be willing to work with anything you can give us. And so, anyway, you go to the site, 84 acres is worth \$6,000 an acre. So since we aren't separating the ag land off for special assessment, the acre under the house is worth \$6,600 an acre. And they mentioned, well, you know, you got the bluffs or you might be over...have a bunch of canyon land. Well, that will be reflected. Whenever I...or whoever buys the property, he isn't going to pay, if it's a bunch of

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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canyons and ditches, he isn't going to pay, you know, \$6,700 an acre for that home site. He's going to be paying...or the farm site, I should say, or the agricultural, the parcel. And he's going to probably have to pay more for it, because if it's on a bluff, the developer is going to say, hey, if I buy this, in, you know, ten years, I can turn around and turn that into a development with a beautiful view. And so that stuff is already factored in. Those amenities that are intangible are reflected in the purchase price when the person buys the place as a whole. And then for the higher values, it would be...or for when you break it down, then that year when it's broken down, now it becomes a five-acre piece. And basically that's what I wanted to add. [LB762]

SENATOR CORNETT: Questions from the committee? Seeing none, next proponent. [LB762]

JOHN KNAPP: Thank you again. [LB762]

SENATOR CORNETT: Thank you. [LB762]

CONNIE ANDERSON: Once again, my name is Connie Anderson and I'm a resident of Gretna. I think...I really appreciate the fact that they are going to be, hopefully, working on some sort of things to tighten up the methodology. I think that's sorely needed, and I think one of the biggest problems, as noted, is that our properties, the home acre, home site acre, is being judged against properties that don't fit that same zoning, that same utility. In my...where my farm is at, I can't divide my property down any farther. I literally can't. To divide it down any farther I would have to do what's known as a conservation development. And then I would have to plat the whole thing and get an engineer, all that sort of stuff. So I literally am tied down. I cannot take out one acre and sell it. In fact, the most I could go and take it down to, even with a conservation development, would be three acres, three-acre lots. Okay. So to go and judge the acre underneath my house that I will never, ever be able to go and separate and then say that that's \$60,000-some, when the rest of my property isn't probably worth more than \$10,000 per acre at the most, is kind of ludicrous. That's really subjective. It's putting all the value on one acre that I can never go and separate out. So I think there has to be something that's addressed in there as far as what's the lowest amount that somebody could separate out without going through all these expenses like having it rezoned and things. [LB762]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you very much for coming down. Next proponent. Are there any further proponents? Opponents? Move to opposition testimony. Is there anyone here in a neutral capacity? [LB762]

MIKE GOODWILLIE: Oh, I thought there were (inaudible). I apologize. [LB762]

SENATOR CORNETT: (Laughter) We're just waiting for you, Mr. Goodwillie. [LB762]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Revenue Committee  
January 20, 2012

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MIKE GOODWILLIE: It's...it's nap time. Good afternoon. My name is Mike Goodwillie, G-o-o-d-w-i-l-l-i-e. I'm with the Douglas County Assessor's Office, and I am testifying in a neutral capacity about LB762. Apparently I'm the only thing that stands between everybody here and the weekend, so I will be brief. And I am going to observe the Chairperson's request that we don't back up the truck and run over the subject matter of LB750. But there are a couple of things in LB762 I have concerns with kind of along the same lines. And that is, when you start to exclude transactions from consideration as comparable sales, you put the assessor at an extreme disadvantage when it comes to doing a sales-comparison approach. And I had three essential concerns here. One is, the definition of "qualified sale" in the bill means "an arms-length transaction that accurately reflects the attributes of the sale transaction rather than the attributes of the property sold." Candidly, I'm not sure what that means. What I do know is the definition of "actual value" in 77-112 of the Nebraska statutes provides that the definition includes the concept of a willing buyer and a willing seller, both of whom are knowledgeable about the uses or potential uses that the property may have, and also a consideration of the full description of the physical characteristics of the real property. And so based on that definition of actual value, I think it's sort of hard to divorce the attributes of the sale from the attributes of the property. And so I guess I'm at a loss to quite understand what that last phrase means. The two other issues I want to touch on are the exclusion as the consideration of comparable sales for sales of nearby agricultural land or horticultural land, and then also the 1031 exchanges. The other day I...well, one of our county attorneys calls me a tax nerd, and part of the reason she calls me that is because the other day I was looking at the Dr. Bruce Johnson study of agricultural values and agricultural sales. And within that study, Dr. Johnson was indicating that the sales prices out there for ag land, as high as they may be, seem to be driven primarily by two things: commodity prices and also the purchasing or demand by local producers for additional property. I would suggest that at least some of those transactions have got to be local producers competing for parcels within a mile of their existing holdings. If you have people competing, that's what market value is. I mean, not to go all cultural reference on people, but if Ben Cartwright, Victoria Barkley, and the McCoys all decide they want to compete for a particular parcel, that's market value. That's what it is. And we may regret that it's high, we may regret the impact it may have on the property taxes the ag producers pay, but that's what market is. Now, you know, I suppose if the desire is to eliminate comparable sales as a means of tamping down the rise in agricultural values, and I don't know if that's the motivation or not, but if the motivation is to drive agricultural values down for taxation purposes or hold them down, then by all means, have at it. Do it directly. Reduce the percentage from 75 to 70 or some lesser amount. But, again, I think there are some public policy concerns when you start to say to the assessor, okay, we want you to assess at 75 percent of market value but we aren't going to let you look at your entire market. I mean, I just think you're going to get skewed outcomes if that's the way you want to go. And with that, I would answer any questions that you have.  
[LB762]

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Transcriber's Office

Revenue Committee  
January 20, 2012

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SENATOR CORNETT: Senator Pirsch. [LB762]

SENATOR PIRSCH: Great. So just to...if I have a handle on your criticisms of this, first of all, one of which is there's some definitions in here in the negative. It says what it's not. It doesn't say what it is in terms of the recipe to...that the assessor should follow in valuing. With respect to sub (5) on the last page of it, "A sale of residential land"...and this deals with the first bill's problem, right: "A sale of residential land located within a platted and zoned residential subdivision is not land comparable to a farm home site." So it says...is your position...it says what it's not but that doesn't give us a clue how to accurately value it. [LB762]

MIKE GOODWILLIE: On this particular bill, I guess my concerns are somewhat similar to the last one. And that is, you know, when you start to say to assessors, well, this sale isn't comparable to this thing, I think that's a judgment call that they need to make. My concerns with this bill are less about that issue than they are about the exclusions that relate to what an assessor may consider for agricultural purposes. And, yeah, I know. We're Douglas County. We don't have a heck of a lot of agricultural land. But we get our ag land values for special valuation purposes by borrowing from sales and ag land values from more rural counties, more agricultural-based counties on the eastern part of the state. So if you say to those assessors, you can't consider sales when somebody local buys property within a mile of their existing holdings, you can't consider that as part of your marketplace, it does have an effect on us. [LB762]

SENATOR PIRSCH: So it's...you're saying that transaction, in terms of real estate purchase, is a major one. To exclude it would...you're saying, divorces the reality of the (inaudible). [LB762]

MIKE GOODWILLIE: I think those transactions are a part of the existing mix in the agricultural land marketplace, and I think you are working at cross purposes to what the statute requires by saying you can't look at those. [LB762]

SENATOR PIRSCH: Okay. I think I have an understanding of what your argument is. Thanks. [LB762]

SENATOR CORNETT: Further questions? Seeing none, thank you, Mr. Goodwillie. [LB762]

MIKE GOODWILLIE: Thank you very much. [LB762]

SENATOR CORNETT: And thank you for coming down to testify. Is there anyone else in a neutral capacity? [LB762]

LARRY TIMM: Do I need another form? [LB762]

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Transcriber's Office

Revenue Committee  
January 20, 2012

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SENATOR CORNETT: Yes. [LB762]

LARRY TIMM: Can I fill it out afterwards? [LB762]

SENATOR CORNETT: Yes. [LB762]

LARRY TIMM: Okay. Larry Timm, T-i-m-m. Again, I didn't intend to testify but just in commentary from the previous testimony, I would submit that it does make a difference if land is within a mile... [LB762]

SENATOR CORNETT: You cannot make commentary. You can only testify in a neutral. Only the introducer of the bill is allowed rebuttal. [LB762]

LARRY TIMM: Okay. You may have to help me with this, Abbie, I'm not... [LB762]

SENATOR CORNETT: You can either...you can just say that... [LB762]

LARRY TIMM: I think that Senator Louden's bill, where there are considerations given for the use of valuation purposes, what constitutes a valid, qualified sale, that those are legitimate exclusions inasmuch as a 1031. When I'm...when a property owner is taxed, it's on the basis of what's been assigned over the whole area. So the fact that that should be increased because sales of adjoining properties, where obviously it is worth more to the owner, is included, and that's applied across the entire tax base. That is, it appears to me, would be inherently unfair as well for reasons that are relatively obvious--1031 exchanges. So that's the content of my testimony. [LB762]

SENATOR CORNETT: Thank you. Questions from the committee? Seeing none, thank you, Mr. Timm. [LB762]

LARRY TIMM: Thank you very much. [LB762]

SENATOR CORNETT: Is there anyone else in a neutral capacity? Seeing none, Senator Louden, you're recognized to close. [LB762]

SENATOR LOUDEN: (Exhibit 7) Thank you, Senator Cornett. And I thank those that have testified on this bill. As we pointed out and also had some testimony about nearby properties, and I would refer back to the testimony that was sent in by Mr. Al Davis from Hyannis. And as you look on the page of it there, he had a paragraph that told about some ranch that was sold in his area. And he said when he asked his neighbor why he paid such a high price for the land, the answer was, well, it's right next door and I won't need any extra help to run it and I need more hay and this is close by my home ranch. And that right there should sum up why nearby property is worth more or either should

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Revenue Committee  
January 20, 2012

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be excluded as part of...as a guideline. Now when they said about an arm's-length transaction...or a qualified sale is "an arm's-length transaction that accurately reflects the attributes of the sale transaction rather than the attributes of the property sold." Now when you have bought ranches, and I don't know how many of you have bought ranches, but I think I've been in on, like, 29 transactions in my lifetime of buying land. And many a times we bought that land and the land...and the ones that we bought it from carried us on a mortgage, carried us over a period of time. So that had a lot to do with it. A long time ago I figured out that if you paid...had to pay 5 percent interest, you had to buy that land for about \$15 an acre less than if you paid 4 percent interest. In other words, if they would carry at 4 percent interest, you could pay about \$10 an acre more for the land. So, I mean, that was when I was a youngster, and nowadays those numbers are probably...don't hold up. But those are part of the issue. Some of the issues are, is how much machinery or cattle went with that property. Back in the days, and this is when you were all kids, no doubt, when we had investment tax credit, we could buy property and then we could reduce some of the parts on that property against our income tax. And you could actually buy property and not pay any income tax because it came right off the top of your income tax. That was called an investment tax credit, and we had that before 1031s came in. Now if I bought a ranch out there and there was half a dozen old horse mowing machines sitting on there or maybe a broken-down tractor, pickup, I don't care what it was, we went ahead and added that into the cost of the property, and then we depreciated that back out of the property. Now that wasn't...it isn't illegal or anything, but that was done. So these are issues that when we talk about what's a qualified sale...and the man from Douglas County, Mr. Goodwillie, talked about he don't understand what it is. Well, he should, because those are things that happen all the time. The Joy Ranch up there was bought by the Mormons, and it was a turn-key operation. And at that time the Property Tax Administrator wouldn't allow the use of that as a comparable sales because if you figured the value of the cattle against the property, why, it threw their valuation of the property clear out the window. So the Property Tax Administrator threw that one out years ago. So there's what we're talking about on the qualified sales. And then, of course, these 1031 sales. And if any of you've ever been involved in that, at one time, why, Colorado was selling their land over there by the foot and they were coming into Nebraska and buying it by the acre. And when it got closer to that time that they were going to have to pay that tax deferred...it's a tax deferred. They don't save any but they get to defer it. Well, they bought a lot of that land for probably \$2.50 an acre and they were selling it for \$2,500 an acre, so they had a huge tax bite if they didn't do something. So they would run out and try and buy land all over wherever they could. A lot of it came into western Nebraska. And by doing this, then they deferred that tax to perhaps if they could ever run it through an estate, and that's usually the way you save money with it, the 1031, is somebody buys it and then they have to die and will it to somebody else. I mean, that's just the way it works. But that's how it has worked. So these are what we have when I put in these, what are qualified sales, and added onto these comparable sales guidelines in here. They've been in statute for a long time, but

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various assessors and various property tax administrators over the years have found ways to work around them. And so I'm...as with LB762, one of the things was to address those problems in there and try to strengthen them. Otherwise...and the other part of the bill is the same as Senator Cornett's, with the residential land in these first-acre lots. And you want to remember, when they say \$62,000 for the first acre or whatever for the first acre, you want to remember an acre is only, I think, 204.5 feet square. That's all an acre is, is 205...about 205 feet one way and 205 the other. That's an acre of land. So this is what we're talking about. With that, I thank you for your attention, and if you have any questions I'll be happy to try and answer them. [LB762]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Senator Louden. [LB762]

SENATOR LOUDEN: Yeah, thank you, Senator Cornett. [LB762]

SENATOR CORNETT: (See also Exhibit 8) With that, that concludes the hearings for today. [LB762]