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Revenue Committee  
February 28, 2013

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[LB55 LB101 LB145 LB574]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 28, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB55, LB145, LB101, and LB574. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; and Pete Pirsch. Senators absent: Kate Sullivan.

SENATOR HADLEY: My name is Galen Hadley and I represent the 37th District in Kearney, Nebraska. To my left will be Senator Paul Schumacher. Paul is from Columbus. Just so you know, the senators are introducing bills in other committees, so please don't be offended if they get up and walk out and then walk back in. To his left is Senator Pirsch from Omaha. To his left, Senator Sullivan is gone for the day, from Cedar Rapids. On my far right is Senator Burke Harr, who is introducing a bill right now, from Omaha; Senator Janssen from Fremont; and to his left is Senator McCoy from Omaha; and to his left is Senator Hansen from North Platte. Our committee counsel is Mary Jane Egr Edson. To my right, Bill Lock is the research analyst. Matt Rathje is the committee clerk. That's the person you're going to hand this nice little sheet to if you're going to testify, and you need to fill this out and they're in the back. You fill them out and give them to him. If you forget, we'll remind you. I'd appreciate it if you'd turn off cell phones or put on vibrate while in the hearing room. The 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, hand your testifier sheet to the committee clerk. There are clipboards in the back of the room to sign if you do not wish to testify but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. And I apologize in advance, I sometimes get confused between opponents and proponents and neutral, so Mary Jane will keep me straight. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. Please don't be offended if I ask you to do that if you forget. If you have handouts, please bring ten copies. If you do not have...if you only have the original, we will make you copies. Give the handouts to the page to circulate to the committee. I think we will use the light system. We will give you five minutes to testify. There's a green light and at the end of four minutes it will turn to amber and then it will turn to red. I will not stop you in the middle of a sentence or a concept, but we just do that just to kind of keep the hearings moving along. With that, I believe the first one, if I'm right, I see Senator Wightman sitting right here in the front seat. This is his 39th bill of the week for us. (Laughter)

SENATOR WIGHTMAN: I've counted 40 but...

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SENATOR HADLEY: Forty, okay.

SENATOR WIGHTMAN: Good afternoon, Chairman Hadley, members of the Revenue Committee. For the record, my name is John Wightman, spelled W-i-g-h-t-m-a-n, and I represent District 36 right next to the 37th District of Senator Hadley. LB55 is intended to clarify that counties that have reassumed the assessment function to determine the value of property have the ability to make decisions regarding the operation of the assessment function. A brief history of the legislation is necessary to understand why this law is needed. A law authorizing the state of Nebraska to assume the function of the counties to assess property was passed in 1969, but it was not...after changes were made in 1977 that the law was implemented. In all, nine counties had the assessment function assumed by the state. Those counties were Dakota, Dodge, Garfield, Greeley, Harlan, Hitchcock, Keith, Saunders, and Sherman. The state lacked the funding to assume the assessment function for additional counties, and the remaining 84 counties continued to operate the assessment function at their own expense. In 2009, I introduced LB121 that transferred the assessment function back to the counties for three basic reasons: one, to restore equity between the 9 counties and the other 84 counties that were having to fund their own assessment; to return the assessment to where it belonged at the local level; and to save the state \$2.46 million annually. That's probably the main reason. The counties had the option to phase in the function and the cost over a three-year period or make the change at any time. Sherman County exercised that option to assume the assessment function early. The reason for LB55 is certain action taken by the state Property Tax Administrator that was not contemplated by LB121. LB121 stated that all contracts pertaining to the operation of the assessment function shall be assumed by the county until the expiration of the contract. In 2010, one year after the enactment of LB121, the state Property Tax Administrator signed a ten-year computer software contract, which, in effect, locked the counties in, or at least they thought at that time that it did, into the contract for seven years unless they were successful in a court challenge. My intent in introducing LB121 was to return the operation of the assessment function and the related cost to the impacted counties, not bind them to any long-term contract. Recently, I learned that this issue can be remedied with a clarification of the law. The computer software contract signed by the Property Tax Administrator provides, by its own terms, that the contract may be terminated by the state, in its sole discretion, for any reason, upon 30 days' written notice to the contractor. The 9 counties must be able to contract for the services they need, contract for the quality of the services they need, and contract with the provider that will provide the services at the lowest cost if they are to manage the assessment function on the same basis as the other 84 counties. LB55 will clarify that the 9 counties may terminate the computer software contract in accordance with the original contract executed by the state and just like the other 84 counties. I would ask the Revenue Committee to advance LB55. This concludes my prepared testimony, and I will be happy to try to answer any questions that you may have. [LB55]

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SENATOR HADLEY: Thank you, Senator Wightman. We've been joined by Senator Janssen from Fremont. Senator Janssen, you have a question? [LB55]

SENATOR JANSSEN: Yes, thank you, Chairman Hadley. Thank you, Senator Wightman, for being here. Just to be clear, to clarify, the nine affected counties still could enter into this contract and remain on with the current company if they choose to do so. [LB55]

SENATOR WIGHTMAN: Right. There's nothing that says that they have to, but they have the option to get out of a contract. [LB55]

SENATOR JANSSEN: So we're simply just giving them that choice. [LB55]

SENATOR WIGHTMAN: Right. [LB55]

SENATOR JANSSEN: Okay. Thank you. [LB55]

SENATOR HADLEY: Any other questions for Senator Wightman? Thank you, Senator Wightman. [LB55]

SENATOR WIGHTMAN: Thank you. [LB55]

SENATOR HADLEY: Will you stay for closing? [LB55]

SENATOR WIGHTMAN: Oh, probably. [LB55]

SENATOR HADLEY: Okay. The first proponent. Good afternoon. [LB55]

BOB MISSEL: (Exhibit 1) Good afternoon. My name is Bob Missel, Missel is spelled M-i-s-s-e-l, and I am a Dodge County Board of Supervisors and I appreciate the opportunity to address you this afternoon. I'll be brief. In 2009, we learned that Dodge County would have to take back the assessment function and all the costs of running that office. We were pleased when we understood that the state would phase out paying for those costs gradually over a three- to four-year period. We appreciated the opportunity to opt out sooner; we chose not to. The 2009 legislation that put this into effect said all contracts of the Department of Revenue pertaining to the operation of the county assessment function shall be assumed by the county until the expiration of the contract. This appeared to make sense as it was written...when it was written. Then, in 2010, the Department of Revenue bid out a ten-year contract with Tyler Technologies for software that runs the entire property assessment function. As the law reads, we the county find ourselves looking at a contract we will have seven more years to honor. We were never approached or made a part of this process. We did not ask for it, yet we will be the ones locked into a lengthy contract we probably never would have chosen.

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Today I ask that you support this bill so we have the right to negotiate our own contract with whoever we feel is best suited for our needs. And with that, I thank you for your time and for your support. Any questions? [LB55]

SENATOR HADLEY: Supervisor Missel. Are there questions? Senator Janssen. [LB55]

SENATOR JANSSEN: Thank you, Chairman Hadley. Thank you, Mr. Missel, for being here today. Hope you enjoyed your ride down and now know what I go through every morning. [LB55]

BOB MISSEL: I appreciate that. [LB55]

SENATOR JANSSEN: How has the integration been? I know we talk, but with the county people using it as compared to their...what they were using previously... [LB55]

BOB MISSEL: Right. [LB55]

SENATOR JANSSEN: ...and if this weren't to pass, you know, what problems would you see moving forward? [LB55]

BOB MISSEL: Well, we have had our share of problems, frankly. The name of the software was TerraScan that we were using and to this day we still currently use that same software in our treasurer's office. And when the state made the change, it threw up lots of obstacles in transferring data between the treasurer's office and the assessment function, and the folks from Tyler Technologies tried to make changes, but ultimately at one point we were delinquent in the county getting our tax statements out, and to the embarrassment of our treasurer. It was, you can imagine, a very frustrating position to be in. So Tyler has still come back to the table. We think, it would appear, a lot of the bugs are worked out so I won't say that we wouldn't continue with Tyler. That's a possibility. But certainly, since we weren't part of that process to begin with, we would like the opportunity to at least make that decision on our own, to possibly go out for bids for the services to create a competitive environment so we can get the best value for the county. And so that's why, again, I certainly support this bill. [LB55]

SENATOR JANSSEN: Thank you, Supervisor Missel. And I agree with you. Obviously, I think knowing that you're not bound to a contract would probably bring them to the table and give you a little more leverage in fixing the problems that you have moving forward. So thank you. [LB55]

BOB MISSEL: Thank you. Any other questions? [LB55]

SENATOR HADLEY: Mr. Missel, just so I get the timing right, we had the 2009 Legislature put into effect that the contract shall be assumed until the expiration. Then in

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2010, the Department of Revenue bid out a ten-year contract. Is there...would you know any reason why they would do that? [LB55]

BOB MISSEL: We're still kind of scratching our heads as to why that took place. Other than that...and the frustrating part for us is that we were, again, we were never brought to the table. We were never brought into the discussion. And all along they knew that they were turning this back to the counties, and yet they negotiated for a ten-year contract without our input. And it, to this day, it doesn't really make sense to me. And I've never had a great answer as to why that took place. [LB55]

SENATOR HADLEY: Would this contract with Tyler, would it have involved things that are done in the department also or would it...? [LB55]

BOB MISSEL: I believe so. I believe so. [LB55]

SENATOR HADLEY: So...but...okay. [LB55]

BOB MISSEL: Yeah. [LB55]

SENATOR HADLEY: Thank you. I appreciate that. [LB55]

BOB MISSEL: Uh-huh. [LB55]

SENATOR HADLEY: Thank you. I appreciate your coming down and have a safe trip home on that wonderful...watch out, don't leave until Charlie is, you know,... [LB55]

BOB MISSEL: I'll be careful. [LB55]

SENATOR HADLEY: ...either way ahead of you or way behind you. (Laughter) [LB55]

BOB MISSEL: Thank you for your time. [LB55]

SENATOR HADLEY: We have been joined by Senator Schumacher from Columbus. Thank you. Are there further proponents? Welcome. [LB55]

DICK ERICKSON: (Exhibits 2 and 3) Thank you, Senator. I appreciate the opportunity to speak today. My name is Dick Erickson, E-r-i-c-k-s-o-n. I am the current Dakota County Assessor. Prior to July 1 of 2012, I was the state assessment manager and chief appraiser for Dakota County, so I have seen both sides of this issue. It would be very easy to sit here and speak for hours talking about the multitude of problems we had with the program that we're being burdened with by this ten-year contract. I can spend time telling you how others and I worked many, many hours of overtime without pay trying to get this system up and running. I could spend time talking about 530 tax

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list corrections in the spring of 2012 because of the errors, in my opinion and in the opinion of others, that were a result of the programming problems in the system. I could spend time telling you about the taxpayers who wanted to pay their taxes in December of 2011 and couldn't because we couldn't produce a tax statement in December of 2011. I could talk about a Web site we received more complaints on than I can count because it was so user-unfriendly. This put an extra burden on my office personnel to provide information by telephone to realtors, insurance people, bankers, and people like that. In my opinion and the opinion of others, this program was a complete disaster. That said, the failures of the program are not why we are here. We are here because the Department of Revenue agreed to a ten-year contract that cost the taxpayers millions of dollars and that was done one year after the original legislation was passed returning our offices to the counties. You will notice on my Exhibit 2 that Dakota County has returned to the TerraScan T1 program provided by Manatron at a cost of \$10,115 a year, a savings to the taxpayer of \$31,908 a year. If you take that out times nine years, it's a considerable amount of money. Like we say in the country, that ain't chicken feed, Luke. The other expense to the county is the annual cost of a functional Web site. We're using GIS Workshop in Lincoln for that service. That costs us \$3,500 a year. That still leaves a savings of \$28,408. We're just getting the Web site up and running now. We've had very favorable comments from those that are testing it for us. The taxpayers of Dakota County and Nebraska deserve better than a contract that is costing tens of thousands of dollars more than necessary for an out-of-state company when there are companies right here in Nebraska and right here in Lincoln that provide a better product at substantial savings. In my opinion, it was wrong to tie the counties into a ten-year contract when they knew the counties would be no longer with the state. It was wrong to contract with a company that had lawsuits pending at the time of the signing of the contract. It was wrong to burden the taxpayers with a contract that cost tens of thousands of dollars more than others available right here in Nebraska. This simple change of one word in the statute will allow for a clearing of the way to end this injustice. As officials representing the taxpayers of Nebraska, we have every obligation to do what we could do to correct this situation. Thank you for your time. [LB55]

SENATOR HADLEY: Thank you, Mr. Erickson. Are there questions for Mr. Erickson? Senator Schumacher. [LB55]

SENATOR SCHUMACHER: Thank you, Senator Hadley. So, as I understand it, the state entered into a contract with an outfit called Tyler Technologies. [LB55]

DICK ERICKSON: Correct. [LB55]

SENATOR SCHUMACHER: And in your opinion, Tyler Technologies cooked up something that didn't work. [LB55]

DICK ERICKSON: Exactly. [LB55]

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SENATOR SCHUMACHER: Okay. And how...did they make each county sign a contract with Tyler, or did you just deal with the state? [LB55]

DICK ERICKSON: No, the state signed the contract, and then the contract was given to the counties that were under state control at that time. [LB55]

SENATOR SCHUMACHER: Okay. Now... [LB55]

DICK ERICKSON: Or maybe "given" isn't the right word, but that was the contract that we had to operate with. [LB55]

SENATOR SCHUMACHER: Has the state terminated this contract for cause with Tyler? [LB55]

DICK ERICKSON: To my knowledge, they have not. [LB55]

SENATOR SCHUMACHER: So even if we say, counties, you can do your own thing because Tyler isn't doing its job to your satisfaction, the state may still be on the hook for its deal with Tyler? [LB55]

DICK ERICKSON: That's a question you need to ask their attorney. It appears that way to me, but that's not a question I can answer. [LB55]

SENATOR SCHUMACHER: So we'd be paying Tyler for...has Tyler fixed the problems with his computer program? [LB55]

DICK ERICKSON: I see e-mails on a regular basis, at least three times a week, where another problem has popped up for the counties that still have the Tyler program. [LB55]

SENATOR SCHUMACHER: Have you been told whether the state has made any claims against Tyler for damages? [LB55]

DICK ERICKSON: I have no...I don't know. [LB55]

SENATOR SCHUMACHER: Okay. But basically, you're saying, look, we're tired of this; we found a cheaper, better thing; we'd like permission to go do our thing again. [LB55]

DICK ERICKSON: Yeah. All we want to do is we want to represent or present to the people of Dakota County an affordable system that works. And if we could pay...if we could save the taxpayers in Dakota County \$30,000, \$35,000 a year by doing that, plus lift the labor burden out of the office because we're so tied up with phone calls on the

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Web site, then it's a good thing for everybody. [LB55]

SENATOR SCHUMACHER: Okay, but... [LB55]

DICK ERICKSON: And we're going back to a county...or a...spit it out, Dick,...going back to a company that's in Nebraska. [LB55]

SENATOR SCHUMACHER: So you'll pay to your new contractor or the guys in Nebraska instead of getting billed for money from the state. [LB55]

DICK ERICKSON: Right. And we're in a bit of a disagreement right now over the last bill, and we're hoping that with the change in this language we can avoid a court case. [LB55]

SENATOR SCHUMACHER: Okay. So my question as to whether or not, in effect, the taxpayers of Nebraska are going to be paying twice for this, once at the new better level and once at the old defective level, I've got to direct that to somebody else because you don't know. [LB55]

DICK ERICKSON: Yeah. [LB55]

SENATOR SCHUMACHER: Okay. [LB55]

DICK ERICKSON: I guess I can't answer that honestly. I have a suspicion, but I just don't know. [LB55]

SENATOR SCHUMACHER: Okay. Thank you. [LB55]

SENATOR HADLEY: Mr. Erickson, just so I'm clear, have you...you're no longer using Tyler. Is that correct? [LB55]

DICK ERICKSON: Correct. We stopped using Tyler July 1, the day that we went from a state office to a county office. [LB55]

SENATOR HADLEY: And you're using Manatron or... [LB55]

DICK ERICKSON: Right. [LB55]

SENATOR HADLEY: Right. [LB55]

DICK ERICKSON: Went to Manatron. [LB55]

SENATOR HADLEY: And you were able to get out of the contract with...or not... [LB55]

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DICK ERICKSON: That's a question. (Laugh) [LB55]

SENATOR HADLEY: That's a question yet. [LB55]

DICK ERICKSON: That's what we're trying to get resolved. [LB55]

SENATOR HADLEY: Okay. The last thing I'd say, if I was a...I happen to be one of those taxpayers that has to pay my property taxes in December because I had, you know,... [LB55]

DICK ERICKSON: Yeah. [LB55]

SENATOR HADLEY: ...one year I doubled up, and so you have to continue to do that or you lose a year. I would be quite upset if my county couldn't tell me on the 31st of December what my property taxes were. [LB55]

DICK ERICKSON: Dakota County is a relatively small county, compared to Douglas and Lancaster and some of those. And I probably know--I've been there almost 13 years--I probably know every taxpayer in Dakota County on a first-name basis. I have some good friends, close friends that are in agriculture, and I have a very close friend that I have a lot of respect for. He built it from nothing to a fantastic farming program. And he couldn't pay \$48,000 worth of taxes in December of 2011 and take them off his 2011 income tax. Now I'm sure there's vehicles by which he can carry that over and things like that, but the fact of the matter is, he still had to lay out the cash for that income tax for 2011. So it, I mean...and our treasurer caught...our treasurer caught heck, you know? We caught heck. The problem was that their program wouldn't talk to TerraScan. I worked with TerraScan for 11 years prior to this and we never had major problems. Always had a little tinkering, little tinkering there, but never major problems. This year, our tax statements were done December 1, they were on time, they were right, and as far as I know we haven't had any problems with them. [LB55]

SENATOR HADLEY: Okay. Thank you, Mr. Erickson. [LB55]

DICK ERICKSON: Thank you. [LB55]

SENATOR HADLEY: Any other proponents? [LB55]

JUSTIN BRADY: Senator Hadley and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as a registered lobbyist for Scott Davis, who's an attorney here in town who represents a number of the counties, some of which you've heard from. I wasn't planning on testifying but I wanted to come up and see if I could help answer Senator Schumacher's question on the contract. The Tyler

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contract, which I have a copy which I can get to you, states that the state, in its sole discretion, may terminate the contract for any reason upon 30 days' written notice to the contractor. So as I understand it, talking to Scott Davis and the counties, if the counties were to be...if this change were to happen and they were...instead of "shall" it could go to "may," and if a county chose to stay, then the contract for that county could continue. If a county chose to leave the contract, they, through the state, can give 30 days' notice and that contract would be terminated and there would be no cost to the state then. So there wouldn't be that double paying, if you will, that you were asking about. I don't know if that answers your question, Senator Schumacher, or not. [LB55]

SENATOR SCHUMACHER: Well, maybe if I can just follow up a little bit. [LB55]

JUSTIN BRADY: Uh-huh. [LB55]

SENATOR SCHUMACHER: So...and I guess it would be in the language of the contract. This is a contract between...where the state kind of just acted as the broker between the counties? Who's... [LB55]

JUSTIN BRADY: No. [LB55]

SENATOR SCHUMACHER: Who's the parties to this contract? The state? [LB55]

JUSTIN BRADY: Tyler, Texas, and the state of Nebraska. [LB55]

SENATOR SCHUMACHER: Okay. [LB55]

JUSTIN BRADY: What happened, as I understand it, was in 2009, after the State Legislature passed a bill and the Governor signed it giving this responsibility back to the counties, they had three years that they could either opt to do that early or they had to wait until July of 2012 to actually...then they had to take it over. During that time in 2010, the state went and signed a ten-year contract with Tyler, Texas, to do the property tax administrative services that the state was doing at the time. [LB55]

SENATOR SCHUMACHER: They subbed it out, basically. [LB55]

JUSTIN BRADY: They, yes, they subbed to this Tyler, Texas. Now as counties have started to either choose to reassume that or have now had to--by state law it said that they must assume the contract. Well, so the counties now are saying, wait a minute, we have to assume a contract that (a) wasn't ever contemplated when the legislation was passed that said we had to assume contracts, and (b) ones we were never a party of. And I would go a step further and say but (c) does allow for the termination with 30 days' notice for any reason, not even for cause. I mean there is a provision you could terminate quicker for cause, which I think some counties could argue they have that,

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but... [LB55]

SENATOR SCHUMACHER: But is this 1 contract or 93? [LB55]

JUSTIN BRADY: This is one contract that covered eight counties,... [LB55]

SENATOR SCHUMACHER: Okay. [LB55]

JUSTIN BRADY: ...because there are only eight counties that the state took over the property tax function for. [LB55]

SENATOR SCHUMACHER: And all eight want to leave? [LB55]

JUSTIN BRADY: By state law, all eight have to leave by July 1, 2012, had to have left. [LB55]

SENATOR SCHUMACHER: Leave the Tyler program. [LB55]

JUSTIN BRADY: No, they had to...the state...let me back up. Eighty-four counties do their property tax valuation and administration by themselves. [LB55]

SENATOR SCHUMACHER: Okay. [LB55]

JUSTIN BRADY: Eight counties decided to have the state take over that function. In 2001, I believe...2009, sorry, I don't have...the state then, in looking at saving money, said, wait a minute, we don't want this function anymore; we're going to give it, mandate it that those eight counties take it back. [LB55]

SENATOR SCHUMACHER: Okay. [LB55]

JUSTIN BRADY: After that happened, part of that legislation said, and you, the counties, have to assume any and all contracts that we, the state, have signed. If you look at the floor debate and the hearing transcript, it was talked about, copy machine leases and different...I mean things like that. After that bill passed, then the tax...state Tax Administrator went and signed a ten-year contract for these duties. [LB55]

SENATOR SCHUMACHER: For the eight counties. [LB55]

JUSTIN BRADY: For the...for this...well, for those eight counties, but at the time it was still a state function. [LB55]

SENATOR SCHUMACHER: Okay. [LB55]

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JUSTIN BRADY: Now that it is mandated that it goes back to the counties, the state law said, well, you have to assume that contract. [LB55]

SENATOR SCHUMACHER: What I'm trying to get straight in my mind is, is the state still on the hook to Tyler or can they walk away from it? [LB55]

JUSTIN BRADY: They can walk away. With a 30-day notice of any county that says they want to leave, they can walk away. And I think if you look at the fiscal note, it says--don't have it right here--it says the Department of Revenue indicates there will be no General Fund expense to the state. [LB55]

SENATOR SCHUMACHER: Okay. That was my concern. Thank you for clearing that up. [LB55]

JUSTIN BRADY: Okay. Uh-huh. [LB55]

SENATOR HADLEY: Any other questions for Mr. Brady? Thank you. [LB55]

JUSTIN BRADY: Thank you. [LB55]

SENATOR HADLEY: Further proponents? [LB55]

LARRY DIX: Senator Hadley, my name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of Nebraska Association of County Officials, appearing today in support of LB55. And once again, we want to thank Senator Wightman, as we have all through this process. He has been very, very good to work with in working through the state assessment and state assumption process, because, as those of you that have been around for those years, that was a very complex time where we had those counties that...we had some counties who we called county assessed counties and then these additional counties that were called state assessed. And then when we came back, there were a number of questions, one of which we're addressing today. And certainly you heard from Dakota County, you heard from Dodge County. It is my belief that of those eight counties...at one of our workshops we tried to get the counties together to sort of see who was going to do what. There is another county, Keith County, that is in the process of converting back to a previous software vendor, and there are a couple other counties that are interested in looking at those options also. I think once this clears it up, then those counties will have sort of a clearer decision path to go down so they really, really know what they can and cannot do. And so we think it's important that we get this clarified because there still are a number of counties out there that are in that decision-making process. And I think this bill does clarify it. I think Mr. Brady clarified from a legal point of view the steps we laid out that the counties would have to take so, therefore, the state could then take the steps to end or terminate those contracts. And then those counties can come on with whichever vendor that they

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choose to, or they could stay with Tyler Technologies if that's their choice. [LB55]

SENATOR HADLEY: Okay. Questions for Mr. Dix? Thank you, Mr. Dix. [LB55]

LARRY DIX: Thanks. [LB55]

SENATOR HADLEY: Further proponents? Opponents? Neutral? Senator Wightman, would you like to close? [LB55]

SENATOR WIGHTMAN: Thank you. I think maybe it's been laid out by the testifiers that it's pretty clear that there's a right. And we have a letter here that came from the Radcliffe and Associates law firm, and also to...from Baylor and Evnen, who apparently reviewed this on behalf of somebody, and they clearly say what was told to you a minute earlier, that the state...or the state and the contractor, by mutual written agreement, may terminate the contract at any time, and the state, in its sole discretion, may terminate the contract for any reason upon 30 days' written notice to the contractor. So I think it's pretty clear that's right in the agreement that they entered into with the party providing the service. And so it seems to me, as a matter of fairness, particularly where the state entered into this agreement a year or a year and a half after the bill...the previous bill, and I don't have the number here, LB211 or whatever it was, it seems pretty clear that they should not have entered into that contract when the state law was also giving all of these counties the right to terminate. So with that, I'd try to answer any questions, but I think they've told you pretty well what the situation is. [LB55]

SENATOR HADLEY: Senator Wightman, as you well, well, well know, I'm not an attorney, but a quick question. If it's the state that can terminate the contract with 30 days' notice, can a county then terminate the contract? [LB55]

SENATOR WIGHTMAN: From everything I understand, the county didn't enter into the contract; that it was just entered into between the state and the... [LB55]

SENATOR HADLEY: Okay. [LB55]

SENATOR WIGHTMAN: ...company that was doing the service. [LB55]

SENATOR HADLEY: Okay. Okay. [LB55]

SENATOR WIGHTMAN: I mean maybe they could have been a third-party beneficiary, but you can at least understand here that they don't think they're a beneficiary, period, but... [LB55]

SENATOR HADLEY: (Laugh) That sounds correct. Thank you, Senator Wightman. [LB55]

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SENATOR WIGHTMAN: Thank you. [LB55]

SENATOR HADLEY: You got any more today or is that...is that... [LB55]

SENATOR WIGHTMAN: I'll try to get back. [LB55]

SENATOR HADLEY: Okay. Thank you. That will close the hearing on LB55. Okay, we're going to have to have a little change because one of the senators is testifying in another committee, so if we'll just stand easy for a couple minutes until we get Senator Brasch here, we'll go on with that bill. [LB55]

BREAK

SENATOR HADLEY: Senator Brasch, thank you. We appreciate your willingness to move ahead. We will now hear LB145.

SENATOR BRASCH: (Exhibits 4 and 5) Thank you, Chairman Hadley, and good afternoon, members of the Revenue Committee. I am Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent the 16th District in the Nebraska Legislature. I am here today to introduce LB145, which I have brought at the request of Nebraska Farm Bureau to reduce the valuation of agricultural and horticultural land from 75 percent to 65 percent of its assessed value. Likewise, for TERC purposes, an acceptable range for taxation purposes is reduced from 69 percent to 75 percent, to 59 percent to 65 percent of actual value. LB145 also amends the statute that adjusts valuation for the purposes of state aid to schools. For agricultural and horticultural land, state aid value would be reduced from 72 percent to 62 percent of actual value. This change would result in an increase in equalization aid to school districts. As Nebraska conducts its wellness check on its tax code, I believe...it is my belief that this discussion should look at all components of our tax structure, especially property taxes, which have not been a part of the discussion up until today. Then-Senator Heidemann made several attempts to make changes to the valuation of agricultural property for property taxation purposes, and this legislation represents a continuation of those efforts to provide meaningful property tax relief. Every day that I'm in my district, I hear from constituents about the burden that property taxes place upon their families, businesses, and the way of life. Nebraska is the only state to tax property tax the way we do because we levy property tax by real estate value and because several subdivisions of government have overlapping taxing authority, including school districts, ESUs, NRDs, and our counties. Property tax relief for agricultural producers has become even more important since Senator Heidemann began visiting with this committee on this subject. The downward slide in Nebraska's rural population has continued, even as property taxes on agricultural land have continued to increase. Senators in this body have introduced several policy proposals over the years to attempt to stop the population decline and

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grow our tax base in rural communities. Meaningful property tax relief for agricultural producers would be a first step towards creating a friendly atmosphere for the young agricultural producers we need to attract back to our rural communities. The assessed value of agricultural land has steadily risen since 1980, as the property taxes that farmers pay on this land increase. Especially in recent times, that rise has been extremely sharp. Calculations indicate that since 2008 the assessed valuation of agricultural land has risen roughly 80 percent, and the taxes paid on that land roughly by 69 percent, representing an increase in valuation of at least 10 percent year over year for each of the last five years. To illustrate this point, from 2009 to 2010, the valuation of agricultural land increased 11.75 percent, compared to an increase of 4.32 percent for Nebraska property valuation. Again, from 2010 to 2011, the value of agricultural land increased 11.69 percent, compared to the total valuation of Nebraska property which increased by 4.37 percent. While the upward march in the valuation of agricultural property follows this upward trend in valuation, agricultural lands' share of the property tax pie have outpaced the increasing valuations of commercial and residential property. The 11-point-plus increases previously mentioned are included inside of the total valuation numbers also referenced. Excluding agricultural land, the total increase in the valuation number for all property would drop substantially. From 2011 to 2012, total property taxes statewide increased by 3.96 percent, or \$123 million. Of that amount, taxes paid on agricultural land has increased by \$70 million or roughly 60 percent of the total increase statewide. To further illustrate this point, as recently as 2008, agricultural land made up about 22 percent of the state's total property valuation. In 2012, agricultural land had risen to 29 percent of state property valuation and contributed to 24 percent of the property taxes paid. It is important, however, to note that these percentages are actually extremely diluted by a few urban counties where agricultural land has a minimal presence. Therefore, for most rural counties, agricultural land makes up roughly anywhere from 50 percent to 80 percent of the total property tax base in each county. This is also true of our rural school districts, where agricultural land makes up the bulk of the land valuation base. This legislation would trigger an increase in the equalization aid to school districts that contain agricultural land. The fiscal note projects an increase of about \$31 million. The numbers of schools receiving equalization aid has been decreasing for years. This is particularly important for school districts that contain a large agricultural land valuation base, many of whom did not receive equalization aid. There are about 47,000 farms in Nebraska, with the average size farm totaling about 1,000 acres. Many of these farms are small farms that may include rented property, and many have no school-age children. The result is that farms shoulder the burden for small and midsize towns in rural school districts, even though they may not have children enrolled in any of the schools. As previously mentioned, agricultural land valuations have become an ever-increasing percentage of the state's land base valuation, which augments the disparity between property tax paid and the number of farm kids enrolled in these districts. Property taxes on agricultural land also inequitably burden retired farmers who have spent their entire lives investing in the land that makes up their farm. While the state of Nebraska does not tax capital gains on

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retirement income, retired farmers who rely on income from their rented farms still pay income tax on that rent and property tax their land. This means that retirees who invested their income in the 401(k)s or the IRAs, they see a tax break that retirees, farmers, who invested in land or property do not. Over the interim this past year, my office conducted a published, districtwide survey of our constituents. The first question asked on this survey was: What should the Legislature's top priority in 2013 Legislative Session be? Over 40 percent responded taxes as their number one issue. And in a follow-up question that listed five different taxes, 57 percent of the respondents ranked property tax as their number one concern. In fact, over 90 percent of the respondents ranked property tax in the top three taxes that concern them the most out of a list that included sales tax, occupation tax, inheritance tax, and state income tax. While the survey is certainly not scientific, it does provide you with a snapshot of the concerns that have been expressed to me by my constituents over the past couple years. I would like to read to you an e-mail that came from a constituent who is also a county assessor. We deleted the name. They hesitated to disclose their name. They first sent it to a personal e-mail address, and in a follow-up they contacted our office. But I will read this to you. It says: Senator Brasch, I would support LB145, parentheses, 65 percent all ag land. Decreasing the level of assessment 5 percent will not make a substantial difference at this time in the assessed value of the farmland. Most farmland will increase 20 percent to 25 percent this year. If LB145 were to take effect, we would still be increasing farmland values a net 15 percent to 20 percent for the year. This would still be significantly above 3 percent to 4 percent increases in budgets for taxing entities. We feel this bill is warranted in our county because approximately 80 percent of our value comes from ag: farmland, building improvements still 92 percent to 100 percent; and homes, 92 percent to 100 percent. They have continued to share almost all of the increase in the taxing entities' budgets over the past few years since residential values in small communities like ours do not increase significantly over a five- to ten-year period, not like the ag land has. We are seeing historic increases in values and yet most taxing entities are at their maximum levy rate. This does not make sense--a bunch of question marks there. We are just as concerned about the actual tax dollar being spent, how the budgets are determined, and are the taxing entities leaving their tax rate alone knowing that these huge increases in the tax dollars generated can be blamed on the assessor's office, even though they are the ones requesting these dollars. An example would be a \$100,000 house with a tax rate that doesn't change from year to year because the tax rate stayed the same but the value didn't increase either. The farms, on the other hand, increased 10 percent to 20 percent over the last few years and the tax rate was left the same, and yet their taxes in the same year went up 10 percent to 20 percent. These farmers are paying the lion's share of the increase. They have not really complained yet, but we have seen unprecedented profits in recent years. If this changes, there will be a major upheaval over farm property taxes. Thank you. And I do think it's, you know, sad when someone is afraid to step up, you know, and I'm glad they stepped up but they're afraid of what the repercussions would be by letting their name be known. But I do thank this person for their e-mail and their concerns. And they are,

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again, a county assessor. As I conclude, I do want to thank you for your time and to make it clear that I see LB145 as a way forward for the committee to provide property tax relief. This issue is so important for many Nebraskans. I do understand that NACO will be testifying in opposition. I do look forward to the committee to resolve the concerns of any of these groups that have reservations about what form property tax relief does come in. I do believe that Kevin Peterson of the Nebraska Farm Bureau is behind me today and I would be happy to answer any of the questions. From this...from his association's perspective, he would be answering those questions after he shared his testimony. And if you have any questions of me, I'd be happy to answer them as well. [LB145]

SENATOR HADLEY: Are there questions for Senator Brasch? Senator Harr. [LB145]

SENATOR HARR: Thank you, Chairman Hadley. I guess I have a couple questions. So I'm an urban senator. My house went from being valued at \$75,000 to \$210,000 in a span of five years. That's a pretty good rate of growth. Here's the problem: I'm not making any more money off my house now than I was before. The only reason the price of ag land is going up, valuation, is because the product it's making is selling for a lot higher. So that farmer is making more money off of that property. And the only reason it's rising is because farmers are paying that price. So I'm not quite sure...and, by the way, I don't get to pay 75 cents on the dollar. I pay the full amount. And I don't make a dime off my house. So how do we justify that, what seems to be an inherent conflict there? [LB145]

SENATOR BRASCH: Thank you, Senator Harr. That is an ongoing question. That is a concern. I have colleagues, friends, actually a good friend that...my occupation has been working virtually. She's working virtually. She's probably pulling at least \$200,000 to \$300,000 of income working from her house virtually. [LB145]

SENATOR HARR: Uh-huh. [LB145]

SENATOR BRASCH: And she's earning a very good income and...but her property tax does not compare to ours. And speaking as a farmer, I was...we receive three tax statements. We probably pay quadruple taxes, as many other farmers do, and when you look at...there has to be something, I would think, that the income versus the property. [LB145]

SENATOR HARR: So is it your contention, since your friend works out of her house and that's her income, that she should then, instead of paying 95 percent, should pay 75 cents? Is that what you're trying to say? [LB145]

SENATOR BRASCH: Well, that the property tax burden...and in fact, I'll also have this passed out here. [LB145]

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SENATOR HARR: I mean, yeah, I mean I pay... [LB145]

SENATOR BRASCH: Historically, it has just gone...it's disproportionate. And the fact that they pay, you know, they are paying...and I would rather have Farm Bureau speak up on this because they can speak broadly for farmers across the...but this is brought up... [LB145]

SENATOR HARR: Yeah. [LB145]

SENATOR BRASCH: ...year after year and it keeps increasing and... [LB145]

SENATOR HARR: Well, but you're an old revenue person. [LB145]

SENATOR BRASCH: Yes. [LB145]

SENATOR HARR: You understand revenue and you understand the concept of the stool. [LB145]

SENATOR BRASCH: Uh-huh. [LB145]

SENATOR HARR: You have to have three legs to that stool. [LB145]

SENATOR BRASCH: Uh-huh. [LB145]

SENATOR HARR: And when we try to eliminate one leg of that stool, it falls apart. And yet, in essence, we're trying to...while not eliminate that third leg, we're trying to chop it and so it's not going to be level. And you know, we listened very intently to LB405 and LB406, and when we listened to the farmers, we realized that wasn't a fair system because they would be overtaxed. And my question is, what is a fair tax for someone in the farming/ranching industry? Is it no tax? Is it zero? I mean is it a lower tax? At some point, we have to pay for the services, and when there's a lower population base it, unfortunately, it probably is more expensive per person. I get that. I understand that it's not fair but it's reality. And so I'm trying to figure out what is the definition of fairness and simplicity. Well, that's what the Governor uses, the word "fairness and simplicity." [LB145]

SENATOR BRASCH: Uh-huh. [LB145]

SENATOR HARR: What is that then? How are we going to make up that lost...I mean we're...on the state level, we're losing \$31 million. That doesn't even go into...and I, you know, as you said, NACO is here, and the cities will lose some money. How do you suggest we make up that lost revenue, especially in the rural areas where that is the

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only form of taxation you have? [LB145]

SENATOR BRASCH: That is a good question that we'd be willing to work on a solution with. And you are right, I am a former tax person. I worked at the Department of Revenue from 1978 to 1991, former State Tax Commissioner is in front of us, and I do recall the historic days of trying to start up the Property Tax Division. And it took many, many experts, many people, many...you know, the work was grueling with the counties. And I'm not sure we...we designed our own system. No other state has this system. And seeing what's happened, where it's growing exponentially, 110 percent somewhere, we do need to look...take another look at this system. Is it the best system possible? Is it fair to everyone concerned? Is it addressing all of our needs? You know, we have multiple taxing entities that are asking for dollars. I believe at this point in time in our history that our tax system does need to review what our ranking is, how we assess property tax and others. If I had the right answer here, it would be wonderful. I think it's going to be a combination of several solutions brought into action. And when we do look at taxes, I would believe that property taxes, the number one complaint, as the Governor knows, as the Tax Commissioner knows,... [LB145]

SENATOR HARR: Uh-huh. [LB145]

SENATOR BRASCH: ...is not being addressed in the best way possible when we are the only state this way. [LB145]

SENATOR HARR: Okay. And I accept that. And that was one of the problems with LB405 and LB406, is I think you're right,... [LB145]

SENATOR BRASCH: Uh-huh. [LB145]

SENATOR HARR: ...doesn't address property tax. But we have to find a way to make up for that lost revenue. And it's easy for us, I mean it's feel-good, in essence, for us as state legislators to say, we fixed the property tax problem; now, you counties, you spend too much money; go fix it yourself. And this is their only real taxing authority. I mean we have to come up with an alternative for that lost revenue for the counties, and I'm not sure. You know, definitely property taxes are definitely going to be part of the conversation, but we have to also have a solution. We can't just say it's a problem. We have to come up with a solution. And if we do lower this, we have to find a way to make up that difference, not just only for the state but also for the counties who would be affected much more immediately and dramatically than the state. [LB145]

SENATOR BRASCH: And, Senator Harr, I appreciate your saying that because it does need to be a part of the conversation,... [LB145]

SENATOR HARR: Oh yeah. [LB145]

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SENATOR BRASCH: ...a part of the dialogue. There is, you know, agriculture is our economic engine. I was not born on a farm, I was not raised on a farm, but I feel very humbled to live on a farm, to be a farmer's wife, and to represent a district that their jobs are intrinsic. What we do today goes global. And we do believe in helping our schools and we do believe in helping our state; however, not at the sake or at the cost of depleting our rural communities where at one point my generation of parents were sending their kids off to college saying, run, save yourself, don't come back, get that degree. Well, now farming is making...finally making a turnaround where the cousins that live in town and have the beautiful this and that, we have a beautiful life but we'd like to have our kids return to a life. And now, speaking personally here, especially that I have grandchildren, we want them to come back to the farm more than ever because it is a wonderful life and we appreciate this. But the taxing is not skewed and proportionate at this point and we would like that looked at. And if you can, you know, whoever can design the perfect tax system so, you know, we can help, you know, every need, every entity. But like the state, a balanced budget is important. We don't just keep growing our budget. We balance it. We make cuts where we have to. It's time to include property tax in the conversation. That's all I'm asking today. And people behind me can also speak. [LB145]

SENATOR HARR: Fair. Okay. Thank you. [LB145]

SENATOR HADLEY: Further questions for Senator Brasch? Senator Schumacher. [LB145]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for presenting this bill, Senator Brasch. As we're going to struggle over the next year between ideas like you present here and with the sales tax ideas and the property tax ideas, you know, it's such a complex interaction. It still boils down to 1.8 million people have got to pay \$4 billion a year. And but just on the property tax thing just for a minute, as to why this sometimes gets so hard, let's take the little example that your assessor gave us here: 80 percent of the value coming from farmland. I would guess from that number that this county probably doesn't have a town of much more than 1,000 population in it as its biggest town. Am I warm? [LB145]

SENATOR BRASCH: Keep going. [LB145]

SENATOR SCHUMACHER: Up? [LB145]

SENATOR BRASCH: Up. [LB145]

SENATOR SCHUMACHER: Two thousand? [LB145]

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SENATOR BRASCH: Up. [LB145]

SENATOR SCHUMACHER: Three thousand? [LB145]

SENATOR BRASCH: Up. [LB145]

SENATOR SCHUMACHER: Four thousand? Okay. [LB145]

SENATOR BRASCH: Give or... [LB145]

SENATOR SCHUMACHER: Somewhere in that area. [LB145]

SENATOR BRASCH: You're getting close. [LB145]

SENATOR SCHUMACHER: We're getting close, okay. [LB145]

SENATOR BRASCH: You're getting close. [LB145]

SENATOR SCHUMACHER: All right. But anyway, it's not one of the big 20,000 population towns. [LB145]

SENATOR BRASCH: No. [LB145]

SENATOR SCHUMACHER: Okay. So 80 percent of the value comes from there and the rest of the value comes from the folks in that town, which probably, if you look at their mean income, is probably below the state mean income for the folks working in that town at probably some little business or industry or co-op and things like that. So it's not like those folks in town are rolling in cash either. So when the county board does its budget, it assesses the taxes, it asks for all the subdivisions to turn in your, you know, your budget request. They add them all up and they say, okay, here's how much money we got to come up with to keep these people happy and we've got to get it out of this county that has 80 percent of its valuation in farmland and the rest in the town. So now if we change these figures to reduce the valuation of the farmland artificially, the balance changes a little bit. But unless we hit a mill levy peak, that 80 percent, even if we reduce them by 10 percent, is still going to pick up a lot. It's still going to go up. But the burden has been shifted to a few of those people in town who are...now got to carry it. And then the only free lunch in the system under this bill, as I see it so far, is that they get a chunk of that \$30 million in state aid back toward their schools, which is then paid for out of the lunchpail money of the folks in other towns somewhere, their income or sales taxes. So I mean there's just...it's really difficult to get equity. But this shift, how do we justify it to the people in the town, saying your houses aren't going up that quick in value, nobody is paying 10 percent more a year for your house, but you're going to now, you know, have to pay more of the burden because we're going to make this agricultural

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valuation change? [LB145]

SENATOR BRASCH: Your question is how do you justify that? [LB145]

SENATOR SCHUMACHER: Yeah. [LB145]

SENATOR BRASCH: Basically, we do need to look at the complete portfolio of taxes that we have, and is it proportionate? Are we growing our ag economy when that particular occupation pays the brunt of taxes, whether it's education, the community, the ESUs, you know, all of the above? Is it truly the only way possible to fund? And that's what we do need to assess. We need to look at the methodology. We need to look at the spending habits. I believe that's part of the recommendation here by this particular assessor. But at this point, just looking at that growth exponentially on what is happening, it is not conducive to helping truly revitalize our rural communities. It's been a burden, I mean, and the fact too when we talk about the need of that house in town versus that home/office, farming, the work there is 24/7, period, around the clock. There is no paid vacation unless you have your bases covered. The farm operation keeps going. [LB145]

SENATOR SCHUMACHER: But that's the way it is for most small businesses. I mean there's very little paid vacations. So are basically you asking us to put this...the committee to put this in the mix of the discussion that's going to go on? [LB145]

SENATOR BRASCH: Put it in the mix, please,... [LB145]

SENATOR SCHUMACHER: Okay. Thank you, Senator. [LB145]

SENATOR BRASCH: ...respectfully. [LB145]

SENATOR HADLEY: Any other questions? Thank you, Senator Brasch. [LB145]

SENATOR BRASCH: Thank you. [LB145]

SENATOR HADLEY: Will you be staying for closing? [LB145]

SENATOR BRASCH: I would like to. [LB145]

SENATOR HADLEY: Okay. Thank you. We will. First proponent. [LB145]

KEVIN PETERSON: Good afternoon, Senator Hadley, members of the Revenue Committee. My name is Kevin Peterson, and for the record that is spelled K-e-v-i-n P-e-t-e-r-s-o-n, and I am a member of the Polk County Farm Bureau. I also serve on the Nebraska Farm Bureau board of directors, and I appear to you today before...before

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you today on behalf of these members in support of LB145. We certainly appreciate Senator Brasch introducing LB145. Nebraska's heavy reliance on property taxes to fund local government and the burden it is placing on Nebraska farmers and ranchers is a growing concern for our members across the state. Nebraska Farm Bureau is constantly receiving calls from farmers and ranchers upset with the recent increases in property taxes they have experienced. Increases in taxes of 50 percent to 70 percent over a two-year period are not uncommon. For example, a lady from Dawson County indicated she and her husband, self-described as small ranchers, have seen property taxes increase over 50 percent in the past two years. A rancher from Morrill County said his values on his pasture ground were up 42 percent, even in the midst of the drought of 2012. A farmer from Knox County who farms 960 acres said his property taxes were \$7,500 in 2009; now taxes on those same acres total just over \$20,000. Over and over again, day after day we are hearing these kinds of stories. While the current agriculture income conditions have allowed for farmers and ranchers to better deal with the considerable tax increases, these levels of tax increases are not sustainable. Our fear is when economic conditions change, and they will change, property taxes will remain high and severely strain farmers' and ranchers' financial condition. Farm Bureau supports LB145 because it could help mitigate for these factors and help offset the recent increases in land values. Farmers and ranchers certainly want to pay their share in supporting local schools and governments, but feel today they are being asked to do too much. LB145 would be a step in the right direction. We would be happy to work with the committee as they continue to look at this important issue. And I want to thank you for the opportunity today to provide these comments, and I would be happy to answer any questions you might have. [LB145]

SENATOR HADLEY: Senator Schumacher. [LB145]

SENATOR SCHUMACHER: Senator Hadley, very quickly. So a lot of the economists and the bankers and people looking at the land inflation, which is underlying this issue here,... [LB145]

KEVIN PETERSON: Sure. [LB145]

SENATOR SCHUMACHER: ...as being a bubble and, as with all bubbles, it will pop. People bidding on farmland obviously disagree,... [LB145]

KEVIN PETERSON: Uh-huh. [LB145]

SENATOR SCHUMACHER: ...but nevertheless, a lot of professional folks figure this has all the signs of a bubble. So if, in response to the bubble and in the interest of fairness, we reduce the percentage of valuation from 72 percent to 62 percent, when the bubble pops should we index it so it goes back up to 72 percent proportionately? [LB145]

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KEVIN PETERSON: That would be a question that I couldn't answer for you right now. We're dealing in hypotheticals. But that would be...the main problem the Farm Bureau members see is how ag land is valued. Our policy for years and years has been let's move to an income-based value, a value basis or a market...or an income capitalization method. But until we can move to that, we need to reduce rates as much as we can just because the raise...the...if you were to drop the percentage of valuation, the runup in the prices more than pays for that, for that loss in revenue. And I would think that over time, to answer your question I guess as best I could, that if we were to continue to value ag land based on market price, that would be something that would have to be looked at periodically, dependent upon the climate in the business, in the business of agriculture. [LB145]

SENATOR SCHUMACHER: Thank you. [LB145]

SENATOR HADLEY: Other questions? I guess I have a quick one. What has happened to farm income in the last five years? Has it gone up? [LB145]

KEVIN PETERSON: Yes. [LB145]

SENATOR HADLEY: Can you give us a percentage, an annualized percentage it's gone up in the last five years? [LB145]

KEVIN PETERSON: In the last five years, dependent upon what sector you are in, are you talking row crops? [LB145]

SENATOR HADLEY: Yeah, row crops. [LB145]

KEVIN PETERSON: Row crops you're probably around, I would say, 25 percent a year. [LB145]

SENATOR HADLEY: Twenty-five percent. [LB145]

KEVIN PETERSON: Between 10 percent to 25 percent a year. [LB145]

SENATOR HADLEY: Okay. [LB145]

KEVIN PETERSON: Livestock is...I apologize for being a farmer, but livestock is a wreck right now... [LB145]

SENATOR HADLEY: Sure. [LB145]

KEVIN PETERSON: ...and has been a wreck for the last 18 to 24 months. [LB145]

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SENATOR HADLEY: Just so that the...for the committee's information, we now value it basically on comparable sales. Isn't that basically the way we value... [LB145]

KEVIN PETERSON: Yes. Yes. [LB145]

SENATOR HADLEY: So if a person is willing to pay \$15,000 an acre, isn't that somehow related to the income they expect to make off of that piece of land? [LB145]

KEVIN PETERSON: I would say yes and no, Senator. I don't see any instance where \$15,000-an-acre land pencils out that you're going to be able to amortize that and make money and have it in a number of years. Some of the folks that you see paying \$15,000 for land--and I'm not trying to cast this as a big-versus-small argument, because it's not--they have large land holdings already that they have a lot of equity in. So what they're able to do is subsidize that \$15,000-an-acre piece with profits from land that they farm and have more equity in, if you understand what I'm saying. [LB145]

SENATOR HADLEY: Okay. Any other questions? Senator Hansen. [LB145]

SENATOR HANSEN: Thank you. Farm Bureau was very active in the LB405 and LB406 bill discussions. [LB145]

KEVIN PETERSON: Sure. [LB145]

SENATOR HANSEN: Something you might consider is extremely lowering the property tax level of everybody's--Senator Harr's house, your farm, my ranch--and doing away with some of those deductions on sales tax, just a thought. And it doesn't matter where we go. We're going to switch. We're going to shift,... [LB145]

KEVIN PETERSON: Sure. [LB145]

SENATOR HANSEN: ...because we've got 1.8 million, we got to get \$3 billion out of them every year. So, you know, you pick your poison. But if we take deductions away from...sales tax deductions away from farm machinery and then you always have the opportunity to go across the state line and buy machinery there, but we've heard that you're supposed to pay that use tax anyway, wherever you buy it. But I mean those are the things we're going to be talking about this summer, so think down those lines too. And I don't like property taxes either and the comparable sales are why it is, because you get an old neighbor that, you know, is forced into selling his ranch and now I pay higher property tax... [LB145]

KEVIN PETERSON: Sure. [LB145]

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SENATOR HANSEN: ...for no reason whatsoever. [LB145]

KEVIN PETERSON: Sure. [LB145]

SENATOR HANSEN: We don't raise any more meat, we don't raise any more numbers than we did in the '80s, but yet we pay three or four, five times more property taxes, so... [LB145]

KEVIN PETERSON: Right. And I guess I would comment or answer your question as saying, you know, whether it be sales tax or whether it be property tax, the issue in the agriculture economy is we put a seed in the ground or we put an animal on feed--Senator Hansen, you know this--you have certain fixed costs built into that. Whether it be property tax or removing sales tax exemptions, that severely curtails your opportunity to make any kind of money or stay in that business sustainably, because if you add to your input side, and in agriculture we lack the ability to pass those costs on to the consumers. We're price takers; we're not price setters. We cannot. I don't know how many years I could go in to my banker and tell him that I'm going to continue to try and do this and go in...say the ag economy turns around and it does get bad for us for a serious amount of time. You know, whether you...whether it's property tax or lack of sales tax exemptions, it's going to be tough for, you know, a smaller producer, a younger producer, or any producer for that matter to weather those hard times. [LB145]

SENATOR HANSEN: Yeah. Thank you. [LB145]

SENATOR HADLEY: Senator Schumacher. [LB145]

SENATOR SCHUMACHER: Just one quick follow-up question. Thank you, Senator Hadley. The guy who goes and pays the \$15,000 a acre, knowing it can't pencil out but he's got the cash to do it, is maybe there some viability in an idea that something purchased within the last increment of time, 2-3 years, you pay 100 percent of value, and you feather that down to something purchased 30-40 years ago, they pay the 62 percent? So if you pay the...if you figure it's worth it, you pay on the purchase price. And that maybe depresses purchase price, so the young people that Senator Brasch wants to move back to the farm might have a snowball's chance of buying a farm one day? I mean should we look at some kind of a sliding scale? [LB145]

KEVIN PETERSON: I think it's an idea that's worth looking at, definitely. [LB145]

SENATOR HADLEY: Okay. [LB145]

KEVIN PETERSON: Thank you. [LB145]

SENATOR HADLEY: Thank you, Mr. Peterson. Further proponents? [LB145]

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JOHN HANSEN: Chairman Hadley, members of the committee, for the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n, and I am the president of Nebraska Farmers Union and we are in support of this bill on account of we don't have many other options. If we want property tax relief, these kinds of bills get to be a way for us to try to bring the frustration that comes from our members in the rural community to the Legislature for consideration. And so we...I've been at this so long that I actually remembered a time when we had earnings capacity for setting ag land values. We've gone through a lot of different iterations, legal challenges, MAPCO decisions, lots of things. We've had statewide ballot issues that we've been involved in, in order to try to go back to the old earnings capacity. But using sales as the basis is a problem for setting ag land valuations because it gets to be whatever the craziest or richest, or both, guy in the county can afford to pay one year, which doesn't have anything to do with what anybody else can afford to pay. And I support the previous testimony. And if you look at how land gets bought, it doesn't, any of it, ever cash flow. It's all about how much money does somebody have and when is the last time it came up for sale and whether or not it connects two of your properties or whether you've got a kid coming into the operation. Every piece of land that a farmer or rancher ever bought, they always thought it was too high, and then five years later they thank God they had bought it. And so the bigger situation is our state's heavy reliance on property to pay for education. That is the primary user. We have a statutory and constitutional obligation as a state to pay for education. We choose to pay for it with the system that we have, which puts an inordinate amount of responsibility for that system on folks who own land. And it used to be, when there were a lot more folks on the land and there was a lot more population distributed across the state, there was a lot more of a rational public policy basis for why it is we did that. And so the complaints that I hear are from folks who say, you know, my district doesn't get any state aid to education dollars. And the folks that live out in the country are such a small number of folks relative to the folks who live in town. The folks in town want the very best for their kids. They have the votes on bond issues and other...on elections and all of those things to be able to drive the levy to pay for education. That really puts a strain between that working relationship between the landowners and the folks in town with the kids. I thought if there is a rationale for this particular bill, is it...the folks in town would probably think a little bit differently about some of the things that they were wanting to do and pay for if they had a little more skin in the game. So would this be a shift? Yes, but it's only primarily in those districts where you have a good mix of different kinds of property classes. In those counties where it's all rural, you can raise or lower the valuation, whatever you want, but it doesn't really make much difference because the levy goes up and down and the same set of pockets pay for it anyway, because those are the only pockets out there that are available to pay for those costs. And so for many years we have been told if you folks in rural Nebraska would just consolidate your schools then...and you get rid of that administrative overhead, then, you know, when that happens we're going to try to step in and try to get a more fair system. And so we've consolidated our schools. We've got counties that

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have one school per county. We have folks who have...who have to have houses in town so one member of the family could live there because they can't afford to drive the kids back and forth to school because the school is so far away. We have kids on school buses and we still have the same old system. And so if we're going to talk about all the things that need to be looked at in the study, which we support as we examine the characteristics of our state tax system, our heavy reliance on property has to be on the table and considered. And with that, I'll be glad to end my testimony and answer any questions, if I might be able to do so. [LB145]

SENATOR HADLEY: Mr. Hansen, I'd like to follow up on a question that Senator Hansen had. The ag groups came in pretty vehemently opposed to the sales tax proposal in LB405 and LB406. Now they're coming in and saying we want lower property taxes. So the only thing we've basically got left is income tax. So would the ag community accept a 50 percent increase in income taxes in the state? [LB145]

JOHN HANSEN: My state organization passed a special order of business at the last convention saying they would be more than glad to consider an increase in the income tax rate if it meant they actually got some property tax relief,... [LB145]

SENATOR HADLEY: Okay. [LB145]

JOHN HANSEN: ...because they view the income tax as a more fair way to tie into the income stream, because the investment has been made. The risk has been taken. The product has been produced, priced, sold, and there's money there. And if you make money and you make profit, you can afford to pay an income tax. [LB145]

SENATOR HADLEY: Okay. Further questions for...Senator Schumacher? [LB145]

SENATOR SCHUMACHER: Thank you, Senator Hadley. The problem with the reliance on income tax, though, particularly at a local level, is farming is boom or bust often. And so you, you know, you'd have to have...I mean it would be a real hardship if it was three years of drought and federal crop insurance isn't there and all of a sudden there isn't any money for the school, and then there's a surge of money in \$7 corn, and where land is a little bit more level. So how do we compensate for those shifts if we're shifting local government to more income tax? [LB145]

JOHN HANSEN: Well, Senator, I think you've made a compelling argument for why too much reliance on either property or sales taxes are particularly punitive for those folks who are in business, because we are in a boom or bust business. And so you have to kind of balance out the needs of the tax-using entity and the folks who pay the taxes to support it. And so you have countervailing interests there. And so the things you love about a property tax, as a former public official who levied property taxes, is boy, it's dependable. You don't have to worry about whether or not the economy is going faster

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or slower, there's more or less sales, or whether they made any money or not. But as a former property tax official, based official, you could count on that revenue because it helped you out. The problem is, it wasn't always appreciated by the folks that we levied the taxes on. So you have to be respectful and mindful of just what it is that they can bear. And, you know, we work on a lot of beginning farmer issues and these land values pose some real serious problems. You just can't send somebody out into the world and say, why don't you go buy a half-section and get started. That just doesn't work. And so it's a struggle to do the next generational transfer. And so, you know, we have tried other kinds of ways to value ag land other than market sales and we have been unsuccessful in our efforts to get to that kind of system, which would more accurately reflect the earnings capacity of the land and the land class. But we're kind of at the point now where you look at your valuations--and we're going to have a whole new set of valuations getting mailed out here--and my phone is going to ring and people are going to be giving me all kinds of information again about "can you believe." And as a landowner, yes, I can. [LB145]

SENATOR SCHUMACHER: Thank you. [LB145]

SENATOR HADLEY: Thank you, Mr. Hansen. [LB145]

JOHN HANSEN: Thank you very much and good luck. [LB145]

SENATOR HADLEY: Next proponent. Can I see a show of hands, how many more proponents? Okay, it's all right to say, I agree with the person who testified earlier. [LB145]

LYNN MARTIN: (Exhibit 6) My name is Lynn Martin, L-y-n-n M-a-r-t-i-n, from Pleasanton, Nebraska, and I've got a...I'm testifying either both for or against LB145, however you want to take it. The...I've got a series of...my first page is "Revenue Committee LB145" and highlights of some items that I've included in this packet. Number one is: Farmers have case for grumbling about property taxes, and this is by Bruce Johnson from the University of Nebraska, who has developed a...or maybe not developed but has presented articles in the past and collected sales items from...of land across the state of Nebraska. And he has suggested in this article that was printed in Nebraska Farmer magazine of November 2010...no, January 2010 that we can make two policy changes that could be considered, and one would be to assess ag land at less than 75 percent and go to 65 or even 55 percent of valuation. Second thing would be to increase state aid to K through 12 schools. Next item is a pamphlet of his, LB...not LB, it's by "Agricultural Real Estate and the Property Tax Dilemma," and is a very excellent booklet. Third thing I have is a letter to Senator Wightman and in this letter I pointed out, that is dated October 6, 2011, that Broken Bow had passed a bond issue in 2011, that was Broken Bow School District passed a bond issue in 2011. And I've pointed out in the article that Broken Bow...no, the assessor said 74.43 percent of the

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bond debt would be paid for by rural valuation. And he did not add in anything in there about the number of students going to Broken Bow school compared to the valuation paid by the rural area. Also in that article or letter to Senator Wightman I pointed out that I was an attendee at the Pleasanton Public School District budget hearing on September 12, 2011. And at that time I came home and there was...and I figured out there's approximately 93 percent of the property taxes paid to a school district was by the rural valuation. And then I e-mailed that letter, forwarded it to Dave Heineman, Governor Heineman, and his reply is on the back, which he said he would gladly look at anything that came out of the Unicameral but nothing has come out. Now my next item is a copy of a "Pleasanton School Bond: Building Our Kid's Future." And I would like to point out two or three things in this. The first public knowledge that we had, and I'm a resident of Pleasanton Public School, was that we would vote on an \$8,995,000 bond issue for a new and updated elementary school, and we have 90 days from public knowledge to voting time. If you would open that up, or you don't need to, the valuation of the district in 2008-2009 was \$120,364,000; and in 2012-2013, \$185,227,000 approximately--a \$65 million increase in valuation. The valuation of the Pleasanton village was, in 2008-2009, was approximately \$11,795,000; and in 2012-2013 it was \$13,759,000. So we had a \$65 million increase in valuation of the district; \$2 million of that came from the village of Pleasanton. So one reason I heard that we have a bond issue now is because farmers are going to pay the majority of the share of the building if the bond is passed. Another item I have, the next item, I obtained this one from the Nebraska Department of Education. It's the lid overrides in effect for 2007-2008 up to 2010-2011 year. And again, valuation changes has brought about more property taxes for farmers or ag land, I should say. The next to the last item is an article in the 2013 issue of...February 2013 issue of Nebraska Farmer. And this is by Don McCabe: "Nebraska Tax Reform Should Start With Property Taxes." And he writes that tax reform should start with property tax. Farm Bureau several years back studied property tax paid by farmers and ranchers in seven states that neighbor Nebraska. Ag land property taxes in Nebraska were the highest of the seven neighboring states. He has a good editorial, I thought. The last...next to the last item is titled "LB145 Hearing." This is a letter to the Revenue Committee and it was written by myself, and I contributed part of it, and by my daughter, Chris Knizevic, who holds the title of CFA, and you'll have to ask me what that is. (Laugh) It used to be a certified financial planner, but now it's a certificated advisor, financial advisor I believe. And then at the last of the pages, I have a item here from the...taken from Buffalo County. The previous assessor, when he made his valuation changes for 2011, he included the 2010 values and the 2011. And this is how they compared, how some of those went up. And I did use number two, item number two from Brian Olson. His land value in 2010 was \$571,000; in 2011 was \$971,000. And we are down here somewhere in the line also. Any questions? [LB145]

SENATOR HADLEY: Any questions for Mr. Martin? Seeing none, thank you, sir. We appreciate it. [LB145]

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LYNN MARTIN: Thank you. Let me get out of your road. [LB145]

PETE McClymont: Chairman Hadley, members of the committee, for the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president for legislative affairs for the Nebraska Cattlemen. And, Chairman Hadley, I will honor your request and make my comments brief. I would like to give one example where legislation like this for property tax relief for agriculture is extremely beneficial, and you have a member of your committee, Senator Hansen, that can give you more details on this. But if you look at grassland valuations, they may be not going up as severely as row crop but, nonetheless, they are. So as Senator Schumacher referenced, as we have a drought going on, it's pretty difficult for a rancher, who's got increasing property tax to pay, the grass is not there to support the cows that you have. You are liquidating your herd to be able to continue to operate, but yet the property tax does not reflect the issue at hand. So there's many issues to deal with on this issue, and obviously it's a difficult issue, like Senator Harr talked about in relation to there have been issues with property tax going up. But we applaud the committee for having the willingness to look at any kind of tax reform the state would have and we'd be happy to participate that with the committee in the future. And with that, I'll conclude my comments and happy to answer any questions. [LB145]

SENATOR HADLEY: Thank you, Mr. McClymont. Questions? Senator Schumacher. [LB145]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony, Pete. Is ranchland generally seeing the kind of dramatic increases in sales price that we see in particularly irrigated farmland? [LB145]

PETE McClymont: Not to that degree, no. But nonetheless, if you look at what your return is in a savings account, obviously if you want to invest in something, land obviously looks better than putting it in the bank and getting a percent or whatever it may be. So...but it is not going up to the degree of row crop. [LB145]

SENATOR SCHUMACHER: Thank you. [LB145]

SENATOR HADLEY: Seeing no other questions,... [LB145]

PETE McClymont: Thank you. [LB145]

SENATOR HADLEY: ...thank you, Mr. McClymont. Next proponent. [LB145]

WILBER FEY: Chairman Hadley, Senators, thank you for this opportunity to say a few words here. I will try to keep it short. We are...I'm a retired farmer. We are what I call small landowners. And from the taxable year of 2006 to 2013, our taxes have gone up

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105 percent during that time period. The valuation of our land from 2012 to 2013 is \$92,000 more. That seems like a huge increase for the number of acres that we have. Naturally, our taxes will go up proportionately. Land is selling, oh, I considerate it too high but I guess if they've got the money they can buy it, but anyway, from \$7,000 to \$8,000, \$9,000 and sometimes more. Well, when you get these big land prices then that, in turn, pulls the value of the land up in the general area. And not all land is the same. It's...we have 40 acres of land that is 30 acres of timber and creek and 10 acres of farm ground. Well, you don't...we don't get anything out of the 30 acres, so we're not making too much money on that. The timberland is regarded as recreational ground, which is taxed higher than other ground that is not farmable because someone might go out there and shoot a squirrel or get a mushroom, I guess, so they don't want to let them have the advantage there. But the land is not taxed according to what it is capable of producing, as far as I can see. Iowa is set up more that way. Is that a fairer way to do it or not? I don't know, but it seems to me it would be to tax it according to what it will produce. And you know, they could have contractors come in and appraise the land on how it produces. Farmers could pay for that if the state would go along with that, pay for the assessment, what...all the different types of ground that you have and, accordingly, what it would produce. And I'm sure farmers would maybe go along with that, could pay that expense themselves, if it would help alleviate the tax situation. But the way the taxes keep going up, we cash rent, naturally we have to, as our taxes go up, we have to raise our cash rent. And granted, the farm grain prices are fantastic right now but you know that won't last. When prices get back down to where...more normal, so to speak, whatever that would be, \$4 corn, \$8, \$9 beans, it's going to make a huge difference on what you can get out of your cash rent and everything. It's...eventually will kind of...the bubble will burst, like you say. I guess that's about all I have to say. [LB145]

SENATOR HADLEY: Okay. Any questions? Oh, could we get your name and spell it. [LB145]

WILBER FEY: Oh, I'm sorry. [LB145]

SENATOR HADLEY: Yeah, it's all right. [LB145]

WILBER FEY: Wilber Fey, W-i-l-b-e-r F-e-y, Nebraska City. [LB145]

SENATOR HADLEY: Thank you, sir. [LB145]

WILBER FEY: Thank you very much for your time. [LB145]

SENATOR HADLEY: Appreciate your coming up to see us. [LB145]

WILBER FEY: I appreciate it. [LB145]

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SENATOR HADLEY: Thank you. Next proponent. [LB145]

ROBERT JOHNSTON: (Exhibit 7) Revenue Committee, I am Robert, R-o-b-e-r-t, Johnston, J-o-h-n-s-t-o-n, from Clearwater, Nebraska. I am the district 2 director for the Nebraska Soybean Association. The NSA wishes to go on record of support for the advancement of LB145. Senator Hadley, thank you for your suggestion. I agree with mostly everything that's been said so far today. We would be ready for discussion at a future date. Thank you again. [LB145]

SENATOR HADLEY: Thank you, Mr. Johnston. Next proponent. [LB145]

DOUG SAATHOFF: Good afternoon, Senator Hadley, Revenue Committee. My name is Doug Saathoff, D-o-u-g S-a-a-t-h-o-f-f. I live and farm northeast of Hastings in Adams County. I grow corn, soybeans, seed corn. I'm here today to voice my support for LB145 and also LB101. This will be my same testimony; you'll listen to me once. I'm doing this because I'm concerned about the impact high properties have on Nebraska farmers. For me personally, high property taxes hurt my bottom line. Let's remember that farming is a great life, but I am also running a business, and high taxes are a huge burden for my family. I would like to give you an example of how property taxes have affected me over the last few years. I pay taxes on a number of properties but I wanted to highlight one farm that I have to give you an idea. This farm is located north of Hastings a few miles, and one mile to the west of Highway 281. It is 80 acres, irrigated with a center pivot. In 2008, the taxable value of that farm was \$138,775; tax amount was \$2,205. And now we have all heard what farmland prices have done in the last few years. We have seen a substantial increase in values. So in 2012, my taxable valuation on this particular farm is now \$241,525 and the tax amount was \$3,569. Taxable valuation increased by \$102,750 and the tax amount increased by \$1,364 since 2008. That's an increase of 74 percent on the value, 62 percent on the tax amount. Now this is just one piece of property that I used as an example. I am a small farmer compared to others, but my property tax bill for 2012 was well over \$20,000. Farmers carry the tax burden when it comes to property taxes, and now we are dealing with high input prices and we are starting to see lower commodity prices. And whether it rains or not, or diesel fuel price goes up or down, or fertilizer prices increase or decrease, I will still be paying high property taxes. Yes, maybe I do sound like the stereotypical complaining farmer, but it's time to do something about the burden of taxes the farmer carries. A few weeks ago I was here for the hearing on LB406. I listened to LB405 that was streamed live on the Internet. I came that second day because I was worried about those bills and the negative impact they have on Nebraska agriculture--the number one industry in the state. You heard a lot of testimony on how taxes affect Nebraska farmers, and I appreciate the committee killing those bills and starting over on discussion of taxes in this state. When I talk to friends, relatives, neighbors both in town and the rural area, property taxes are the taxes they speak about the most. On the way home from listening to testimony on LB406, my brother-in-law, who is also a farmer, and I talked

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about how there needs to be property tax relief. So I urge the committee to consider including property tax relief of some sort in your discussions as you move forward in looking at tax reform in our state. I truly believe property tax relief would have the largest impact on all citizens and would go a long way in addressing the concerns raised by your constituents. Thank you for your time. And if there are any questions, I can try and answer them. [LB145 LB101]

SENATOR HADLEY: Thank you, Mr. Saathoff. Any questions? Thank you. [LB145]

DOUG SAATHOFF: Thank you. [LB145]

SENATOR HADLEY: We appreciate you coming down to visit with us. Any further proponents? Welcome. [LB145]

PATRICIA RAMOLD: My name is Patricia Ramold, P-a-t-r-i-c-i-a R-a-m-o-l-d. I come from a family that's fifth-generation farm. In our family, we also have a farm that's been in the family for now probably 110 years. And then my husband has a farm that has also been in the family for 100 years. So I guess I'm here...you know, I don't want to be a crybaby about this because I do know, I was a commissioner for ten years or eight years, and I...as I look...and I was a teacher for many years. I'm not going to tell you how many. But I see today, and I do agree with a lot of what's been said here, but I don't think anybody is looking down the road here of what can happen to our water. We get a...we're in a terrible drought or into a terrible drought thing here and if we have to turn off all of the irrigation equipment, what's going to happen to that land and that farmland? See, we can't control that. I wish we could, but we can't. So what I'm saying is, I do agree. I know we're paying a heck of a lot of taxes and I guess we're going to have to keep on paying them or else we lose our land; can't do that. But I keep wondering what's going to happen down the road. We don't want to sell our land. We've had land butt up against us that's been worth \$10,000 an acre. We've had other land that's butting up on the other side that's close to that. But we don't want to sell our land. We want to keep it for our kids. But we've got kids that have decided long time ago to get the heck out of Nebraska, and I do resent that because, as a teacher, I wanted them to all be teachers and farmers; didn't work out at all. But I just want you to know that Nebraskans are here for each other. We really are. As a teacher, I've always said that. This is the best part of the world. Right here is the best part of the world. And don't sell us down the drain here, guys, because I know that you need to...I know that this is a big, big thing that you're facing. I know that, but please do. I don't have anything else to say, but thank you very, very much. [LB145]

SENATOR HADLEY: Well, any questions? Senator Hansen. [LB145]

SENATOR HANSEN: I do. How long has it...what county are you from? That's... [LB145]

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PATRICIA RAMOLD: Otoe County. [LB145]

SENATOR HANSEN: Otoe? [LB145]

PATRICIA RAMOLD: Not too far away. [LB145]

SENATOR HANSEN: Okay. As a county commissioner,... [LB145]

PATRICIA RAMOLD: Okay. [LB145]

SENATOR HANSEN: ...and everything is based...property taxes are all based on comparable sales. Okay? [LB145]

PATRICIA RAMOLD: Right. That's right. [LB145]

SENATOR HANSEN: So we get...if this drought continues and the dryland farmers don't make any money, no one is going to buy that land. So does the \$10,000 value that the neighbors have, the last comparable sales, is that what the value is going to stay? [LB145]

PATRICIA RAMOLD: I think, yes, I expect it to stay that way. [LB145]

SENATOR HANSEN: I think so too. [LB145]

PATRICIA RAMOLD: And I remember being on the board of equalization. I was chairperson that year for that and, my, that's a lot of fun, let me tell you. I can...you just know how much fun it was. I tramped over more doggone ditches and rivers and everything else to try to get a fair value, and I don't think I did but I tried. And I think this is where you're at right now too. But I don't...you know, I don't know what the answer is, but I know we've got to have an answer. And like I say, there's people right in here, they don't want to sell their land. They want to keep their land. And how do we do that with the kind of taxations we've had? Anyway... [LB145]

SENATOR HANSEN: I know. Thank you. [LB145]

PATRICIA RAMOLD: I thank you for your time. [LB145]

SENATOR HADLEY: Thank you. [LB145]

SENATOR HANSEN: Thanks for coming. [LB145]

SENATOR HADLEY: Thank you, Ms. Ramold. Next proponent. Any other proponents?

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[LB145]

ROD HOLLMAN: Good afternoon. I'm Rod Hollman, R-o-d H-o-l-l-m-a-n. I live in southwest Lancaster County near Martell. I farm and raise registered Angus cattle, so my business is mostly livestock, but I raise grain. And a couple things that I saw when I came up to this: My wife has been complaining about our tax increase. In two years, our ag land has increased from 72 percent on one tract to 79 percent. That's the actual tax dollars paid in just two years. One farm raised...one 80-acre tract raised 60 percent...61 percent in actual tax dollars paid. This land is all grass with about 34 acres CRP. It takes 25 percent of the income of that CRP just to pay the taxes on that tract there. We have other things. I'm not against paying property taxes. We all have to support our country and our state and our government, but everybody should pay a fair share. When I see my taxes going up to 79 percent, I'm thinking if everybody is paying that kind of share, where is the money going? I heard a comment here, well, how are we going to make up for the lost revenue? Well, it looks to me like there's a big gain in revenue. I'm not sure where. I think the assessors are running rampant on this. The productivity of land, our land is assessed on the market value, which was measured, but the productivity of this land varies considerably dependent on whether it's hills, bottom land, irrigated, rocky or good soil. So we have land that doesn't produce much and land that produces good, but, still, in the past year, 2012, as we all know was a drought year, my hay crop, which is what I need to feed the cattle, was 30 percent of normal, except my taxes went up. On rented land, another thing that's not looked at, on rented land, I rent quite a bit of pasture and not only do I pay the increase in my taxes but I pay the increase in the landowner's taxes because when his taxes go up, he increases my rental rate. So I'm paying a little extra there. It's just that, again, I'm not against paying taxes. We all need to do our fair share. I think there ought to be a fair system. But 70 percent increase in two years, 60 percent in one year on a tract that is not even cropland is a little ridiculous. I think we need some reform and relief. And dropping it down to 65 percent will not make a whole lot of difference but every little bit helps. Thank you. [LB145]

SENATOR HADLEY: Thank you, Mr. Hollman. Questions? Seeing none, thank you for coming in. We appreciate it. Any other proponents? Opponents? [LB145]

LARRY DIX: (Exhibits 8, 9, 10, and 11) Good afternoon, Senator Hadley and members of the Revenue Committee. For the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials appearing today in opposition to LB145. And you're going to be receiving a series of handouts and I want to sort of delay that portion until we can really look at those and take a look at those specific handouts. One of the things I would say, though, right up-front, it's a given, property taxes are a significant burden. They're a significant burden on residential owners, commercial owners, certainly our rural agricultural owners. There is no question about that. And there's no real easy answer when we sort of go down this path. And I think that is why,

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when we start to talk about comprehensive...take a comprehensive look at taxes, that property taxes have to be in the mix. And I would also tell you, I certainly appreciate Senator Brasch bringing this so we can focus on really what's happening in the agricultural part of our state. And you've heard people testify about significant increases, and those significant increases, quite honestly, can be tied back to the market value of the land, of what people are actually paying for that land. So this is a difficult discussion. Our board, when we looked at this, we agreed certainly with what Senator Brasch said, that in some of our counties we could implement LB145 and the valuation, the property owner's valuation, probably will not go down. And I think that is a fair statement. But when we take a broad brush and when we take property values and brush...take that brush all across the state, a couple things that we do have to pay attention to. And so first I would point out to you a chart that's probably labeled "Table 8," and it comes from Department of Revenue. This is coming directly off of their Web site. And I'm really going to talk about three counties today, just so that we can take a look at what this does. We're going to talk a little bit about Sheridan County, we're going to talk about Hooker County, and we're going to talk about Rock County. And so when we lower this, one of the issues that, from the county's point of view when we look at this, and I think a previous testifier had said, well, you know, what happens is the levies will always go up. Well, in the county's situation, the levy will not always go up. We have a constitutional limit. We're going to bump up against that. And so it isn't an issue that the levies always will go up. But if we look at...let's look at Hooker County. They're on the first page. Their percent of change was .99 percent. So there isn't a whole lot of...what you're starting to see in the grassland areas is there's not the significant increase happening that we're seeing in the counties that have cropland. And if you look at Banner County, you look at Arthur, Arthur County had a 7.1 percent decrease. So we've got to be cautious about that because of what that does in some of these counties. When you look at some of those counties that are typically in the Sandhills, McPherson County on the second page had a 12 percent loss of value overall for the county. Rock County is the one that I want to point out that somewhat is concerning, because Rock County had a zero percent increase. If we were to implement LB145, Rock County would more than likely, because of the relationship of grassland in the county, probably have a decrease in value. And then if you'll look at the sheet that I handed out that has some of the yellow highlighted figures on there, that shows county by county what the 2011 tax rate was and what the 2012 tax rate was. The ones that are highlighted in yellow are the ones that decreased. There are 57 of those that decreased. But I would ask you to look at Rock County. Rock County's levy is sitting at .538477, so they're actually over the constitutional limit. And some people will ask, how can that happen? They have taken...part of that levy has been taken to a vote of the people for a hospital bond and for fire districts. And so when we implement this and we hit certain pockets of counties and we have a decrease, they simply have nowhere to go, nowhere whatsoever. If you look at the chart on Hooker County, which is the one that has the pie charts on it, if you look at Hooker County, up at the top, they have 456,000 acres of land, but 452,000 is grassland. And once we implement this in these grassland counties, that's where we're

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going to start to see, I believe, some significant issues of those counties up against a levy limit where they really have nowhere to turn. So when our board looked at this, we looked at it long and hard of our position, and the reason for the position on here is the small counties that are impacted by the levy limit. Where the Revenue Committee sets the rate on ag land, that's a policy decision that I believe the Revenue Committee has to make. But we want to full well know that there are some outliers here, that there are some situations. There are some school districts in Mullen, Nebraska, that probably are going to have this same scenario that they're probably up against a levy limit or some things like that. So there are some things like that, that we want to point out. That's really what we want to point out. Senator Schumacher, you had made the point, and I've got a note here also that I had mentioned, is as we're looking at a bill like LB145, now is certainly the time to have the conversation. We're having the conversation because ag land values are doing this. Now is also the point in time to look at legislation that says what happens when it hits? What happens when the '80s come back again and the price goes down? Then what do we do to these values and how fast do we react? So I think when we look at this, we look at it in either direction. And so with that, I'm out of time but I would be happy to answer any questions that anybody would have. [LB145]

SENATOR HADLEY: Mr. Dix, I just was thinking, we've heard a lot of testimony and I understand the farmer, rancher, whoever, who wants to stay on the land, give the land to their children and keep it in the family, but we've never had a testifier who comes in and says I bought the land for \$3,000 and six years later I sold it for \$10,000 and I made out like a champ. How do we, you know, that's part of the problem, isn't it, that that valuation is going up because you have people...some people doing that? Is that a fair statement? [LB145]

LARRY DIX: It's...there are a lot of people doing that and we have land across the state that's being sold and those sales are being determined as a arm's length transaction--willing buyer, willing seller--and they go into this section of statistical analysis that says that is a valid sale. And so, yes, these sales are going. And I certainly...I got to tell you, I appreciate the people from Farm Bureau and Cattlemen and Farmers Union that came up here that said, you know, what do we do when our constituents come back to us? Well, I've got to tell you, they're the same constituents we have. And those assessors get hammered and those county boards get hammered, just like these organizations do, saying, what are we going to do with our property tax, how do we control it? [LB145]

SENATOR HADLEY: Would you think that maybe tying the level of increase in property values to the increase in senators' pay would be an appropriate way of handling property taxes? (Laughter) [LB145]

LARRY DIX: Novel idea, very novel idea. [LB145]

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SENATOR HADLEY: A very novel idea, okay. I'll bet I could get a lot of show of hands here that would like that idea, wouldn't they? Thank you, Mr. Dix. [LB145]

LARRY DIX: Yeah. [LB145]

SENATOR HANSEN: We appreciate you coming in. [LB145]

LARRY DIX: You're welcome. [LB145]

SENATOR HADLEY: Any questions? Thank you. Any other opponents? Neutral? Mr. Bonaiuto, is this your maiden voyage this year in front of the Revenue Committee? [LB145]

JOHN BONAIUTO: Yes. [LB145]

SENATOR HADLEY: We're going to ask Senator Fischer to...she's calling in by phone? [LB145]

JOHN BONAIUTO: She probably is, because I believe that it was on... (Laughter) I will start. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o. I'm a registered lobbyist representing the Nebraska Association of School Boards, Nebraska Council of School Administrators appearing in a neutral capacity. And it was on this exact bill that Senator Fischer did take a little flesh from me a few years ago. And I wanted to come before the committee and I do not want to in any way minimize the testimony of the proponents because, right up-front, I represent the largest property tax users--school districts. And so we tried to stay out of your way on LB405, LB406 knowing that we had a lot at stake in those discussions in how schools are funded. And there are so many pieces to funding education in Nebraska, and with this committee setting policy for taxes, and Senator Sullivan, who's not here today, her committee struggles with how do you distribute the money, how do you get the money to where it needs to go. And these are...in a state like ours, we have 249 school districts and none of them look the same, and we have 93 counties that you would say the same thing about, and that's part of the challenge. We have our state aid formula with the 249 districts. We probably have just a little over 100 that are not part of the equalization formula, and so those 100 districts have to rely on their local revenue to fund their school district. So I think as you examine all of this and the property tax issues and the other taxes that fund all of the services that we rely on, you're going to have a point where there's going to be a balance, I think, of...you know, I don't know that there's any surefire answer, that we're going to need all of the various pieces. And then it's a matter of how you move those pieces around to create that balance with what you're going to be charged with. And so with that, I will conclude my testimony and know that you've got your job cut out for you. But I wanted you to know that school districts were not asleep at the wheel. We intentionally wanted to give you room to do your work, and in looking at bills like this, they send a message that it's time

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to examine the structure. But looking at them independently in a silo is always dangerous, so I think when you look at it in the bigger, broader picture that you're going to view is the right way to do it. Thank you. [LB145]

SENATOR HADLEY: Senator Schumacher. [LB145]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. What contingency plans, if any, do the school boards have in the event the land bubble pops? [LB145]

JOHN BONAIUTO: You know, we've, Senator, we have talked about that. I mean it's probably you go back and you start laying off people. I mean it really...your largest expense would be your employees. And so there's no good answer to that. You know, I would go back to when the Revenue Committee in the mid-'90s was struggling with property tax issues and put the budget growth provisions into political subdivisions, looked at the levy limits and put a number of things into place. And at that particular point in time, the Revenue Committee, the thought process was the state needs to really take over more of the state aid function. And we had some years where the state was really putting large amounts of revenue into the state aid formula and that was the way that the state felt that it could keep property taxes in check. Well, when the state fell on hard times, that stopped. And so right now, I'm thinking that if you look at what portion of school funding is local property tax and local resources and where are we at with state resources, you know, it's probably less than 60/40; that local is over 60 percent and I think the state is probably in the high 30s or close to 40 percent, if at that. So it's a very difficult issue. [LB145]

SENATOR SCHUMACHER: Glad you got an answer. (Laugh) [LB145]

JOHN BONAIUTO: Yeah. [LB145]

SENATOR HADLEY: Thank you, Dr. Bonaiuto. [LB145]

SENATOR SCHUMACHER: Thank you. [LB145]

JOHN BONAIUTO: Yeah. [LB145]

SENATOR HADLEY: Any other questions? Thank you. [LB145]

JOHN BONAIUTO: Thank you. [LB145]

SENATOR HADLEY: Any other in the neutral? [LB145]

JON HABBEN: (Exhibit 12) Good afternoon, Senator Hadley and members of the

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committee. My name is Jon, J-o-n, Habben, H-a-b-b-e-n. I'm executive director of Nebraska Rural Community Schools Association, a group of 171 schools plus nine service units stretched across all but five counties in Nebraska. As you can see in front of you, I've got a few comments that I would like to make. This is about LB145 and LB101, by the way. I won't duplicate my testimony. The bills recognize the dramatic increase in agricultural land valuations. Agricultural landowners are paying dramatically higher property taxes, even if the local school district has implemented freezes and reductions to keep its budget unchanged or to reduce its budget. Local property valuation must replace all lost TEEOSA equalization aid, as increasing valuation drives aid away. There are districts that have lost all or most of their equalization aid. A district that loses \$1 million and freezes everything must tax locally to raise the same amount. Those local taxpayers have to pick that up; otherwise, Draconian cuts begin to occur. Secondly, ag lands have become an excellent investment across time, for a variety of reasons, for families interested in growing their holdings as well as nonoperators seeking the land for investment. The competition for land drives values upward as a demand function relative to fixed, and therefore scarce, availability. This has occurred across counties and school districts across Nebraska with varying degrees. One of the misconceptions is every school district has had the same valuation increases, or every county has had the same valuation increases. It's not that clean, certainly not that even. Ag real and improved taxable values increased from \$32.85 billion to \$51.7 billion from 2008 to 2012, across five valuation cycles. Taxable values for commercial/industrial and residential increased from \$96.02 billion to \$102.7 billion across the same time period. You can see the difference. Equalization aid during the same time decreased for our 171 Class B, C, and D--using NSAA classifications--member districts from \$142.5 million to \$80.7 million within the statewide totals that increased from \$750 million to \$756 million. You can see there was a tremendous movement of state aid out of rural Nebraska. Now this did not include the federal stimulus funds, by the way. It is no wonder that the conversation about the relationship between ag land values and equalization aid, as well as the balance of responsibility between state and local resources, continues to occur. The anticipated study of taxation in Nebraska that we have heard so much about just recently must include the role of all three taxes--income, sales, and property taxes--across the entire state. To make changes in one without recognizing the changes that would need to occur in the other two would shortchange the full discussion and produce a variety of unintended consequences, as well as intended consequences relative to interest groups. We encourage that the anticipated study will include all three tax systems. As I look at this circumstance, I can look at it as the last 17 years, prior to my becoming executive director, I was also superintendent of schools in three rural community school districts. So I've had quite a bit of experience looking at these issues, the last three, including this year, being executive director of this organization representing these schools. Thank you for the opportunity. Happy to answer any questions. [LB145 LB101]

SENATOR HADLEY: Mr. Habben, thank you so much. Any questions? Thank you.

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[LB145]

JON HABBEN: You bet. [LB145]

SENATOR HADLEY: We appreciate your coming in to give us information. Anybody else in the neutral? Senator Brasch, would you like to close? [LB145]

SENATOR BRASCH: As I close, I first want to thank everybody on this committee for your consideration of LB145 today and everyone who did come here to testify. Your testimony is very important and valuable moving forward. To just address the concern Senator Schumacher and others have addressed or asked about the bubble bursting, LB145 is slowing. The valuation would help slow that growth and the growth of the real estate value. And it would help alleviate that situation, I believe. The other is I did have a note passed over my shoulder that I just will read to you. Someone asked, how about adding stocks and bonds to the mix of taxation like it was back in the 1960s or '70s? There's lots of things that we need to consider on how to, you know, help fund our counties, our services that we have. We are...I mentioned the Revenue Department. In the '80s, we had a very dramatic, tragic farm recession. We had farms that were having foreclosures, auctions. Banks were going under. You know, the farms have seen a crisis and have made, at this point, a very welcome recession. Up until three years ago, my husband was driving a 20-year-old combine. You know, it was such a relief to not be covered in grease fixing. He's finally updated. But the inputs are mind-boggling, \$300,000-plus on up just to start on a combine. The inputs are substantial. So when people are asking about, isn't it good today, it's good today but it's also very expensive to update your equipment, to pay the bank back for the times that you did not survive or barely survived. I do ask for your consideration, you know, of this bill and, again, I'm open to discussion and solutions moving forward. Thank you to everyone in this room. [LB145]

SENATOR HADLEY: Are there questions for Senator Brasch? Seeing none, thank you, Senator Brasch. That closes the hearing on LB145. We're going to go to LB101, because I know that's probably what a number of you are still interested in. So, Senator Watermeier, if you want to come up and open on LB101. Senator Watermeier, welcome to the Revenue Committee. [LB145]

SENATOR WATERMEIER: All right. Thank you, Chairman Hadley and members of the Revenue Committee. I am Senator Dan Watermeier, Dan, D-a-n, Watermeier, W-a-t-e-r-m-e-i-e-r. I am representing District 1, covering the southeast corner of the state. I'm here today to introduce LB101. LB101 would reduce the valuation of agricultural and horticultural land for school district taxation purposes by 2 percent per year for five years, reducing the valuation from the current 75 percent to 65 percent by tax year 2018 and thereafter. Likewise, for equalization purposes before TERC, an acceptable range of school district taxation purposes would be gradually reduced.

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Under LB101, agricultural and horticultural land would remain valued at 75 percent for other taxation purposes, such as counties and NRDs. The bill was written this way so that other political subdivisions would not experience a decrease in funding with no alternative revenue source. Since LB101 decreases the valuation of agricultural land for school taxation purposes, it would, in turn, trigger an increase in equalization aid to school districts that contain agricultural land, unless they are nonequalized. The number of schools that receive no equalization aid is increasing. In fiscal year 2002 and '03, 32 of 263 school systems were nonequalized. Today, 102 of 249 school systems are nonequalized. LB101 could help reverse that trend. A previous fiscal note on a similar bill projected that for each 2 percent drop in school adjusted valuation, four to six nonequalized school districts would become equalized. Although LB101 will not have a fiscal impact during this upcoming biennium, it would cumulatively increase state aid by approximately \$5.5 million to \$6.5 million per year. Rural landowners represent a very small percentage of the state's population but shoulder a significant portion of the property tax burden. In the vast majority of the state, agricultural land comprises more than 60 percent of the school district's total valuation base. Giving one example, agricultural land, as a percentage of total value of land in the Syracuse School District, has risen from 39 percent to 55 percent in the last seven years. Rural landowners are disproportionately funding our rural school districts, even though all residents of the school district benefit equally from having their children educated in public schools. Furthermore, studies have indicated that agricultural lands generate more in public revenues than they receive back in public services. Since open farmland requires little public infrastructure and few public services, its cost of community service is less than one third of that of residential land. Ag land values are increasing more rapidly than other types of property, which enhances the problem and places an increasingly heavy burden on rural landowners to fund our K through 12 schools. In each of the last five years, there have been double-digit percentage increases in the valuation of agricultural land from one year to the next. I urge the committee to look favorably on LB101. However, if the committee decides to hold legislation calling for substantial changes in our tax system while the LB613 study takes place, I ask you to consider this legislation as part of your study of the state's tax structure. During the hearing on LB405 and LB406, based on input received from Nebraskans, we repeatedly heard that property taxes need to be a part of the discussion. When comparing property taxes, Nebraska is at a competitive disadvantage with other states. Studies have shown that property taxes paid per average farm in Nebraska are higher than our neighboring states. Furthermore, personal property taxes are not assessed on farm equipment in other states. This legislation would make Nebraska more competitive with neighboring states. If you have any questions, I'll be glad to answer them. Otherwise, I know there's following testimony behind me that will give a little bit more experience to it, and I did walk away from Health and Human Services Committee that I would like to get back to so... [LB101]

SENATOR HADLEY: Okay. Are there questions for Senator Watermeier? Seeing none, are you going to waive closing then? [LB101]

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SENATOR WATERMEIER: I am going to waive, yeah. [LB101]

SENATOR HADLEY: Okay. Thank you. All right, what I'd like the testifiers to do, if you don't mind, we heard a lot of testimony on the last bill so I hope that you can talk about the difference between this bill and the last bill and that significance, rather than just talking about the concern about property taxes. Is that...is that fair? Okay, the first proponent. [LB101]

KEVIN PETERSON: Good afternoon again, Senator Hadley and members of the Revenue Committee. Per your request, I will shorten up my testimony a little bit and kind of, I guess, go from... [LB101]

SENATOR HADLEY: If you'd give us your name and spell your name again. [LB101]

KEVIN PETERSON: I'm sorry. [LB101]

SENATOR HADLEY: No problem. [LB101]

KEVIN PETERSON: My name again is Kevin Peterson, K-e-v-i-n P-e-t-e-r-s-o-n. I'm a farmer from Osceola in Polk County and currently serve as district 4 director on the Nebraska Farm Bureau board of directors. To kind of play this hand, from my understanding of Senator Watermeier's bill, this is a phased-in approach to the lowering of the percentage of market value in land, as far as land assessment goes. The one...the few numbers that I would like to share is in 2009, when my land holdings became what they are today, my property tax bill was just over \$11,000. In just three years it's going to almost hit \$15,000 in 2012. And so...and I, just to let you know, I'm nowhere near a large landowner. I own about 110 acres and I have a 4,800-head hog production facility as well. And so when you look at the dollar amount based upon, you know, those meager holdings, it gives...it really illustrates, you know, how high that burden is on ag land and ag real property. But at any rate, to try to be as quick as possible, I will go ahead and close my comments there. Would appreciate any questions that you'd like to ask. [LB101]

SENATOR HADLEY: Any questions for Mr. Peterson? Seeing none, thank you. [LB101]

KEVIN PETERSON: Thank you. [LB101]

SENATOR HADLEY: We appreciate you coming in to visit with us on these two bills. The next proponent. [LB101]

ROBERT JOHNSTON: (Exhibit 13) Once again, Senator Hadley and committee--and I, too, will drastically shorten up my testimony--good afternoon. I am Robert, R-o-b-e-r-t,

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and Johnston, J-o-h-n-s-t-o-n, a soybean and corn producer from Clearwater, Nebraska. I am the district 2 director for the Nebraska Soybean Association, NSA, and today I was going to present testimony in support of LB101. I'm now going to state that the NSA has a policy resolution in place that supports a reduction of assessed agricultural land value from 75 percent of market value to 70 percent of market value, Resolution 5.1.13. While the resolution supports the reduction to 70 percent, we as owners and operators of agricultural land throughout the state appreciate the language within LB101. A reduction to 65 percent over the course of a five-year period would reduce the increasing property tax burden on agricultural landowners throughout this great state. The NSA feels that this step-down structure for reducing the assessed value of agriculture land for education allows tax relief for farmers and ranchers while giving the local boards of education an opportunity to do some budget forecasting over a period of time. It is the hope of the NSA that we would find a way to make this bill work in conjunction with the state aid to schools formula, which would maintain the revenue stream to schools. As many of you on this committee know, rural school districts are losing equalization funding to more urban districts, which has put even more stress on the agriculture community to fund rural public education. The NSA is eager to be part of the conversation about property tax relief for all Nebraskans and, most specifically, farmers and ranchers. The Nebraska Soybean Association supports the advancement of LB101. And then briefly, if I may, most of my school taxes go to the Nebraska Unified School District 1. In talking to our administrator and looking at the formula numbers, I see that we are receiving just under \$100 per student, in fact, \$98 or something. I don't think that's equitable. We all know the inequities associated with state aid. Now don't ask me how to fix it. I don't know. But anyway, in closing, I would say I don't believe it's equitable but I do appreciate your time and consideration. Thank you very much. [LB101]

SENATOR HADLEY: Thank you, Mr. Johnston. Any questions? Okay. If anybody did testify before and wants to be on record, there is nothing wrong in just coming up and saying, I would like my testimony from before entered into the record also. So just to make that clear. [LB101]

JOHN HANSEN: Mr. Chairman, members of the committee, for the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. And in our organization we believe that it is the moral and political obligation of the stuck pig to squeal. And we are here to squeal today and respectfully and politely and firmly deliver that message; that as I've been doing this job for 22 years, the amount of push back has gone up and has gone down at different periods of time, during that period of time over property taxes, but the squeal is just about as loud as I can ever remember it over property taxes. And with that, I would end my testimony. [LB101]

SENATOR HADLEY: Mr. Hansen, the squeal is real loud right now. Would you say that land values are also at an all-time high from sales across the state of Nebraska?

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[LB101]

JOHN HANSEN: Oh, no...no question. [LB101]

SENATOR HADLEY: No? [LB101]

JOHN HANSEN: And the corresponding valuations that go with that certainly are part and parcel of what is going on, along with the additional shift that has gone on in recent years to funding K-12 education with more property and less income and sales. [LB101]

SENATOR HADLEY: Okay. Thank you. Any other questions? Senator Schumacher. [LB101]

SENATOR SCHUMACHER: One quick question, thank you, Senator Hadley. Thank you for your testimony. Would this dramatic increase in land values, is that good or bad for agriculture? [LB101]

JOHN HANSEN: Both. [LB101]

SENATOR SCHUMACHER: Good if you're getting out, and bad if you're staying. [LB101]

JOHN HANSEN: It's very helpful relative to being able to go to the bank and borrow money. Your financial statement looks better. It's good if you're retiring and you're selling. It's bad if you're trying to rent land and pay for higher valuations and tax loads or if you're trying to buy and be a beginning farmer. I'm helping a nephew this year get started in farming and if he didn't have my help, it wouldn't work. And so there's no way he could buy 160 acres right now. And going rate in my community is \$11,000 an acre and, you know, we're in the rolling hills of western Madison County. This is ridiculous levels. It will not cash flow, but, as was stated earlier, you know, folks who have money, they're not making any money at the bank. They take the amount of margin they have in the entire rest of their operation and they use that to buy and pay for that one additional piece of land. And so for small and beginning farmers, that's very difficult to compete against large farmers who have those kinds of resources. And I don't think it's a conventional bubble, from my experience. It may be a bubble, but the last bubble that I was in, and I've had the benefit of having going through that before, is that this time there's a lot less borrowed money being used to pay for that land. And while you may have paid too much for it, if land values go down, you at least won't be taking the bank with you this time. [LB101]

SENATOR SCHUMACHER: Thank you. [LB101]

SENATOR HADLEY: Mr. Hansen, I guess I'd like to make a comment. I heard the...or I

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guess maybe read an article by the head of the fed in Kansas City and he was relating other investment opportunities versus land, and he felt that was part of the reason for the runup in land prices, is that it's really a pretty good investment now if you're worried about the stock market and you go by the bank sign in Kearney, Nebraska, and they give you 1 percent interest on a 3,000-year CD or something like that, you know? (Laughter) So his point was is... [LB101]

JOHN HANSEN: That's a good rate. [LB101]

SENATOR HADLEY: ...that is leading to this increase also in land values; that the... [LB101]

JOHN HANSEN: Yeah. [LB101]

SENATOR HADLEY: ...the people...that there's money out there and they're looking for places to put it as an investment opportunity. [LB101]

JOHN HANSEN: I have, as you know, we've had an awful lot of kids leave agriculture and we refer to Lincoln as the refugee center for rural Nebraska. Folks come here, get educated, and don't go back home. And they get involved in professional careers. They're successful, they make money. And so as they're looking at their investments, being in the stock market has not been much fun. And so as you look at all the different kinds of investment things, there has been in recent years more folks who were in the traditional stock market who have decided to invest in land because land continues to yield a fairly good rate of return and continues to go up in value in the meantime. And so that's far better than losing money in the stock market, which all of us have had the opportunity to do that as well. [LB101]

SENATOR HADLEY: Thank you. [LB101]

JOHN HANSEN: So by comparison, it looks good. [LB101]

SENATOR HADLEY: Senator Pirsch. [LB101]

JOHN HANSEN: Yes. [LB101]

SENATOR PIRSCH: Would you agree that farming, ranching has been a cyclical type of business? [LB101]

JOHN HANSEN: Booms and busts, long on busts, short on booms. [LB101]

SENATOR PIRSCH: And in...let me...and I apologize. I have been presenting in another committee a couple of bills, but...and I'm not sure that this line of questioning has been

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asked. But with respect to our approach of agriculture and horticultural land, in valuing it, do we follow the general principles of neighboring states: Iowa, Kansas, Missouri? [LB101]

JOHN HANSEN: There is a real assortment of different kinds of ways to get at ag land valuation and there's a lot of states who use some form of comparative sales in order to get there. There's also some states that use some other bases. But there's a lot of states that use some form of comparative sales. We have historically used earning capacity and we have ran into trouble with that because of the interpretation of the uniform and proportional clause of the state constitution. And so we had to make some changes, and so we've made some efforts to try to redo that. Those were unsuccessful. And so after we had lost several court challenges, we ended up going back to something that we thought that the court would agree to, which was a comparative sales basis in the '90s. [LB101]

SENATOR PIRSCH: Uh-huh. Do other states use more...is income a factor that they look at in terms of land valuation in other states? [LB101]

JOHN HANSEN: In some cases. [LB101]

SENATOR PIRSCH: Do you know if... [LB101]

JOHN HANSEN: I can't give you the states right now but it's been a little while since I did the survey of the other states. But we did do a survey of...Senator Coordsen made the last really serious effort, I would say, in the Legislature, who did a pretty exhaustive study of different states who did ag land at...trying to get at different kinds of ways to value ag land, and there were earnings capacity in other states. [LB101]

SENATOR PIRSCH: Uh-huh. [LB101]

JOHN HANSEN: But I haven't done a recent survey, Senator. [LB101]

SENATOR PIRSCH: Well, and I appreciate those comments and I don't want to ask you, you know, something that, you know, would probably be more appropriately asked of someone else. But if fairness is a goal in terms of appropriately valuing agricultural land and horticultural land, should some sort of income-based type of approach be considered? Or does that, on the whole, cause more problems than it solves? [LB101]

JOHN HANSEN: Senator Coordsen's bill was the last major bill that I remember that tried to inject earnings capacity and productive capacity into the mix, using a formula and a valuation system to be able to reference it and index it. And so it was an effort to do that. It is a complicated thing. The ag community has universally, for the most part, supported efforts to go that direction, but it is not a simple matter to get there. But they

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like the idea of valuing ag land based on something that reflects current commodity prices, earnings capacity, and income potential. That seems more fair to them than, you know, some rich guy from Lincoln or Omaha who used to live in that community, in a lot of cases, coming back with a lot of money in his pocket, bidding up against one of the strongest farmers in the county. And they have money and if they have money and they want to buy land, you know, and you get between them, they're going to spend a bunch of money. And so you see some parcels that just spike up. And yet a lot of that kind of pressure, even though a very small amount of land sells, a very small amount of land in a very speculative market drives the valuation system. And there's the perception of unfairness on the part of our community, I would say. [LB101]

SENATOR PIRSCH: Yeah. If another goal of the state is stability and predictability over the course of time, if there is a cyclical market in which speculation is part of and, you know, it being kind of a store investment, is that another reason to look at some sort of alternative to the current structure that we have now? [LB101]

JOHN HANSEN: Reaching back into my memory bank, looking at some comparisons between market values and earnings capacity, if the land values go up or down, if the land values collapse, there's usually a corresponding reason why earnings capacity type formulas would also go down. And so I can't honestly tell you, in the comparisons that I can remember of those two systems, which one likely provided more stability. But I suspect that they probably both went up and down... [LB101]

SENATOR PIRSCH: I see. [LB101]

JOHN HANSEN: ...based on actual market values. [LB101]

SENATOR PIRSCH: I see. Thank you very much for your testimony. [LB101]

JOHN HANSEN: Thank you for the questions. [LB101]

SENATOR HADLEY: Thank you, Mr. Hansen. Appreciate it. [LB101]

JOHN HANSEN: Thank you. [LB101]

SENATOR HADLEY: Further proponents. [LB101]

PETE McClymont: Chairman Hadley, 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. I'm vice president of legislative affairs for Nebraska Cattlemen. Our board of directors voted to support this. In Senator Watermeier's opening, he talked about the equalized/nonequalized school districts, and that's a common discussion amongst my members. So with that, I'll conclude my testimony and be happy to answer any questions. [LB101]

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SENATOR HADLEY: Thank you. Any questions for Mr. McClymont? Thank you. [LB101]

PETE McCLYMONT: Thanks. [LB101]

SENATOR HADLEY: Any other proponents? Are there opponents? [LB101]

LARRY DIX: (Exhibit 14) Senator Hadley, members of the Revenue Committee, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials, appearing today in opposition to LB101. And I'm here to talk really about the bill because thus far we really haven't gotten really into the meat and potatoes of this bill. [LB101]

SENATOR HADLEY: Yeah. [LB101]

LARRY DIX: It's somewhat of an intriguing idea. And even though we're opposed to it, Senator Watermeier may have actually almost sold himself short on the introduction. It's sort of an intriguing idea on how you dig into it. But the reason that we oppose it is more from a technical point of view and from the amount of changes that would have to be made from a software point of view. And when you dig into this bill, which it's very different than the other ones because it protects the tax base the way this bill is laid out. It does not erode the tax base to the political subdivisions like we had seen previously in Senator Brasch's bill. It's a gradual decrease. And what it does is create a tax statement, and you'll see the tax statement here. This is just a sample tax statement. But if this bill would actually go through, this taxpayer would actually have a value and then there would be another value that would have to be listed on this tax statement. And the second value would be the value against which, if we understand it right, that you would pay the school levy. Now as I read through this, then the taxpayer would pay the full value on the county tax rate, the NRDs, the ESUs, ag societies and so on, and they would pay on a reduced value for the school. Now the bill does not go far enough to determine what you do with school bonds or anything like that, so that's very, very problematic because it doesn't lay that out. It would be a significant software change and there would also be a situation where, as counties, we believe we would have to notify the taxpayer of the two values, the full value that they would be paying on and the decreased value that they would be paying on. Now that in and of itself can cause some confusion for our taxpayers. When you would actually do the calculation on a tax statement like this, that's laid out, if they would take their total value times their total levy, it would no longer equate to their total tax because they would be paying at a lesser rate for the school. So that's really the details in this bill, which is...it's somewhat intriguing to me how it is looking at it. And last year, this is the same bill that Senator Heidemann had last year, and I think Senator Heidemann and I probably spent six to eight hours just going over how to implement this bill. So I know people are looking at it

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saying, well, it's just another valuation reduction bill, but it probably is a little bit more than that when you really, really dig into it. And so, you know, I don't get the sense that this bill is going anywhere, so I don't want to belabor the committee and go through a lot of the technical details. But if it's an idea that the committee wants to look at, at any point in time, we would certainly be willing to come to the table and say, let us describe what has to happen. I would tell you from a software point of view, one year's time is not enough time to implement this bill and it would have a significant fiscal note across all the counties for software changes. So I'll leave it at that and if anybody wants to talk about the specifics in that fashion, I'm happy to do so. [LB101]

SENATOR HADLEY: Senator Schumacher. [LB101]

SENATOR SCHUMACHER: Thank you, Senator Hadley. When you say "pay on the full value," you're talking about the discounted 75 percent? [LB101]

LARRY DIX: I'm talking about the discounted... [LB101]

SENATOR SCHUMACHER: Okay. Thank you. [LB101]

LARRY DIX: ...75 percent, yes. Yes. [LB101]

SENATOR HADLEY: Mr. Dix, you've been around this a long time. What is kind of the...what was kind of the theory back when we adopted the 75 percent vis-a-vis the 100 percent that businesses and homes pay? [LB101]

LARRY DIX: Yeah, I think some of the theory back then is some of the similar theory that we have now that the agricultural community that land would be valued at a lesser rate, a depreciated rate, if you will, because of rising ag land prices. You know in what year, I can't even remember what year it was, you know, we adjusted these rates at one point in time. And certainly in Senator Brasch's bill there's not much to change, from a computer point of view; this one there is. But that's sort of the history of that over the years. [LB101]

SENATOR HADLEY: Of the 75 percent. [LB101]

LARRY DIX: You know, and we go back, you know, early, early on, my days in appraisal, it certainly wasn't that way. [LB101]

SENATOR HADLEY: Thank you, Mr. Dix. Okay, thank you, Mr. Dix. [LB101]

LARRY DIX: Thank you. [LB101]

SENATOR HADLEY: We appreciate it. Anybody else in the neutral? Oh, that's

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opponents? Opponents. Mind gets in neutral about 4:15. (Laughter) [LB101]

LARRY SCHERER: (Exhibit 15) Good afternoon, Chairman Hadley, members of the Revenue Committee. My name is Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r, and I represent the Nebraska State Education Association, here to express some serious concerns about the impact of these provisions on funding for schools in rural Nebraska primarily. If enacted, this bill would reduce property taxes for schools by about \$67 million. I see in the fiscal note that about \$29 million of that would be made up with state aid because of the lower valuations. That leaves about \$31 million that would not be made up and that can be a problem. That equates to about 650 teaching jobs, probably about half that many administrative jobs, and would be elimination of programs like art, music, industrial arts, and so on. I want to point out especially that state aid will not offset all losses of this property, and that's because there are a number of school districts that are so far down below the cutoff point where they could get state aid that they just...this isn't enough to get them there. So they will lose a significant amount of money and not be able to recoup that. There's, in your packet, there's a number of pieces I want to highlight briefly. The first is a listing of schools in many of your districts, rural schools and some of the larger schools, and it gives the proportion of ag land in those school districts. And obviously, it's the districts that have a large amount of ag land that would be affected. And those maybe in the middle that have about 50/50, there might be some significant effects there. This came from...it's an NSEA document but it came from the...source was the Department of Revenue Property Tax Assessment. They do a report every year called "School Adjusted Values," and that's where this came from. Next page shows sort of a statewide picture. About 60 percent of the money for running the schools comes from property tax, and that I think is the problem that many of the witnesses here today have highlighted. Property taxes, about 22 percent of that comes from ag land, and valuation about 27 percent. This would shift probably the valuation percentage 3 percent or 4 percent, it would drop, if this bill was enacted. There's two examples here and I picked Cedar Rapids because Senator Sullivan is from there and she would understand...and understand this as somebody who understands equalization aid. This is a district where about three-quarters of their valuation is from ag land, \$224 million out of \$295 million. So with the reduction, that's about a \$30 million drop in valuation under this bill, or \$273,000 loss in property taxes. Well, how will that be made up? First, you know, look to state aid, what will state aid replace. In this particular case, it doesn't replace anything. The choice then is to go to cut the budget, which I assume most boards would look at first, being responsible stewards. Or they would have to raise the levy. And in this particular case, if the levy was raised, they have a 91-cent levy, which is fairly low; probably maybe some sort of a penalty for that under the state aid formula. They would have to raise the levy about 10 cents or lay off five teachers. I mean extremes either way, they wouldn't do both of those, but that's the choices. Battle Creek, I see there's a typo there. It's not Battle Creed. It's Battle Creek, darn it. And they're in the situation where they would...about half of their loss would be offset by state aid. They're also within 4 cents of the \$1.05 levy cap. For school districts

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that have a levy cap and have their valuation cut, some of them, like this one, would not be able to make up the whole amount from a levy increase. So they would still at the end, even if they raised the levy a little over 4 cents, they would still be short about \$30,000 in money and would have to make some cuts in their budget. Just in closing, there's some data in the back here about where Nebraska ranks in terms of state aid. About 22 percent of the funding for schools comes from state aid if you look at just the state aid formula; about 32 percent if you look at all forms of state aid. There's a Web site that you can check on to get more information on that. It's a census report. Nebraska ranks 47th in the amount of state funding for public schools. We have a lot of money going into it, but it's still a very low percentage. And I think that's why, again, there's problems in the rural sector. It's not just the land valuations. It's the fact that we rely so much on property tax for schools. Three-legged stool: This is sort of a tilt. You're knocking one of the legs out a little bit if you start lowering values significantly. And like everybody else here today, we'd encourage you to look at property taxes in the study you do and how that fits together. Certainly it's...I worked for the Legislature 20 years, and how to be fair to rural schools and rural taxpayers and urban was a problem then and it always will be, but there might be something that could be done that would be more fair than what we have now. So thank you for your time. [LB101]

SENATOR HADLEY: Okay. Questions for Mr. Scherer? [LB101]

LARRY SCHERER: Try to answer any questions if you would or talk to you later. [LB101]

SENATOR HADLEY: I guess not so much a question as just a comment. You know, you have two examples, Battle Creek and Cedar Rapids, and I, you know, I think of them probably similar areas, and one has a 91-cent levy and the other one has almost \$1.01--a 10-cent difference in levy... [LB101]

LARRY SCHERER: Uh-huh. [LB101]

SENATOR HADLEY: ...in two school districts that I would guess the area is relatively the same, which is kind of an interesting concept, isn't it? [LB101]

LARRY SCHERER: Yes. Yes, it is. And I couldn't fully explain that. I'd have to go line by line through their certification but... [LB101]

SENATOR HADLEY: Oh sure, and I understand that, but... [LB101]

LARRY SCHERER: ...it's to say there is a lot of variation in rural school districts and some of them have low levies and not all do, so... [LB101]

SENATOR HADLEY: Okay. Thank you. [LB101]

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LARRY SCHERER: Yeah. [LB101]

SENATOR HADLEY: Yes. [LB101]

SENATOR SCHUMACHER: Just to follow up on that, can a lot of that variation--I know it's the case in the case of Humphrey--be due to very strong parochial schools? [LB101]

LARRY SCHERER: Yes. Yeah, that's a big factor there. Thank you. [LB101]

SENATOR HADLEY: Thank you. Where am I? [LB101]

MARY JANE EGR EDSON: Opponents. [LB101]

SENATOR HADLEY: Opponents? Neutral? Senator Watermeier waived closing, so with that we will close LB101. And, Senator Harr, if you wouldn't mind opening and closing at the same time, we could...(laughter) we could get this going pretty quick. [LB101]

SENATOR HARR: Yeah. Chairman Hadley, members of the Revenue Committee, I am Senator Burke Harr, H-a-r-r, and I represent Legislative District 8. LB574 I am bringing on behalf of the league. LB574 clarifies language in the statute that prevents sanitary drainage districts, sanitary and improvement districts, special improvement districts, counties, cities of all classes, and villages to levy special assessments for improvements made by the political subdivision that benefit individual properties. The bill amends statutes relating to collection of assessments and fees to clarify that collections are, in fact, special assessments. And that's a key. This is in response to an Eighth Circuit ruling, commonly referred to as MBA Poultry, which is found at 291 F.3d 528; it's a 2002 ruling. The court in that decision decided it necessitates--let's change that next time--legislation to clarify and to provide specific authority to permit municipalities and other political subdivisions to treat collections, including unpaid utilities and other similar charges, as special assessments, as to before they were referred to as "special taxes." Without the "special assessment" specific designation, the lien on the property loses its priority, and it makes it more difficult to collect. Nebraska law 77-209 provides that a special assessment shall be a lien on the real estate on which it is assessed and shall take priority over all encumbrances and liens thereon except the first lien of general taxes, unquote. So that means the special assessment takes liens over, for instance, a deed of trust. LB574 amends the statute to clarify...to clearly state, there we go, that collection of a fee is for a special assessment. This preserves the lien priority. Retaining a priority on special assessments will help keep cities...will help cities collect overdue fees and payments. Without the priority, the taxpayers as a whole end up paying this tax and cost. I would ask you to amend LB574 and would entertain any questions you may have. One more caveat: There is an amendment being passed...it's not being passed around yet. Gary Krumland, from the

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league, worked with a number of organizations to come up with an amendment. Hopefully, there will be no opponents, that I'm aware of, on this. But he'll be introducing the amendments. This bill, in general, takes language anywhere it says "special taxes" and just changed it to "assessments." And then there is other cleanup language within the statute. It is a long bill; I think there are something like 50-some sections to this. So again, I would entertain any questions...57 sections. [LB574]

MARY JANE EGR EDSON: Mr. Vice Chair. [LB574]

SENATOR SCHUMACHER: Oh, he's gone. All right. (Laugh) Any questions for Senator Harr? Seeing none, thank you. [LB574]

SENATOR HARR: Thank you. [LB574]

MARY JANE EGR EDSON: Did he waive closing? [LB574]

SENATOR SCHUMACHER: I don't think he has, but he's going to. (Laugh) [LB574]

GARY KRUMLAND: (Exhibit 16) Senator Schumacher, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB574. Want to thank Senator Harr for introducing the bill. And as he said, this bill is basically a clarification of those statutes relating to special assessments. Under the Nebraska Constitution, this is Article VIII, Section 6, cities have authority to levy special assessments on property that will benefit from the city's action. The generally classic cases are when a city does a paving project or put in a waterline or sewer, they create districts and assess the property for the cost of the infrastructure based on the benefit the property receives. There's also another area where special assessments are levied and that's in a situation where we have nuisances, where you have property that has been...the weeds are growing, litter, that sort of thing, or you have a building that's dangerous and it's ready to fall down. After notice and due process, if the property owner fails to do it, the city does have authority to go in and clean up the property or take down the building and file special assessments against the property. And the theory is that property is being benefited. However, as Senator Harr said, if the person who's benefited, if the property owner doesn't pay, it's the taxpayers as a whole who pay for the benefit of that property, and for that reason the statute 77-209 does give a priority lien to special assessments that's higher than any other lien, other than general taxes. But the problem comes in is that there has been court cases that said that these statutes are strictly construed when special assessments are around, so that if they don't have the right wording in there, the court may not give them the special lien priority. And it makes it more difficult then for the city or the political subdivision to collect on the special assessments that benefit that specific property. And so what...that is what basically LB574 does. It went through and identified all of the statutes that deal with special assessments and made it clear that

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they are special assessments. Most of these statutes were written long ago, some of them a hundred or so years ago, and they use language that may not say "special assessments," but they're assessed, like a tax or different things like that. So this basically just updates and clarifies those sorts of statutes. The bill actually came out of a study that the Urban Affairs Committee did a couple years ago on vacant and abandoned property and looked at ways to take care of property that's been foreclosed and that's been abandoned and deteriorates, and it hurts the neighborhood and everything else. Cities then have to go in and clean it up and file liens. They file special assessments. Then, while they were looking at that, they noticed the court case and the language and they wanted to make sure that for purposes of cleaning up vacant property the statutes were okay. They sat down with the Bill Drafters Office and realized there were statutes throughout the code book that have the same problem, and that's where LB798, which was introduced and heard before this committee last year, came from. Over the summer, we took the provisions of LB798, worked with Richard Pedersen, who just recently retired but a bond attorney from Baird Holm who's one of the experts on city finance, and went through it. He suggested several sections removed, a couple were added, and that's basically where we ended up with LB574. Since that time, we've contacted several groups and been talking to several groups. The Nebraska Bankers Association has suggested that several sections be removed or deleted, and that's where the amendment comes from. The amendment removes four sections. Three of them, Sections 2, 6, and 52, are removed at the suggestion of the Bankers Association. These sections: Section 2 has to do with collection of solid waste fees; Sections 6 and 52 have to do with the collection of sewer fees. It's not special assessments necessarily for the building of the infrastructure, but it's for payments that someone has failed. And the argument is that these may not be true special assessments and probably shouldn't be changed. Section 1 is also being deleted, and this is a bill that amends a statute relating to natural resources districts, and the Association of Natural Resources Districts would prefer not to have their section changed. So we're asking the committee to consider deleting those four sections from the bill. Otherwise, we would appreciate the advancement of the bill. I'd be happy to answer any questions. [LB574]

SENATOR HADLEY: Any questions? Senator Pirsch. [LB574]

SENATOR PIRSCH: So with respect to Section 1, could you tell me, just in general and shortly, why did the NRD, in a sentence or two, not want to be included? [LB574]

GARY KRUMLAND: Well, I think basically they liked...I mean they knew how it operated, they liked the way it operated and they just didn't want to make any changes that, you know, may change anything. [LB574]

SENATOR PIRSCH: Hmm. Okay. And then you said Section 2 dealt with solid waste. [LB574]

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GARY KRUMLAND: Yeah, and it's not necessarily like the building of solid waste. It's if somebody fails to pay their garbage bill and a city has authority to file a lien. Question is whether that reaches the level of a special assessment and should have a priority over other liens. [LB574]

SENATOR PIRSCH: Okay. And... [LB574]

GARY KRUMLAND: And since there was concern about that, we thought it would be easier just to delete it and take care of it that way. [LB574]

SENATOR PIRSCH: Okay. And who had that...the bankers did. [LB574]

GARY KRUMLAND: The bankers, yeah, Nebraska Bankers. [LB574]

SENATOR PIRSCH: And then sewer fees, you said that as well? [LB574]

GARY KRUMLAND: Yeah, and the same thing. Sections 6 and 52 dealt with sewer fees... [LB574]

SENATOR PIRSCH: Both of them do. [LB574]

GARY KRUMLAND: ...where if someone failed to pay their sewer bill. [LB574]

SENATOR PIRSCH: Okay. Then what are the other...the ones that are left in there, how many sections are left in here? Four you're recommending taking out in the amendment. [LB574]

GARY KRUMLAND: Yeah. [LB574]

SENATOR PIRSCH: Do you know the total number? [LB574]

GARY KRUMLAND: Yeah, well, there's a total of, I don't know, what was it, 60, total of 62 sections. The last one is the repealer section, so it would be 57 sections. And these all have to do with basically infrastructure kinds of projects or, like I was talking about, nuisance abatement where this...the property is specially benefited because of the action of the city, and the assessment is made on the property. [LB574]

SENATOR PIRSCH: Okay, so those two general categories, you say--infrastructure... [LB574]

GARY KRUMLAND: Yeah. [LB574]

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SENATOR PIRSCH: ...and nuisance abatement. And this affects just NRDs...well, now not NRDs;... [LB574]

GARY KRUMLAND: Not NRDs. Yeah, it's... [LB574]

SENATOR PIRSCH: ...sanitary drainage districts; sanitary and improvement districts, or SIDs;... [LB574]

GARY KRUMLAND: Yeah. [LB574]

SENATOR PIRSCH: ...special improvement districts; counties, cities, and villages. Okay. [LB574]

GARY KRUMLAND: Yeah, the majority of the statutes deal with cities of various classes and villages. And as you know, cities of the metropolitan class have their own set of statutes. Each class has their own set of statutes and so it deals with the various classes of cities. [LB574]

SENATOR PIRSCH: Uh-huh. And the language, I guess, presented in this bill is archaic language, the language that's being crossed out that refers to those fees. [LB574]

GARY KRUMLAND: Right. [LB574]

SENATOR PIRSCH: Is that...do they differ greatly, the type of language that you're crossing out? [LB574]

GARY KRUMLAND: Well, yeah, it kind of...each section...some of them are similar, but each section kind of describes it in a different way. I'm assuming they were adopted at different times throughout the years and we're just making sure that it uses the term "special assessment" to make it clear. [LB574]

SENATOR PIRSCH: Uh-huh. At the time, although it was probably unartfully drafted back in those 57 sections,... [LB574]

GARY KRUMLAND: Uh-huh. [LB574]

SENATOR PIRSCH: ...was that the intent of the Legislature that then existed and put that in,... [LB574]

GARY KRUMLAND: Yeah, I mean this was... [LB574]

SENATOR PIRSCH: ...that they wanted those to be... [LB574]

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GARY KRUMLAND: ...that was the intent. These are clearly designed, like the constitution says. These are special assessments for property or against a property owner whose property is benefited by the action. [LB574]

SENATOR PIRSCH: So they were, other than, I mean, you're changing the terminology,... [LB574]

GARY KRUMLAND: Uh-huh. [LB574]

SENATOR PIRSCH: ...but you're keeping with the intent, the original intent of the legislation. [LB574]

GARY KRUMLAND: Yeah. I mean I would argue that it's...there's no substantive changes, just clarification and... [LB574]

SENATOR PIRSCH: What happened? In his opening, Senator Harr had said that if you don't do this, then they lose these type of 57 sections? [LB574]

GARY KRUMLAND: Well, the concern is that the court...and the court he cited. And as he said, they...there was a case in Tecumseh and it actually was a sewer fee bill. But the way the court approached it is that they have to strictly construe special assessment statutes and if they're not properly constructed, don't have the proper language in them, they're not considered a special assessment and, therefore, would still have a lien but it wouldn't have the priority that a special assessment lien would have. So therefore, it would, you know, fall below other liens. [LB574]

SENATOR PIRSCH: Okay. So that's the effect, that in each case... [LB574]

GARY KRUMLAND: Yeah. [LB574]

SENATOR PIRSCH: ...of the 57, they would be a lien but they wouldn't be a special assessment... [LB574]

GARY KRUMLAND: Right, they wouldn't have that priority. [LB574]

SENATOR PIRSCH: ...and lose priority in the hierarchy. And that's not the way that they were originally intended by... [LB574]

GARY KRUMLAND: Right. [LB574]

SENATOR PIRSCH: Okay. [LB574]

GARY KRUMLAND: The original intent was that these would be special assessments,

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as authorized under the constitution. [LB574]

SENATOR PIRSCH: Okay. Uh-huh. Okay. Thank you. You've helped a lot, so... [LB574]

SENATOR SCHUMACHER: Thank you. [LB574]

SENATOR HADLEY: Senator Schumacher. [LB574]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just briefly, now this, these changes, to the extent there is any change in the status of the priorities of these liens, as in this bill, they would only apply to assessments made after the effective date of the act? [LB574]

GARY KRUMLAND: I don't know the answer to that. I mean I...at least we would argue that the intent of them was that they were special...or originally designed to be special assessments, and that was the intent when they were adopted, whenever they were adopted, and so that they should have that priority. [LB574]

SENATOR SCHUMACHER: But... [LB574]

GARY KRUMLAND: This clarifies it for the future, but I would not say that, because they didn't have the language, they wouldn't. But I suppose one could make an argument against it. We would still argue they were; that was the original intent. [LB574]

SENATOR SCHUMACHER: But I mean you can't fix...you can't retroactively give yourself a priority. That's beyond the power of the Legislature. [LB574]

GARY KRUMLAND: No, I understand that, but what I'm saying is this clarifies the language for the future. But I would not concede that these statutes don't give a special assessment priority, because that was probably the intent of the original Legislature. [LB574]

SENATOR SCHUMACHER: That's still a court case to decide what... [LB574]

GARY KRUMLAND: Yeah, that's a court case that will have to be decided. [LB574]

SENATOR SCHUMACHER: ...to divine that original intent. This does not have that. [LB574]

GARY KRUMLAND: Yeah. I don't want my language here to be used as interpretive language for some case that...against one of these statutes. I'll put it that way. [LB574]

SENATOR SCHUMACHER: Thank you. [LB574]

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SENATOR HADLEY: Thank you, Mr. Krumland. [LB574]

GARY KRUMLAND: Uh-huh. [LB574]

SENATOR HADLEY: Other proponents? Opponents? Neutral? [LB574]

JERRY STILMOCK: Mr. Chairman, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska Bankers Association, in a neutral capacity. We had issues. We approached the senator with those issues, Senator Harr. We were able to work out the amendment. We're in agreement with the amendment. Our hope is that the committee would accept the amendment that appears at AM446. And that's why we're in, in a neutral capacity. We appreciate Senator Harr considering those changes and offering the amendment. Thank you. [LB574]

SENATOR HADLEY: Questions? Senator Schumacher. [LB574]

SENATOR SCHUMACHER: Yes, thank you, Senator Hadley. Mr. Stilmock,... [LB574]

JERRY STILMOCK: Sir. [LB574]

SENATOR SCHUMACHER: ...is it then not the intent of the bankers to give up any priority they might have in respect to past liens by your neutral testimony today? [LB574]

JERRY STILMOCK: No, it's not my intent to give up any of the bankers' liens that they might have. (Laugh) [LB574]

SENATOR SCHUMACHER: Thank you. [LB574]

JERRY STILMOCK: Yes, sir. [LB574]

SENATOR HADLEY: I think you're assuming a banker has a heart I would imagine. (Laugh) [LB574]

SENATOR SCHUMACHER: No, some people we've learned don't have hearts. [LB574]

SENATOR HADLEY: Senator Pirsch. [LB574]

SENATOR PIRSCH: And so in the hierarchy, when we're talking about priority,... [LB574]

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JERRY STILMOCK: Sir. [LB574]

SENATOR PIRSCH: ...what supersedes special assessments? What's higher on the... [LB574]

JERRY STILMOCK: Property tax liens are, city-county property tax liens; then would come special assessments if they're determined to be special assessments; and then liens that are first in time after that, conceivably a deed of trust mortgage, etcetera. So property taxes, special assessments, and then other liens. [LB574]

SENATOR PIRSCH: (Inaudible) liens. [LB574]

JERRY STILMOCK: Yes, sir. [LB574]

SENATOR PIRSCH: Okay. Thank you. [LB574]

JERRY STILMOCK: Yes, sir. [LB574]

SENATOR HADLEY: Senator Hansen. [LB574]

SENATOR HANSEN: I even have got a question. So if the property is sold, the property tax is paid by the buyer, I assume. Are the special assessments paid by the buyer? [LB574]

JERRY STILMOCK: Yes, sir, nine out of ten times, that nobody wants to leave those special assessments on the table, so to say. So in the sale that I'm envisioning, in response to your question, I get a title insurance commitment that says one, two, and three have to be taken care of in order for you, the buyer, to get clean title. And hopefully, as the buyer, I knew about those prior to entering into the contract, or the contract spells out what happens with those special assessments. And when we go to close then, the real estate taxes are going to be paid, most likely prorated, you know, you're familiar with that concept, or on ag land for the entire year; special assessments are going to be paid, so those are netted down to nothing. So, yes, they are going to be paid at the time of the transaction. Typically, they're not left on the table, because the buyer doesn't want anything dirty and the lender, particularly if there's a lender involved, they want to be first. And so they're requiring, in order for you to get our loan, these special assessments as well as the real estate property taxes are going to have to be paid in full. We want to be first. We want to make sure our lien is first, yes, sir. [LB574]

SENATOR HANSEN: Thank you. [LB574]

JERRY STILMOCK: Yes, sir. [LB574]

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SENATOR HADLEY: Thank you, Mr. Stilmock. [LB574]

JERRY STILMOCK: Gentlemen, lady, thank you. [LB574]

SENATOR HADLEY: Any further in the neutral? Senator Harr, do you wish to close? [LB574]

SENATOR HARR: Quickly. [LB574]

MARY JANE EGR EDSON: You were supposed to say, do you wish to waive? [LB574]

SENATOR HARR: I want to go into 11... [LB574]

SENATOR HADLEY: Huh? Oh, I'm sorry. Do you wish to waive? [LB574]

SENATOR HARR: Do you wish to waive. (Laughter) I just...yeah, where was that last night? I just want to again thank the bankers and the League for coming together and finding an amicable solution. And thank you very much. Appreciate it. [LB574]

SENATOR HADLEY: With that, the hearings for the day are closed. Thank you. (See also Exhibits 17 and 18) [LB574]