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Natural Resources Committee
January 17, 2018

[LB758]

The Committee on Natural Resources met at 2:00 p.m. on Wednesday, January 11, 2018, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB758. Senators present: Dan Hughes, Chairperson; Bruce Bostelman, Vice Chairperson; Joni Albrecht; Suzanne Geist; Rick Kolowski; John McCollister; Dan Quick; and Lynne Walz. Senators absent: None.

SENATOR HUGHES: (Recorder malfunction)..to my phone, it's 2:00 so we will begin. Welcome to the Natural Resources Committee. I am Senator Dan Hughes. I am from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs that are...when you are ready to testify. They are the first two chairs on either side in the front row. They are marked "the queue." The introducers will make initial statements followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to the committee clerk or to a page. This will help us make a more accurate public record. If you do not wish to testify today but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign in for that purpose. This will be part of the official record for the hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. If you have handouts, please make sure you have 12 copies and give them to the page to distribute to the committee. When you come up to testify, please speak clearly into the microphone, tell us your name, and please spell your name...spell your first and last name to ensure that we get an accurate record. We will be using the light system today for all testifiers. You will be given five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, is allowed at a public hearing. I want to get this on the record. There has been a change in the committee procedures across all committees. Beginning January 23, written letters to be included in the record must be submitted to the committee clerk by 5:00 p.m. the business day before the scheduled hearing for that particular bill. You must also indicate in your testimony that you would like to be included in the record. Written testimony for the record is received only if you are unable to be present at the hearings to testify. Your name

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will be read in during the hearing as having submitted a letter, and the letter itself will be included in the official records. Unless you testify in person before the committee, your name will not be included in the committee statement. The committee members with us today will introduce themselves, beginning on my left.

SENATOR KOLOWSKI: Rick Kolowski, District 31 in southwest Omaha. Thank you.

SENATOR GEIST: Suzanne Geist, District 25, east side of Lincoln and includes the towns of Walton and Waverly.

SENATOR QUICK: Dan Quick, District 35, Grand Island, Nebraska.

SENATOR WALZ: Lynne Walz, District 15, all of Dodge County.

SENATOR HUGHES: And on my far right.

SENATOR ALBRECHT: Good afternoon. Joni Albrecht from northeast Nebraska. I have Wayne, Dakota, and Thurston Counties.

SENATOR McCOLLISTER: John McCollister, District 20, central Omaha.

SENATOR BOSTELMAN: Bruce Bostelman, District 23, Saunders, Butler, and most of Colfax Counties.

SENATOR HUGHES: To my left is the committee legal counsel, Laurie Lage; and to my far right is committee clerk, Mandy Mizerski. Our page for the committee today is Lee-Ann Sims from Lincoln. She is a junior at UNL studying political science and global studies. So with that, I will turn the meeting over to the Vice Chair, Senator Bostelman, as I am the introducer.

SENATOR BOSTELMAN: Thank you, Senator Hughes, and welcome. [LB758]

SENATOR HUGHES: Good afternoon, Senator Bostelman, members of the Natural Resources Committee. My name is Dan Hughes, that is D-a-n H-u-g-h-e-s. I represent the 44th Legislative District, and I am here to introduce LB758. First, I would like to thank the committee for your patience and for taking the time to become acquainted with the continuing saga that is N-CORPE. LB758 is the next chapter in my attempt to resolve some of the issues surrounding streamflow augmentation projects. N-CORPE and Rock Creek were conceived and are being

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paid for locally to solve the state of Nebraska's problem with the Republican River Compact and the Platte River Recovery Implementation Program. You have in front of you AM1550 which will strike the original language and becomes the bill. As amended, LB758 would authorize NRDs or entities formed under an interlocal cooperation agreement to make payments in lieu of taxes to counties where they purchased land to develop streamflow augmentation projects. You will recall that N-CORPE and Rock Creek are currently and have always been paying property taxes but under protest. While N-CORPE and Rock Creek had always planned to pay property taxes, it was questionable under the state's constitution whether they could legally do so. The TERC Board, Tax Equalization and Review Commission, ruled that N-CORPE and Rock Creek were public projects serving a public purpose and were not allowed to constitutionally pay property taxes. The affected counties, Lincoln and Dundy, appealed the ruling to the Court of Appeals where they are currently awaiting arguments. I introduced this bill in response to the concerns of the communities where N-CORPE and Rock Creek augmentation projects are located. What we have heard since the beginning of that Lincoln and...what we have heard from the beginning is that Lincoln and Dundy Counties have been harmed by the removal of land purchased for these projects from the property tax rolls. We have also heard that there is limited accountability to the public by N-CORPE. This bill, as amended, would remedy both of those concerns. In addition to allowing payments to be made in lieu of taxes, the bill would also require a notice and hearing process before moving forward on an augmentation project. It would require a project to get input from county officials and adjoining landowners and require an annual report that provides specific information about that and any other streamflow augmentation project. Finally, based on a concern that has been expressed by the Lincoln County Assessor, the bill would require that leases of the land owned by an augmentation project be submitted to the proper county assessor within 30 days of their effective date. I know you have all been hit with an abundance of information and legal opinions over the past year regarding N-CORPE. I know you have heard from a Lincoln County group of landowners who are pushing for the sale of the land by N-CORPE. I know they believe their arguments are compelling. What I would like you to keep in mind is that the issues are very complex and the stakes are very high. N-CORPE has effectively resolved the state's legal battle with Kansas over the Republican River that has been ongoing since 1999. Years and millions of dollars spent in litigation came to a resolution about a year and a half ago when Kansas and Nebraska signed agreements on how the Republican River will be shared and managed. The U.S. Supreme Court found that Nebraska should pay \$5.5 million in damages to Kansas for overusing water in the river rather than the \$80 million that Kansas had requested. The agreement between Kansas and Nebraska says that Kansas get the water they're entitled to just when they need it. This past year they didn't need all of their portion so Nebraska was able to keep more than 9,000 acre-feet in the ground and it looks like we may not have to pump either N-CORPE or Rock Creek at all this year. In addition to the water management actions taken by the NRDs, we are able to comply with the interstate compact as required by law because of N-CORPE and Rock Creek. I cannot express strongly enough the importance of the committee using caution as we move forward on N-CORPE. We

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are in a positive place now with Kansas and the compact because of the flexibility and certainty that N-CORPE provides. Kansas has agreed to the terms of the resolution based on the fact that N-CORPE can flip the switch and get them the water when they need it. It is not an option to put the project at risk. We must also recognize the importance of the role that N-CORPE will play in the Platte River Basin. The Twin Platte NRD in North Platte has state and federal obligations to increase flows in the Platte River under the Platte River Recovery Implementation Program. If these obligations aren't met, ag producers in Lincoln County will be limited in their ability to irrigate. Those in the Platte River Basin will rely on N-CORPE to avoid such consequences. As you know, there is a contingency of Senator Groene's that wants N-CORPE to sell the property it bought for the project. I have told Senator Groene that I will look at his proposal and will work on the concept to ensure that if a law is passed to allow N-CORPE to sell the land that it be done correctly in a way that will not allow Kansas to call into question the state's ability to provide them with their water. As water disputes seem to consistently be handled through litigation in Nebraska, new laws affecting water rights should be made with caution and sufficient collaboration with all stakeholders. This bill is an important step in solving issues surrounding N-CORPE and Rock Creek. I believe there are more steps that might be taken so we can be sure neither project will be jeopardized and the state's obligation to adhere to the Republican River Compact and meet the federal requirements of the Platte River Recovery Implementation Program can be met. I will be happy to try and answer any of your questions. Thank you.
[LB758]

SENATOR BOSTELMAN: Are there any questions from the committee? Senator McCollister.
[LB758]

SENATOR McCOLLISTER: Yeah. Thank you, Senator Bostelman. On line 11 of the statute or of the amendment I should say, "The amount of the payment in lieu of tax for any year shall not be more than the real property taxes that would have been paid on the land for such year if the land were subject to taxation." How would the land be valued, as dryland or irrigated property?
[LB758]

SENATOR HUGHES: It will be valued as it is in its current form, which is probably going to be rangeland. [LB758]

SENATOR McCOLLISTER: Okay. And so the assessor makes the assessment and then the utility or N-CORPE will actually pay an in lieu of tax... [LB758]

SENATOR HUGHES: Yes. [LB758]

SENATOR McCOLLISTER: ...to the taxing jurisdictions? [LB758]

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SENATOR HUGHES: It will be taxed as if it were in private hands. So whatever the predominant use of the land would be, there would be discussions between the owner of the property and the assessor. And if it's rangeland or possibly dry farmland, you know, there could be some mix of that. But predominantly it would be rangeland. But the assessor would assess it as if it were owned by anyone. [LB758]

SENATOR McCOLLISTER: Has that determination been made how it will be assessed? [LB758]

SENATOR HUGHES: The...my understanding, the taxes are being paid today are based on what the predominant use of the land is today. [LB758]

SENATOR McCOLLISTER: So they're paying in lieu of taxes now? [LB758]

SENATOR HUGHES: Yes, they are. They are paying property taxes now. It's not in lieu of tax. [LB758]

SENATOR McCOLLISTER: Okay. [LB758]

SENATOR HUGHES: That would be unconstitutional. That's what this bill does is makes it constitutional. [LB758]

SENATOR McCOLLISTER: Thank you, Senator. [LB758]

SENATOR HUGHES: Yes. [LB758]

SENATOR BOSTELMAN: Senator Albrecht. [LB758]

SENATOR ALBRECHT: Thank you, Chairman Bostelman. Okay. So they were in TERC over this in court, correct? [LB758]

SENATOR HUGHES: Yes. They got a ruling from TERC in favor of N-CORPE and the Upper Republican NRD which owns Rock Creek. [LB758]

SENATOR ALBRECHT: Not to pay taxes, that they didn't have to because they are a public entity, correct? [LB758]

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SENATOR HUGHES: Yes. [LB758]

SENATOR ALBRECHT: And now it's in court? [LB758]

SENATOR HUGHES: It's in...the counties have appealed that decision by TERC. [LB758]

SENATOR ALBRECHT: Okay. So the counties have appealed... [LB758]

SENATOR HUGHES: Yes. [LB758]

SENATOR ALBRECHT: Not N-CORPE. [LB758]

SENATOR HUGHES: Yes. [LB758]

SENATOR ALBRECHT: So they can't come together and talk or we have to write legislation so that we make sure that they (inaudible). [LB758]

SENATOR HUGHES: The...constitutionally, they cannot pay taxes because one taxing entity cannot pay taxes to another taxing entity. So that's why we are allowing them to pay in lieu of taxes. The terminology is very, very important there. [LB758]

SENATOR ALBRECHT: In lieu of. [LB758]

SENATOR HUGHES: Yeah. The augmentation projects have been paying the taxes. They protested that to TERC to cover themselves from being sued by someone who says you don't have to pay those taxes. Why are you using my tax dollars that you shouldn't be? So that's why they protested. It went to TERC. TERC ruled in favor of the augmentation projects and the counties have now appealed. So this legislation makes all that go away. [LB758]

SENATOR ALBRECHT: Okay. So my last question is how would N-CORPE pay those taxes? Where do they get their money to pay the taxes? [LB758]

SENATOR HUGHES: It will either come from lease income from the property or the occupation tax, but there should be more than enough lease money coming in from the properties to pay the property tax. [LB758]

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SENATOR ALBRECHT: Okay. Thank you. [LB758]

SENATOR BOSTELMAN: Other questions? Senator Geist. [LB758]

SENATOR GEIST: Thank you. I just have a question if you would clarify. If the land is leased, then that money would go to pay the tax. Is the occupation fee then lifted or does that fee remain on the farmers to pay the tax? [LB758]

SENATOR HUGHES: The occupation tax is currently a \$10 per acre tax that everybody within those four NRDs that has irrigated acres pays. [LB758]

SENATOR GEIST: Okay. [LB758]

SENATOR HUGHES: That is designed to buy the land, operate the land, pay off the debt, pay the interest, that's what that \$10 is. Any additional income that comes in from grazing leases or hunting rights or any other type of income that would come from that property just goes into paying off the debt. Sometimes it's questionable whether if you lease a piece of property hopefully you make more than enough to pay the taxes, but that's not always the case. That's a whole other property tax issue. [LB758]

SENATOR GEIST: Okay. [LB758]

SENATOR HUGHES: But, yes, the lease payment should more than pay the property taxes if the entire property is leased out. [LB758]

SENATOR GEIST: Okay. [LB758]

SENATOR BOSTELMAN: Other questions from the committee? Seeing none, thank you, Senator Hughes. You'll be staying for closing? [LB758]

SENATOR HUGHES: Yes, I will. Thank you. [LB758]

SENATOR BOSTELMAN: Now we'd like to move to proponents. If there are any proponents, you may step forward. Again, there's two seats at the front for the queue. If you're planning on testify, please move up so we can keep things moving along so. [LB758]

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TERRY MARTIN: (Exhibit 1) Good afternoon, Senators. Thank you for taking your time to address this problem that we have. My name is Terry Martin, T-e-r-r-y M-a-r-t-i-n. I am the chairman of the board of directors of the N-CORPE project. I'm also chairman of the board of the Upper Republican Natural Resources District which owns the Rock Creek Project. I am presently the past president of the Nebraska Association of Natural Resource Districts. I serve that post as well. And a little bit about myself just a little bit. I'm a farmer and we own cattle in Dundy County, Nebraska. I'm also a licensed water resources engineer and I spent the first 20 years of my life as a water resources engineer working on projects throughout the Midwest. And 24 years ago I came back to my home, my roots in agriculture. And I am here to testify in support of Senator Hughes's LB758. The N-CORPE project is an interlocal agency made up of four natural resources districts. And if you'll look in your packet, there's a map on the back of that packet that will show you where those are. The Upper Republican is my home district and it's up against the county line over there on the Colorado line. We're headquartered out of Imperial. The Middle Republican NRD is the next one east and its home site is Curtis, Nebraska. The Lower Republican is the one clear to the east and it's in Alma. And, of course, we have the Twin Platte NRD which is to the north and that is headquartered out of North Platte. If you can see on your map, that is the N-CORPE project there. And the Upper Republican is the other project that has an augmentation project on it. Development of N-CORPE began when the NRDs within the Republican Basin began studying ways to stay in compliance with the Republican River Compact. We tried, studied, and actually use some of these methods. But as time went by, we realized that augmentation, which is the process of putting more water into a river from pumping plants, so that we could put the exact amount of water into the river at the exact time it was needed, that became the most cost-efficient project that we could ever try to use, the most economically benefit, and it also protected the economy of our district. Most...it became the most efficient use of our ground water. We could only send the water down that they needed and we could use the rest of us in the Upper Republican, the Lower Republican, all of the NRDs. Mother Nature doesn't always give us the water we need when we need it. And sometimes water was going downstream that we weren't using but we could have. And so the fourth point, of course, is it was the most reliable source of relief to us when it came to supplying the water downstream and staying in compliance with the Republican River Compact. Our NRD purchased land in Lincoln County and retired all of the land from irrigation production. And we now use that water that was used to raise crops to increase streamflows when necessary. And this is taking this land out of production has allowed us to keep a lot more, thousands and thousands of acres, in production every year. And that is the key to the economy of southwest Nebraska. The Republican Basin and the Tri Basin both benefit from this. We could have faced severe regulations and irrigation shutdowns in many years. The Platte has its own set of problems. We in the Republican deal with the Republican River Compact, which is a compact between Colorado, Kansas, Nebraska, and the United States of America. The Twin Platte has obligations to reduce their pumping. They also have obligations to downstream water users. All the board members on the NRD board...N-CORPE board are NRD members in their home board; and we

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all are farmers, ranchers, or ranch managers. And we understand the concerns that property tax implications have on Lincoln County, especially in my home county of Dundy County the Rock Creek project is only about four or five miles from our west farm there. And since the very first meetings we had, even on Rock Creek, we have always expressed an interest in mitigating the tax implications that we have caused by installing these projects. We've hired an attorney to advise us on this and other matters. And we are being told and agree with the conclusion that Nebraska law prohibits N-CORPE from paying property taxes on property being used for a public purpose. Because of this interpretation of the law, we believe paying taxes without also protesting them would set up N-CORPE and our individual NRDs for possible lawsuits from even our own people within our own community. So as a director of these agencies, we all feel that complying with the management duties...we are complying with our management duties by reviewing...by paying these taxes, almost \$1.5 million with the caveat that they are in protest. [LB758]

SENATOR BOSTELMAN: Mr. Martin. [LB758]

TERRY MARTIN: And as Senator Hughes said, the Tax Equalization and Review Commission has ruled on this and it is in court and it will be decided here. [LB758]

SENATOR BOSTELMAN: Mr. Martin, we need you to wrap up your testimony, please. [LB758]

TERRY MARTIN: Okay. I have not much more except to thank Senator Hughes and to tell you that this project has done everything we ever wanted it to. It's great for our community. It's great for the economy of the state, of our area and for the state. And we do support it. The only problem that we couldn't overcome was the fact that this project benefits 16 counties, but the tax loss is only concentrated in one small area of one county. And this project that this bill that Senator Hughes has will allow us to spread that pain amongst all 16 counties so they all have an equal dog in the fight so to speak so. If there's questions, I could take them. [LB758]

SENATOR BOSTELMAN: Thank you, Mr. Martin. Are there questions from the members, committee members? Senator Geist. [LB758]

SENATOR GEIST: Thank you. And thank you for your testimony. I'm confused about one thing. If you all have been paying the tax all along, why is Lincoln County upset? [LB758]

TERRY MARTIN: Well, that's a good question. They...okay, here's the problem. When we bought that farm, we paid \$89 million for it. The land now with all the irrigation gone and all

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that stuff, today's sale price is probably \$16 million. So there is a \$70 million gap in between what we paid and what they are getting now. And they want to close that gap and so do we. [LB758]

SENATOR GEIST: Oh. [LB758]

TERRY MARTIN: So we feel like rather than selling the land, which would only take up 20 percent of that gap, we want to fill the whole gap with the in lieu of tax program. We don't have any problem with paying that at all. We've talked about that ever since. But we can't do that legally. So we come to you for your help to help us do something we can't do for ourselves. And that should help Lincoln County get back to where they were before we put in this project. Does that help you? [LB758]

SENATOR GEIST: It does. Thank you. [LB758]

TERRY MARTIN: Yes, sir. [LB758]

SENATOR BOSTELMAN: Senator McCollister. [LB758]

SENATOR McCOLLISTER: Yeah. Thank you, Senator. We learned from Senator Hughes that it's now valued as rangeland. But when the property was sold, wasn't it sold as irrigated ground? [LB758]

TERRY MARTIN: Yes. The farm was...when we bought it, it was on the open market and it was all irrigated farmland, well, 90 percent of it, you know. There was 19,600 (sic) acres of that 16,500 were irrigated acres. [LB758]

SENATOR McCOLLISTER: I see. So what was the calculated loss in value by changing the classification for that ground? [LB758]

TERRY MARTIN: Irrigated farmland today on the open market will sell from \$4,000 to \$6,000 per acre. Grassland will sell maybe \$1,000 an acre. And since this grassland is not totally developed yet, it takes five to seven years for grass to take over and be viable pastureland, still \$1,000 an acre. So you've lost anywhere from \$3,500 to \$4,500 in value on the same piece of land that you're looking at. Does that answer your question? [LB758]

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SENATOR McCOLLISTER: It does. But isn't there a net loss to the taxpayers of Lincoln County and the other areas because of the change in the classification of the ground? [LB758]

TERRY MARTIN: There would be, yes. But the in lieu of tax should make up for what they were getting in the past. [LB758]

SENATOR McCOLLISTER: As irrigated ground. Okay. Thank you very much. Thank you, Mr. Martin. [LB758]

SENATOR BOSTELMAN: Other questions? Senator Albrecht. [LB758]

SENATOR ALBRECHT: So...thank you. Would your board agree to pay these taxes even if the courts say you don't have to? [LB758]

TERRY MARTIN: Yes because...and we would even like to leave the money that we've already paid in place because it's not that we're paying more taxes. What we're doing is distributing that tax amongst all the counties. So each county out there that's not paying anything now, they would pay some in. That would go to Lincoln County. That would help offset the loss that they had. Of course, Lincoln County would have to pay some because they benefit too. So it's a redistribution program is what it really is. [LB758]

SENATOR ALBRECHT: Okay. And can I ask another question? So who negotiated to purchase that 19,000 acres, is that right? [LB758]

TERRY MARTIN: It was on the open market. A hedge fund from New Jersey owned it. It was first come, first serve. It was a realtor, a realty company that had it on the market. And the four NRDs realized that we needed another augmentation project to stay in compliance with the Republican River Compact. The Upper Republican already had an augmentation project, but that would only make sure the Upper Republican stayed in compliance. The other three NRDs in the basin didn't have that. And the compact is between Nebraska and Kansas. It doesn't say anything about NRDs. So Nebraska had to be in compliance. So we decided that we would all join together and buy this larger piece of farm. That way we could guarantee that all the NRDs in the Republican Basin were in compliance every year. And as you heard, Kansas was asking for large penalties, we put a stop to that. We can stay in compliance now. The project works really, really well; but we've just got this little hiccup that we can't solve ourselves. We need help from somebody else legally to put this thing in perspective according to the laws of state of Nebraska governing taxes. [LB758]

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SENATOR ALBRECHT: So has the TERC and the assessor valued that land only at \$16,000 or \$16 million? [LB758]

TERRY MARTIN: Has the assessor reevaluated that? I don't know that I know the answer to that. I know basically what other land similar to that values at, but I can't say that they have or haven't. I would assume they have, but that's an assumption. [LB758]

SENATOR ALBRECHT: Just seems like it's a huge loss of \$70 million for what you paid for it and what it's worth today. [LB758]

TERRY MARTIN: Say that again now. [LB758]

SENATOR ALBRECHT: For the amount that you have purchased the ground for and now what it's worth today, I mean, would you ever put it back in irrigated (inaudible)? [LB758]

TERRY MARTIN: Highly likely not. There's almost a zero chance that it would ever go back into irrigation because we're going to need that project forever basically. And if we irrigated, then we don't have that water to put into the river system. [LB758]

SENATOR ALBRECHT: Thank you. [LB758]

SENATOR BOSTELMAN: Other questions? I would just like to follow up with Senator Albrecht make sure I understand what you said. It is N-CORPE's intention to make payments in lieu of taxes? [LB758]

TERRY MARTIN: If we can legally get that done, yes. [LB758]

SENATOR BOSTELMAN: And does N-CORPE plan to request a refund of taxes paid under protest? [LB758]

TERRY MARTIN: Not if we can do that legally. There is some legal and Don Blankenau, our attorney, will maybe brief you on that later. But it's our intention to do it, but it's not our intentions to break the law of the state of Nebraska. And right now that would just the way it is. But, yeah, those people are entitled to that money, they have been. It's just that it was taken away from them because of a fluke of how the whole project was put together. [LB758]

SENATOR BOSTELMAN: Okay. Thank you, Mr. Martin. Thank you very much. [LB758]

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TERRY MARTIN: Thank you. Anybody else? [LB758]

SENATOR BOSTELMAN: Thank you for your testimony. [LB758]

TERRY MARTIN: I appreciate your time and I would encourage you to support Senator Hughes with this because...taking it through committee and it's important to us and we need it. [LB758]

SENATOR BOSTELMAN: Thank you, Mr. Martin. Next proponent. Welcome. [LB758]

SHAD STAMM: Thank you. Thank you for allowing me the opportunity to talk with you. My name is Shad Stamm, S-h-a-d S-t-a-m-m. I guess I'm a farmer/rancher from Dundy County. I'm also a member of the Dundy County Stratton School Board. This is my 18th year of being on the board, currently serving as president. I've been a member--I don't remember the exact number--but Senator Carlson created a Governor's Water Task Force. I think that was in 2009 or 2010, I don't remember very well. I was a member of that. And currently I'm a member of the...it's an ongoing Republican River Basin-wide management plan and we're working on it. So I've been around some discussions of the hiccups, the problems or whatever of the augmentation projects. I can remember back in 1999 when the head came to be of the whole Republican River Compact and sitting in Imperial, Nebraska, at an NRD meeting when it was all brought forth and the uproar that occurred, a lot of...you know, nobody understood what was going on, blah, blah, blah. I can tell you from being on those two task forces and from that point things have calmed a lot. It's been an ongoing evolution as far as understanding of the compact, understanding what can be done. There definitely is more cooperation between the state of Kansas and the state of Nebraska than there was when I first was on the Governor's Water Task Force. And there's a lot more cooperation among the NRDs. I mean there was a little bit of finger pointing back during that and now they're in collaboration. And what came about that is a lot of outside the box thinking of how to address the compact and augmentation became one of those. I guess I think a lot of stuff has been answered as far as the history of how they came about. And Senator Hughes did a good job explaining what happened. I can address the Republican River one...augmentation...or the Upper Republican Rock Creek project because that's where I live. But, you know, they were paying in protest and the TERC board and it's currently in appeal. What I can do is answer a couple of questions I heard before. One reason, being on a school board, that is very important in this LB758 is the retroactive aspect of in lieu. Because I can tell you I had our assessor print off, and this was from 2013 to 2017, our school district in Dundy County would be required to pay back roughly \$126,000 if they lose. And I think that would address your question. That's one reason it's kind of a concern is because I would assume that would be the same way it would be in Lincoln County. Every government entity would be required to pay back to the NRD what has been paid in taxes. So that's number one. And as we all know and you know firsthand, I mean, everything, every radio station I hear, every paper I

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read we're all about property tax relief. Well, I can tell you in Dundy County we have a levy of 53 cents on our school board so we're not getting any state funding. We're a nonequalized district and so I guarantee you where it's going to come from to repay that is property taxes. So that's one concern. And so I think that's a very important aspect of this is, you know, the retroactive aspect of it. Number two, the valuation. I can tell you in Dundy County the Upper Republican project, it is valued at grassland. And currently they're paying in '17 they paid \$33,440 for roughly I think they have...I don't...she has on here about 6,500 acres. As a school district, I went back in my e-mails last night and looked and I questioned the assessor when it came about that they purchased the project what it was going to do to valuation. And we grumbled a little bit, but we also understood the ramifications if shutdowns had to occur or permanent retirements had to occur. And that was going to be a much more economic impact to our school district than, you know, what we were losing. And so we never really, you know, we never complained too much. I understand, you know, there's been some stuff about commissioners and sitting down in agreement. I never ever got a feeling in all my conversations with the current Upper Republican board, they never did want to pay those taxes. They wanted to. But legal counsel was telling it was illegal. And so there's been a lot of, you know, in Dundy County here, well, those people up there are just wanting to stick it to us. And the problem with augmentation projects is location. You can't just go stick one. It has to fit. It has to fit. I won't get into the model and stream depletion and all that, but there's just a current...and the Lincoln County one just happened to fit in the right spot. And the Rock Creek one fit in a spot and so that's...it just happened to be that that's where they fit. And so, you know, Dundy County has, you know, suffered most of the consequences. But I don't think there's ever been any, you know, ill will between the current board and the commissioners. It's just I feel it's sorry that we have to go to court to generate what's legal. And so I see the red light is on so I'll just be quiet and I'll answer questions. Thank you. [LB758]

SENATOR BOSTELMAN: Thank you, Mr. Stamm. Does the committee members have any questions? I have a curiosity question. As Mr. Martin was talking about other things and you mentioned, too, you were looking at other things when this project came about. What are some of the other areas, ideas that you had in addition to? Can you...are there any you can elaborate on? [LB758]

SHAD STAMM: Well, I can tell you things that have been thrown out and I'm sure you've all seen the number. There's an allocation number that they're saying if we went down to everybody so that irrigation or irrigators within what they call the 10/50 area, which is a high impact area, which means, it might confuse us, but pumping in 10 years will affect streamflow by 50 percent I think. But to treat this the same as people that are way upland have very little impact on streamflow by underground pumping. And I think in Dundy County, don't quote me if I'm correct on this or in the Upper Republican, I think it's like 5.5 inches or something is the number I've seen thrown around. I'm going to talk my personal, I'm a farmer, have been for a long...quite

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a while. And Senator Carlson and I used to sit in the back of our task force and have arguments about, you know, retirement. And I always told him, I said there's two ways to do retirement. I said you can do it by implementation just strictly legislate it or you can take us down to our allocations are so low we have to (inaudible) they allow pooling in our NRD where you may have to lay one irrigated quarter out and not irrigate it at all and do two or one or something. And that's essentially what that would do, we would...and so that would affect land values and valuation. And two, they were talk just shutdowns, I mean, strictly shut down certain irrigators from no irrigation which obviously that's going to have an economic impact. And if it's long enough, I think the current law is you can change your practice from irrigation to dryland which is going to obviously affect valuation. So there's I guess in my opinion the numbers I saw that, you know, there's a far more greater economic effect from doing that than an augmentation project. [LB758]

SENATOR BOSTELMAN: Okay. [LB758]

SHAD STAMM: And truthfully what I believe is when we were in negotiations or when we...I can't remember exact, but when Kansas was bringing their accusations against us, I think that was...we had to come up with something to prove that we could become in compliance and augmentation project was one area. [LB758]

SENATOR BOSTELMAN: Okay. Thank you. Any other questions from the committee? Thank you, Mr. Stamm, appreciate it. [LB758]

SHAD STAMM: Thank you. [LB758]

SENATOR BOSTELMAN: Other proponents? Welcome. [LB758]

CONRAD NELSON: Good afternoon. [LB758]

SENATOR BOSTELMAN: Good afternoon. [LB758]

CONRAD NELSON: I'm Conrad Nelson from Wallace, Nebraska. I'm vice president of the Wallace School Board and I also farm and irrigate in the Wallace area. And so we've been in this deal all along because the majority of the land is in the Wallace School District on the N-CORPE land. So to start off with, we figured that approximate decrease in tax revenue was around \$250,000 per year when they moved from the irrigated classification to the grassland. On the other side of the table, I'm an irrigator and most of our land is within the two-mile range of the Red Willow Creek. So, you know, we were all worried about possibly getting shut down so we're

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kind of on both sides of it. But the Wallace School District has always felt that we took the brunt of it and we felt that the other NRDs and counties in some way should help us with the tax, you know, downfall that we took. So basically we're mildly in favor of Senator Hughes's bill. There's some wording in there that maybe is a little vague, but I just wanted to come and mention that we're here and wanted to give you guys some testimony on this. I think that's...we just feel it's probably...might be a small step but maybe it's a step in the right direction. So I think that's all I've really got. [LB758]

SENATOR BOSTELMAN: Okay. Thank you, Mr. Nelson. Senator McCollister. [LB758]

SENATOR McCOLLISTER: Yeah. Thank you for your testimony. What's the levy for the Wallace School District? [LB758]

CONRAD NELSON: Oh, right around 56 cents, no state aid. We do have option students. Of course, we get, oh, there's probably 60 students, 50 to 60 students option in so we do get some state money for that. But we're basically no state aid. You know, yeah, low levy, but we're one of the biggest school districts in the state so we got big land base. But it all boils back though to the taxpayer that, you know, they're taking the brunt of this decreased valuation. [LB758]

SENATOR McCOLLISTER: What's the budget of the Wallace School District? [LB758]

CONRAD NELSON: Around \$3.5 million and right at 200 students K-12. [LB758]

SENATOR McCOLLISTER: Thank you. [LB758]

CONRAD NELSON: So you bet. [LB758]

SENATOR BOSTELMAN: Other questions from committee members? [LB758]

CONRAD NELSON: Thank you. [LB758]

SENATOR BOSTELMAN: Senator Albrecht. [LB758]

SENATOR ALBRECHT: Just a quick question. You said you might have some heartburn on some of the verbiage. Is there anything in particular? [LB758]

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CONRAD NELSON: Well, I know the one statement said "may." Let's see, I'd have to look that up real quick. I know there's probably going to be some wordage in there that needs to be corrected, but let's see. On line 7 coming down from the top, you know. [LB758]

SENATOR ALBRECHT: May agree to make voluntary payments in lieu of taxes? [LB758]

CONRAD NELSON: You know, some of that is kind of vague to us but, you know, we just thought we'd mention that. [LB758]

SENATOR ALBRECHT: But you'd take their word if they said here under testimony that they would be happy to pay? [LB758]

CONRAD NELSON: Well, we think it's a step in the right direction so, yeah. [LB758]

SENATOR ALBRECHT: Thank you. [LB758]

CONRAD NELSON: You bet. [LB758]

SENATOR BOSTELMAN: Any other questions from the committee members? Thank you, Mr. Nelson. [LB758]

CONRAD NELSON: Thank you. [LB758]

SENATOR BOSTELMAN: Other proponents, please. Welcome. [LB758]

JAY REMPE: Thank you, Senator Bostelman. Senator, members of the committee, my name is Jay Rempe, J-a-y R-e-m-p-e. I'm with Nebraska Farm Bureau Federation testifying today on behalf of the organization in support of LB758 and the amendment that Senator Hughes offered to the bill. And I want to thank him and his office for sharing with us the amendment ahead of time so we could get a chance to look at it a little bit. As you know, this has been a very debated topic over the last couple of years and within Farm Bureau it has been too. At our annual meetings and policy meetings over the last couple of years we've had a lot of discussions about augmentation projects and their role and the issues that spin off of those, the taxes and like. And we kind of find ourselves in a unique situation in that we have members in Lincoln County that are directly affected by the N-CORPE project and have some concerns rightly so. We have members in the Republican Basin that recognize N-CORPE is a project that is very valuable for compact compliance and want to protect that irrigated base. Then we have members outside of

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the Republican Basin that want to make sure that if we make any changes in looking at ground water law that we don't do anything that upsets the rest of the state. And so we have a lot of interest in this and ultimately our policy came out that we want to work with you and others and anybody to try to resolve these issues and try to address a lot of the concerns that are being raised in Lincoln County but do so in a way that doesn't upset our underlying ground water law and that we don't mess things up statewide. And so that's why we come to you today. We think the amendment that Senator Hughes has drafted has done that. It provides a lot of the concerns we have is over the taxes and the tax impacts. It tries to account for that. We've heard concerns about the transparency of the project and public input. I think it does that with the hearing process and their annual report. We've heard concerns about the ground water pumping and our understanding the report would have each year an estimate of the pumping and what the future of pumping would look like. So it provides some more transparency on the project. And so for all those reasons, we're very supportive of what Senator Hughes is trying to do. And I think he...we take care of a lot of the problems that have been...or issues that have been raised with the project, with again, without upsetting our ground water law and the common law that it's based on. You've asked some questions about the property tax impacts. And this summer, your legal counsel and myself had a lot of the same questions. And so we worked with the Legislative Fiscal Office to get some estimates of what the impacts actually were because of the N-CORPE project. And real quick I'll share a little bit with you what we found or got from the Legislative Fiscal Office on that. And what they tried to look at is the value of the ground now as grassland and the taxes that they would pay as grassland versus the if it were left remaining in irrigated ground. And so they tried to attribute the growth in irrigated values that have occurred over the last few years and what they found was if the ground had remained in irrigated ground it would have been valued at roughly about \$65 million. Now I want to make a note that's about 75 percent of the \$89 million that the purchase price was so that's why the discrepancy there. And the \$16 million figure is what we had for what it's valued at now as grassland. And these figures came from the Lincoln County Assessor's Office and their certificate of taxes levied. So the Legislative Fiscal Office went directly to the source to get these figures. In terms of the property tax difference, the Fiscal Office calculated that already today because of the revaluing down to grassland there's been a loss of about \$484,000 in property taxes; and these are across to all entities in Lincoln County: the school districts, the county, the cemetery boards, you name it. It's all those districts. So we've already seen a loss of \$484,000. If you took all the property off the tax rolls if it were made completely exempt, it said that would cost another \$196,000. So in total if the property were completely taken off the tax rolls, roughly \$700,000. So to put that in context though, in Lincoln County all the property tax entities that collected property taxes in 2016--and these are all 2016 figures or estimates--collected \$73 million in taxes. So the impact is about 1 percent of the total taxes collected in Lincoln County again. And the gentleman that testified from Wallace School District, according to the...they were one of the harder hit, if it were all exempted, it's about 1.75 percent of their taxes or additional taxes and it's about...the change they've already experienced is about 7 percent of their taxes. So that Wallace School

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District where that land lies are the ones that suffered the most impact. So I thought I'd share that with you real quick. And I'd be happy if you have any more questions on the numbers to share with you what I know. [LB758]

SENATOR BOSTELMAN: Thank you, Mr. Rempe. Are there any questions from the committee? Seeing none, thank you very much for your testimony. [LB758]

JAY REMPE: Yeah, thank you. [LB758]

SENATOR BOSTELMAN: Other proponents, please. [LB758]

DON BLANKENAU: Good afternoon, Mr. Vice Chairman. Senator Hughes, members of the committee, my name is Don Blankenau. My first name is spelled D-o-n, last name B-l-a-n-k-e-n-a-u. I'm a lawyer here in Lincoln and I represent N-CORPE. I don't want to replot a lot of the same ground that you've already heard. But, I did want to clarify one issue that I think is critical to your understanding of this legislation and that is the voluntary payment component. Article VIII, Section 2 of Nebraska's Constitution represents a strict prohibition on the payment of property taxes by a public entity on property it owns if that property's primary or dominant use is for a public purpose which, as you heard, TERC has ruled was the case with both Rock Creek and N-CORPE. So N-CORPE in particular was concerned that by paying these property taxes without protest they would most likely be sued as violating the constitution. And as you're all aware, there's no shortage of litigation in the Republican River Basin so that fear was probably well grounded. So we began to work with Senator Hughes to try to figure out a way in which we could somehow create a legal avenue to pay these funds to minimize the impacts to Lincoln County and its many agencies. We came up with the voluntary approach and we think it has to be voluntary or it will again violate that constitutional provision and be found to be ultimately illegal. So it was very important that we keep that provision in there. Now I think, Senator Albrecht, you asked the question how comfortable is Wallace on the word of N-CORPE. And I think very clearly they're going to have to follow through and pay these in lieu of taxes should you pass this legislation. I think there are clearly political consequences if they would fail to do so. So I think this committee should rest assured that that would, in fact, be the case. So with that clarification, I'm happy to entertain any questions. [LB758]

SENATOR BOSTELMAN: Thank you, Mr. Blankenau. Any questions from committee members? One question I have and just...and I'm sure it's self-evident, but the thing is, is whatever happens with this land, it's going to stay dryland no matter what as long as the need is there to pump water as augmentation, correct? So it will not go back, it cannot go back as irrigated as far as valuation for tax purposes. It has to stay as it's valued now, correct? [LB758]

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DON BLANKENAU: I believe that's true, Senator. And that's in part because when this land was purchased there were, I believe, over 15,000, 16,000 acres of irrigated land at that time. And all of that was retired and it was done so, so as not to have any greater impact on either the Republican River Compact or the PRIP, as this augmentation project continued. If you were to allow it to go back to irrigation, you would effectively undo all of that value, even if you were pumping it continually as an augmentation project, although I would submit that level of pumping would probably be unsustainable at that point if you were to do both. [LB758]

SENATOR BOSTELMAN: Okay. Thank you. Any other questions? Seeing none, thank you, Mr. Blankenau, appreciate your testimony. [LB758]

DON BLANKENAU: Thank you very much. [LB758]

SENATOR BOSTELMAN: (Exhibits 2, 3) Other proponents? Do we have other proponents? Anyone wish to testify as a proponent for this bill? Okay, then we'll move to opponents. Anybody...sorry. We do have one letter...two letters that we've received proponents: Joseph Anderjaska, a Hayes County resident; and Patrick O'Brien, general manager of the Upper Niobrara White NRD. Now we'll move to opponents. Do we have anyone who wants to testify in opposition? Again, if you'd like to testify as an opponent, please move up to the queue in the front so we can...welcome. [LB758]

KIRK OLSON: Hello, Senators. My name is Kirk Olson, K-i-r-k O-l-s-o-n. I'm a taxpayer in Lincoln County. I'm here not because of occupation tax or not because of the augmentation project. I think that's probably doing a great job. From everything I hear from everybody that reports on it, I think it's probably doing everything it's supposed to do. But what I am here about is the real estate and the real estate value. We heard testimony how much the Wallace School District has lost in taxes, how much they're short. If the augmentation project is still using the water out from underneath the land, why is it not taxed on the irrigated acre rate? The county was used to collecting that much tax revenue. Then all of a sudden they had to be...they were short and somebody has got to make that up. So it looked to me like Lincoln County has got to make that up. Why can't it be the augmentation project? Why can't it come from the occupation tax? Should be paid by the whole project. It appears that there's 4 NRD districts involved, 16 counties. It looks like it would divide out a lot better that way than just one county. Jay Remppe presented we're 400-some-odd-thousand dollars short because of the difference between irrigated versus dryland. Lincoln County had to make that up, nowhere else. So now that burden was stuck on Lincoln County. I guess that's all. [LB758]

SENATOR BOSTELMAN: Thank you, Mr. Olson. [LB758]

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KIRK OLSON: Any questions? [LB758]

SENATOR BOSTELMAN: Questions from the committee members. [LB758]

KIRK OLSON: Yes, sir. [LB758]

SENATOR BOSTELMAN: Senator McCollister. [LB758]

SENATOR McCOLLISTER: Yeah, thank you, Senator. But wouldn't that make...wouldn't that model be unsustainable because N-CORPE would have insufficient revenue to pay that amount of money to the taxing bodies? [LB758]

KIRK OLSON: Thanks for bringing that up. Yes, you're exactly right. Says that...and Senator Hughes, I'm a little bit unclear exactly how that is to be paid. So we said from the rental rates. We're having a hard time establishing what the rental rate is on weeds and nobody has really come up with a rate for that. I mean, they put some cattle out there to graze but at a very minimal rate of return. There's eight center pivots there that are leased out today that are recently going to be traded I understand. That's on the books to be traded or was on the agenda for the N-CORPE meeting and has now been taken off but it's somewhere to be traded in the near future. So, you know, where is the income rate off of that rental rate? And so who does sustain that taxation? If we're truly talking about in lieu of taxes, who does truly pay that in lieu of taxes? Where does that come from? [LB758]

SENATOR McCOLLISTER: Sorry. I don't have an answer. [LB758]

KIRK OLSON: I wish you did because I'd really like to know where that is coming from. And if we're really here talking about in lieu of taxes, where does that come from? Okay. [LB758]

SENATOR BOSTELMAN: Okay. Do we have any other questions from the committee? [LB758]

KIRK OLSON: Thank you very much. [LB758]

SENATOR BOSTELMAN: Seeing none, thank you, Mr. Olson, for your testimony. Do we have others who wish to testify in opponent? Are there any others who would like to testify as an opponent? We have one letter from Julie Stenger, Lincoln County Assessor, as an opponent.

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We'll move next to neutral testifiers. Is there anyone who would like to testify in the neutral capacity? Welcome. [LB758]

RANDY ROBINSON: (Exhibit 4) Thank you, Senators. My name is Randy Robinson, R-a-n-d-y R-o-b-i-n-s-o-n. And I guess I'm technically here in a neutral stance as I read the initial bill. It indicated that the NRDs would collaborate with a representative of the county, and I fail to see how that provide any mode to help lessen the impact. With these amendments, it makes...the amendments to these points is a small piece of the puzzle of a large solution. These amendments could protect our counties, schools, and other local entities from losing more taxes and protecting them from having to pay the back protested taxes. However, as indicated earlier by a couple, the voluntary language (inaudible) payment is not for certain nor is the amount of payment with the language stating that the payment shall not be more than the real property taxes that would have been paid on the land for such year if the land were subject to taxation. So I guess that concerns me a little bit in terms and obviously we believe that N-CORPE would hopefully pay the taxes, but it certainly leaves a lot of gray area in there. My big problem is this does not fix the big problems. Look at N-CORPE as it is my neighbor and we farm and ranch on both sides of it, we're still looking at huge amounts of wasted tax dollars and poor stewardship of the land. The surface area has been overrun with weeds and presents a huge range fire risk in dry times. We're talking 19,000 acres, nearly 30 square miles that at this point in time is one lightning strike from the worst fire that area has seen. Additionally, there's a huge amount of money being spent managing the surface land. According to the final report of the economic and property tax impact of the N-CORPE augmentation project in the Republican Basin and Twin Platte Natural Resources District dated January 10 of 2018 and prepared for N-CORPE by the Bureau of Business Research Department of Economics UNL Director, Dr. Eric Thompson, other operating costs based on the 2018 N-CORPE budget, excluding demand and usage charges for wells and other well costs--so this is everything that has nothing to do with putting water in the river to stay in compliance--is \$1.39 million per year. Now I just roughed that out in 19,000 acres that means there are other operating costs to having nothing to do with putting water in the river is \$73.16 an acre. The cost to pump and maintain the wells for the project based on their budget is only \$696,000 or \$47 per acre assuming they would pump the full allocation. This year there's plans and the way things sound we're in good shape and it won't have to be ran at all so that money won't be spent. But this huge operating expense, folks, that's government waste. Those are tax dollars that aren't being used effectively. So as this is a small piece to the puzzle, I still believe the answer is to sell the surface land while maintaining the water to meet compact compliance. Absolutely I'm an irrigated farmer, compact compliance, the augmentation project is great; but the land is not needed. If we sell the land, this results in paying down the bond, stopping interest, good business management. It's also going to stop that large operating budget, one again, more dollars available to pay down bonds. It puts property tax burden back on private enterprise where it belongs. And it allows better stewardship of the surface land with private ownership. For those reasons, I'm neutral on this bill but I certainly hope to see Senator Hughes

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and Senator Groene work together to pass legislation to address these issues and accomplish sale of the land in the future. Thank you. [LB758]

SENATOR BOSTELMAN: Thank you, Mr. Robinson. Are there any questions from committee members? Seeing none, thank you, sir, for your testimony. Others who wish to testify in the neutral capacity. [LB758]

TRACY OLSON: And I have two handouts for the committee members, two separate handouts. Thank you. One of them is maybe one you already got from Ms. Stenger. [LB758]

SENATOR BOSTELMAN: Welcome. [LB758]

TRACY OLSON: (Exhibits 5, 6) Thank you. My name is Tracy Olson, T-r-a-c-y O-l-s-o-n, and I am also a Lincoln County taxpayer. And I'm actually here just solely to read Ms. Stenger's, Julie Stenger, our Lincoln County Assessor, a letter from her to read into testimony. So if you have any questions, I think she's included her address and her phone number there if you have any questions for her. Thank you. So if I may: Dear Senators, I am Julie Stenger, Lincoln County Assessor, and as an elected county official, I strive to do what is in the best interest for my taxpayers in Lincoln County. I wish I was able to attend this hearing but, unfortunately, I was unable to do so. However, I am sending this brief letter to go on the record as my testimony on LB758. With this letter, I would like to point out a few items of concern about the N-CORPE water augmentation project in Lincoln County which was implemented by the collaboration of four local natural resources districts. First, I want to start by saying that I am not opposed to the water augmentation project itself. And after speaking and meeting with many of the concerned taxpayers, most of them are not opposed to the augmentation either. The majority of the concerns are with the way the project was implemented, the lack of transparency and accountability, and the way the project has been handled and managed from the beginning. I do appreciate that Senator Hughes has recognized legislation needs to be written to clarify the limits of the natural resources districts. LB758 would somewhat help the political subdivisions within Lincoln County keep tax dollars on the tax rolls with the suggestion of an "in lieu" of tax for augmentation projects. However, there is a state statute already in place that allows for this, 77-202(b). Under the current statute, N-CORPE does not feel they are required to pay an "in lieu" of tax because their position is the predominant use is for a public purpose. New language needs to be written in statute to ensure that augmentation projects implemented by any NRD are required to pay an "in lieu" of tax. However, that does not help the taxpayers within Lincoln County at all. The NRDs are not like a public power or utility company that generates income with their public use projects. The NRDs' only source of income is through levying taxes or implementing an occupational tax, which, in turn, these taxes levied and occupational taxes implemented, are "footed" by the local Lincoln County taxpayers. The taxpayers of Lincoln

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County deserve a better solution. A bill that would allow the NRDs to do their augmentation projects by decertifying the water rights from property and the NRD retaining these water rights for the water project, without actually having to purchase the surface land would be a better solution. The land is not being used for any public purpose, so why does the NRD need to own this land? The Twin Platte NRD is already separating, selling, and even moving water rights to different properties and across county lines, which occurs numerous times throughout the year. Legislation that states it would allow water projects to separate the water rights from the surface land would allow the N-CORPE project to sell the land back to the local farmers and ranchers and get the land back on the tax rolls. This not only benefits the political subdivisions levying for taxes, it would also not put the burden of paying an in lieu of tax on all taxpayers in Lincoln County. The taxes would be paid by the actual land owner. This is a win-win situation for everyone. Again, I am glad senators are realizing that legislation needs to be drafted to protect all counties across the state of Nebraska from losing taxable land and tax dollars being lost due to water augmentation projects. There must be transparency and accountability by the NRDs as to not hurt their local taxpayers, the local economy, and the levying political subdivisions within the augmentation areas. Properly written legislation could make sure everyone is protected and all projects could be implemented with the best interest of the taxpayers and political subdivisions provided with all current and future projects. This could be done through requiring transparency and accountability and being able to separate the ground water rights from the surface land rights. Thank you for your time and your support in recognizing the issues being faced by Lincoln County, its taxpayers, and its political subdivisions. We need more specific language addressing transparency and accountability of the NRDs and their augmentation projects. Respectfully, Julie Stenger, Lincoln County Assessor. And thank you for your time. [LB758]

SENATOR BOSTELMAN: Thank you, Ms. Olson. Are there any questions from the committee members? Senator McCollister. [LB758]

SENATOR MCCOLLISTER: Yeah, thank you, Senator. Just a couple issues I'd like to understand better. [LB758]

TRACY OLSON: I'm not sure if I can answer them because I'm speaking for Ms. Stenger. [LB758]

SENATOR MCCOLLISTER: Okay, well, try your best. [LB758]

TRACY OLSON: Okay. [LB758]

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SENATOR McCOLLISTER: I understand, but thank you for your testimony. And the third paragraph it says "levying taxes or implementing an occupational tax" but I heard earlier this afternoon that N-CORPE also gets rents or pays rents. Rents are involved so that may be another source of income. [LB758]

TRACY OLSON: In one of our meetings, Julie Stenger said there was just recently one lease that had been turned in. Otherwise, she was not aware of any leases and so that's just a new, recent, you know, turned into the county. Otherwise, there's not been any leases that she is aware of on that property. [LB758]

SENATOR McCOLLISTER: Okay. And then finally...excuse me, did I interrupt? [LB758]

TRACY OLSON: Concerning the grazing land. [LB758]

SENATOR McCOLLISTER: I see. And finally in the fourth paragraph, "by decertifying the water rights from property" but I thought the state of Nebraska owned the water so a property owner doesn't actually own the water. [LB758]

TRACY OLSON: Right. Right. And I'm not sure what exactly she was referring to. She was talking about separating the land, the land rights and the water rights so they would be able to...so that if you owned the land you could also sell your water rights and, you know, just make your land not irrigated land. [LB758]

SENATOR McCOLLISTER: That's my understanding... [LB758]

TRACY OLSON: Right. [LB758]

SENATOR McCOLLISTER: ...so I may be wrong. [LB758]

TRACY OLSON: Right. [LB758]

SENATOR McCOLLISTER: Thank you. [LB758]

SENATOR BOSTELMAN: Are there other questions from committee members? Seeing none, thank you, Ms. Olson. [LB758]

TRACY OLSON: Thank you. [LB758]

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SENATOR BOSTELMAN: (Exhibit 7) Thank you for your testimony. Is there anyone else who would like to testify in the neutral capacity? Anyone else who would like to testify in neutral capacity? We have one letter from...in neutral capacity from Dean Edson, executive director, Nebraska's Association of Resources Districts. And with that, I'd invite Senator Hughes to come and close if he'd so like. [LB758]

SENATOR HUGHES: (Exhibit 8) Thank you, Vice Chairman Bostelman, members of the committee. Thank you for taking the time to sit through a very information-packed hearing. We've got a lot of different testimony. As I stated in my opening, this is a very complicated issue. There are a lot of different moving parts involved with N-CORPE and Rock Creek as augmentation projects. LB758, as amended, solves one of those problems. We need to make sure that we understand what this legislation does. Let's take care of this. We heard from school board members that this will solve their problem. Let's get that off the table and then we'll look at the rest of the issues that are coming along. I do have a couple of notes that I want to talk about. These augmentations are a local solution to the state's problem. This was not just an issue for Lincoln County or Dundey County. This was to keep the state of Nebraska in compliance. We're sacrificing 20,000 acres of irrigated ground to keep 500,000 acres in production in southwest Nebraska. You know, if you happen to live in the bottom of the river and they wanted to come in and put a dam, yeah, you lost; but it was for the greater good. The issues about why we put in "may" pay taxes rather than "shall" pay taxes is a constitutional issue. "May" is constitutional; "shall" is not. And the issue of trying to get the land back in to productive rangeland, I know you have all gotten the handout from the state NRCS rangeland management specialist. But I would like to kind of remind you of the paragraph that she said in her conclusion, and this is talking about the N-CORPE project, reestablishing the grass: When looking at the project as a whole, the success rate of the seedings exceeds what we have experienced when seeding other previously irrigated fields. The CREP program success rate in many counties with similar soils and climate conditions is around 40 to 50 percent. Many of those fields required five or six years before the stand became established. The higher success rate of N-CORPE seedings can be attributed to the active management by N-CORPE staff utilizing cattle for early weed control of species such as cheatgrass has been instrumental in improving the success rate of this seeding project. Annual forbs such as maretail, Russian thistle, and annual sunflowers are a normal part of succession which occurs when converting cropland back to perennial vegetation. The weeds provide a micro-climate that is beneficial to the seedings and do not inhibit stand establishment unless they are so dense that the old material forms a thick mat. Through the management of the seedings, this has not occurred. Control of noxious weeds, primarily Canadian and musk thistle, is a constant battle in this landscape and noxious weeds control has been effectively implemented throughout the seeding establishment. That is from Nadine Bishop, Nebraska Natural Resource Commission state rangeland management specialist. So I will reiterate again, there are several different issues with the augmentation projects. LB758 solves the tax issue.

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Let's get through it and then we'll work on the rest of them. So I'd be happy to answer any questions. [LB758]

SENATOR BOSTELMAN: (Exhibit 9) Thank you, Senator Hughes. Are there any other questions from the committee members? Seeing none, that will conclude our hearing on LB758. I would like to thank everyone who traveled a long ways today to come and testify today. The committee members especially appreciate that. Thank you. [LB758]