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Transcriber's Office

Revenue Committee
February 24, 2017

[LB253 LB288 LB498 LB602]

The Committee on Revenue met at 1:30 p.m. on Friday, February 24, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB602, LB498, LB253, and LB288. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Tyson Larson; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR FRIESEN: Okay, we'll call the hearing to order. Welcome to the Revenue Committee hearing. My name is Curt Friesen. I represent District 34. Our Chairman, Senator Smith, will be with us shortly. He's introducing another bill in a different committee. So we'll take up the bills in the order that they are posted. And our hearing today is the public part of the legislative process and this is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask you abide by the following procedures. I want you to turn off all your cell phones and electronic devices. You can move to the chair in the front of the room whenever you're ready to testify. And the order of testimony is the introducer, the proponents, opponents, neutral, and closing, so. If you'll be testifying, please complete the green form. Hand it to the committee clerk when you come up to testify. If you have written testimony or exhibits for the committee and you would like to distribute them, please hand them to the page to distribute. We need 11 copies for all committee members and staff and if you need additional copies, please ask the page to make copies for you. When you begin to testify, please state and spell your name for the record. Please be concise. It is my request that you limit your testimony to five minutes. And if necessary, we'll use...I think we'll be using the light system today, but we'll go with five minutes. You'll have four minutes green, one minute yellow, and at red wrap it up, please. If you'd like your position to be known but do not wish to testify, you're welcome to sign the white form at the back of the room and it will be included in the official record. Please speak directly into the microphone so our transcribers are able to hear your testimony. To my left here is Mary Jane Egr Edson. And to my further left is research analyst Kay Bergquist. And if you go...Krissa Delka is clear over at the end of the table. And so now I'll start...Tyson Larson will probably be joining us. He's from O'Neill, District 40. And I'll let the rest of the senators introduce themselves. [LB602]

SENATOR GROENE: Mike Groene, District 42, Lincoln County. [LB602]

SENATOR LINDSTROM: Brett Lindstrom, District 18, northwest Omaha. [LB602]

SENATOR BRASCH: Lydia Brasch, District 16, Burt County, Cuming County, and Washington County. [LB602]

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SENATOR SCHUMACHER: Paul Schumacher, District 22; that's Platte and part Colfax and Stanton Counties. [LB602]

SENATOR HARR: Burke Harr, Legislative District 8 representing parts of Douglas County. [LB602]

SENATOR FRIESEN: Okay, we have two pages helping us today, Alexi Richmond from Milwaukee, Wisconsin, and Sarah Wearne from Topeka, Kansas. So remember that senators may come and go during the hearing and they're...have probably bills to introduce in some other offices...hearings. So we will now open the hearing on LB602. [LB602]

SENATOR ERDMAN: (Exhibits 1-6) Thank you, Senator Friesen and Committee. Thank you for allowing me the opportunity to present LB602 today. My name is Steve, S-t-e-v-e, Erdman, E-r-d-m-a-n. I come to you today with LB602. It is my version of how we change from market to income approach for ag land. And Senator Groene said I got a good chance because it's cold enough here for you know what, so here we go. But what I propose to do today, I have a couple of things I'd like to share with you. First of all, I would like to share with you the problems that we have with the current system. I'd like to describe that in a way that you can understand why we need to do something different than were doing now. And consequently, what is happening in our current system is something that I became aware of back in 2005 when I first became a Morrill County Commissioner. We had a gentleman that owned land in the northern part of our county that would protest his valuation every year. And the first year that he came in he said, we need to change the way we value ag land from market to income approach because, he said, my grassland has a lot of mountains, a lot of hills, a lot of breaks and they don't produce any grass and I pay the same price as the guy who produces a lot of grass. So we need to change the provision in the way we do this. I shared with Mr. Green that every year I agreed with him, that that would be a more fair approach, but the statute did not allow us to do that and we needed to adhere to what we were given to do. And so I told him if I ever got a chance, that this would be one of the things that I would try to do if I ever got here. Mr. Green protested for five or six years and then he became of an age when he couldn't and then his son took over. And so we've heard from the Green family every year since 2005. I don't disagree with what they were trying to tell me. So here today I have LB602 to try to help solve that problem. Currently, we have a system that uses about 1 percent of the annual...annually 1 percent of the farmland or agricultural land in the county is sold on an annual basis and it sets the price for the other 99 percent. I forgot to mention to you I passed out an amendment and that bill that I...what I passed out is going to be the bill. I had it rewritten because I made some amendments to it. So if you're working off of the green copy that won't be very good. You need to go to the copy I handed out if you would, please. So anyway, back to my comments about the 99 percent of the land being valued at 1 percent of the sales, there are many reasons why agricultural land is purchased by people and most of those don't have a lot of influence on agriculture. They have an influence because of it's

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a sure place to put money or whatever other reasons they spend their money...put their money there for that reason. So 1 percent values the property, the 99 percent of the property that does not sell. The other situation that I find myself in is in our county several years ago, our Morrill County Assessor has divided our county into three market areas. And in the northern market area we had ag land sales on dryland, we had two parcels sell in three years. There's about 500 parcels in that market area; 2 percent...two land sales in three years. She borrowed sales from the adjacent counties to get enough sales to make a sales array. From those sales she developed a method to raise the price of that ag land 10 percent. What happened in Morrill County wasn't exactly what happened because of the raise. Because of borrowed sales, she was able to raise the value. That is a problem. That's what's wrong with our system today is we borrow sales from one county to the next and all of these things are extenuating circumstances that have nothing to do with production, so the Property Assessment Division has a great amount of authority over how our assessors value ag land. Agricultural land sales are also included in the sales array that aren't arm's-length transactions. And by that, I mean I've had several people tell me that when their...before their dad passed they said if that land between us comes up for sale you buy it no matter what the price is. And they do and they use those sales. They use 1031 exchange sales and they drive the price up and so most people who are farming are doing agricultural things with their land pay more taxes because of those sales that are included. So we see that happening all over and it is a problem for us. It's an unfair way to value ag land for those people who are using it to produce agricultural products. One of the issues that is most troubling to me is back in 2005 when I first became a county commissioner, I realized that our county valuation hadn't changed much in the previous years before I got there. And for the next four years it changed 3 percent total. And the other county commissioners and I were perplexed as to why everyone else's county was going up 15 percent and 20 percent annually and ours hadn't change. What I discovered and the Assessment Division had a liaison between the Assessment Division and our county, for 16 years they had the same liaison, they never caught the mistake that our assessor was doing. Our assessor was putting dryland sales into irrigated land, irrigated land into grassland; whatever she could do to hold our value the same, that's what she was doing. I discovered...I'm not a genius. I didn't discover it on purpose. I was doing some other analysis and I discovered it. The point was the Assessment Division should have caught that. When it was brought to their attention they came and did a whole county reevaluation of our county. In 2010, they gave me a choice. They said either you do a total reevaluation of your county or we will. And we're estimating it's going to cost \$1 million. So we put it out for bids and we got a firm to do that for us. It cost us about \$490,000 to do a county reevaluation for the whole county. What we found was dryland agricultural land in Morrill County was valued \$125 an acre prior to our reevaluation. When we came out of the reevaluation, it was \$250. We found that the feedlots in our county had not been adjusted for 16 years. We adjusted those. They went up 400 percent. So coming the first week in June the next year, we had 500 people, 500 protests on their ag valuations. And I got calls that said things like this: Erdman, you should have kept your mouth shut. We were doing just fine. I don't know why you had to go meddle in that thing and raise our

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taxes. The point was I took an oath. I took an oath to hold up the Constitution of the state of Nebraska and apply those as I seen fit. And once I discovered it, I had no choice. So now I have 500 people coming in to protest. So now I need to understand how is it that we arrived at these values, how do they get this value? And as I begin that process to try to discover what it is we do in Nebraska to try to arrive at ag land values, I discovered something that's kind of strange. What they do when they get ag land sales in, they always tell you that it's a three-year average for ag sales. Average has never been included. It is never an average. They take an array of sales from the last three years and they put those into an array and what they do is they divide the sale price by the assessed value and they get a percentage. Say, for example, if you were going to sell...if you sold a piece of land and it was assessed at \$750 an acre and it sold for \$1,000, the assessed value was 75 percent of the sale price. They do that on every piece of land that sells in that array. And if there's 23, 25 sales, whatever is in that three-year array, they choose the median number. It's not an average, never has been, never will, never will be. So when I sit down across from most farmers who came in and were protesting their value and I explained to them how we arrived at their value, they could not believe it. So now they're upset their value went up and they're more upset because they can't understand how you arrived at their value. The system we have now is broken. It doesn't work. It's very, very subjective and you can make it do whatever you want to do by adjusting the figures. So we need to fix the system that we have now. Henceforth, is LB602. LB602 is my attempt to solve that problem. LB602 is a bill that I have introduced. I had gotten here on January 4 as you all know. The first four days, my office had M-E-N on the front door. That's about where I was. I had no office. I didn't get an office until Monday; that was the fourth day...the fifth day until we got our Internet hooked up so that we could actually do something. So the next five days you have to have a bill ready to be introduced. And so the green copy you have is what we introduced on the tenth day, all right? We've since revised that and what you've seen there in the amendment is going to be the bill as far as I see it now. I'm not a bill writer. I understand the concept and what I want to do. My goal is to make this as efficient as possible and as transparent as it can be. And I told Senator Harr I would hope that this is simple enough that he could explain it to his son. So we'll see if we can do that. So what I want to do, what I intend to do in this bill is I intend to have a board of six people appointed. That committee will be appointed by the Governor. Those people's jobs will be to develop a...the set of information as to what is produced in each county, the most probable crops grown in each county and those crops then will be...you'll get the total amount of acres of those crops in each county, the total production times the average price will get you total production for that crop for that county. We'll do that with all crops that are grown in that county. We will get a total production for the county and then we will divide that by the total acres and that will give us the total income...total average income per acre. Once we've arrived at the total income per acre, then we will divide that by the capitalization rate...well, excuse me, back up. What we'll do then after we get the total gross average income, we will multiply that times the landlord share. And in my bill it describes landlord share as being 35 percent for dryland, 35 percent for irrigated gravity irrigation, and 40 percent for pivot irrigation. My thought there was pivot

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irrigation is worth more, brings more money, returns more production, and it should be valued higher so that was henceforth the 40 percent. Grassland, we will use the landlord share, 100 percent of the landlord share of the average rental rate per stocking unit and that will be derived from the University of Nebraska information. Once we have gotten the average landlord share then we will divide that by the capitalization rate and when I originally introduced the bill, I put in 6 percent as a capitalization rate. I needed to put something in there before we put the bill in and that's the number we chose. The number was randomly selected basically, but I will share with you how we got to 6 percent. South Dakota does a similar thing to what we do. And what I did, I had my staff call South Dakota and visit with them, how they got their capitalization rate and theirs is 6.6 percent. What they did is at the beginning of their process when they implemented this, they took the total amount of ag land values in South Dakota then they discovered the total production that they had in South Dakota and they backed into the capitalization rate of 6.6 percent. They have used 6.6 percent because their value was the same before they started this program and after was still...was the same. That is my intentions with this bill. This bill does...I don't intend for this bill to lower values of ag land because I believe that if I would approach Senator Harr and perhaps Senator Schumacher and a few other urban senators and I said this is a property tax relief bill, it may not get past center. It may not get off of first base. And so what this...what I intend to do is have the committee on the first day when this comes into effect is have them set the capitalization rate so the value for ag land will be very similar as possible...as similar as possible to what the value is now. The reason for changing is all of those things that I mentioned beforehand about the problems we have with the current system. So I don't intend this to be a property tax relief. What I would really like to be is a 10 percent reduction, but I don't think Senator Harr would agree to that. So you have to understand what you can do what you can't do. And so going forward the committee will be appointed by the Governor. There will be six people on that committee. I describe in the bill what groups I would like to see those people come from. Senator Harr and I had a discussion and he asked if I was dead set on those people. I said, I'm negotiable. Whoever we think would best serve us in that capacity, that would be my intention to do. So that committee then would discover what the annual gross landlord share is and they would distribute that information to the assessment division. And then the assessment division would distribute the information to the counties. The assessment of the property would be the authority of the county assessor and I have a document here. I'd like you to pass it around. This document explains briefly how the county assessor may apply that information or those statistics once she gets it. My intention is to have this to be open and forthright, that everybody can understand it. It's very objective. They discover what the yield is. They discover what the acres are. They divide it...they multiply it times the price and it's a multiplication/division process and it doesn't have all the subjectivity that the current system has. And so as you'll see on the document you're going to receive there, it's just a brief explanation. What would happen is they would send out the information to each county. The total value per acre would arrive there and then the county assessor would determine the production of each class of soil. And number one...1.0 would be the highest production. They would pay the most.

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Their value would be the highest. And then each soil type would be based on the...as a relationship to the number one soil, the highest soil. And consequently as you see in the explanation under that one in the middle, it's the first soil would be 72 percent of the normal. So the county assessor would know how many...she would know how many acres of each type of soil is in a parcel. She would multiply the 72 percent by the acres times the price that was derived from multiplying the average price the county received from the committee. And they would come up with the total dollars for that tract of land for that class of soil. And then they would total it up and that would be your valuation. So consequently it's a straightforward, pretty easy to understand process. Anyone would be able to comprehend what their taxes would be once they would understand how we arrived at the numbers. I believe these numbers should be picked up from the USDA or those agencies that collect that kind of information. I believe the committee's job...that's what they would...they would have to have somebody on staff to collect that information for them. And then they would go ahead and figure out what exactly each county's yield is. I set up in the bill...the bill says that we would appoint two people for two years. We would appoint two people for three years. And we would appoint two people for four years. It also says that they could serve three terms. So if they served their full terms, one group of two would serve 10 years, one could serve 11, and two would serve 12. I put in there they could only be reappointed three times. So in a nutshell that's what I'm trying to accomplish. One of the issues that I see...that I've seen in the sales method we use now, whenever you're using the sales of the land to develop the capitalization rate or whatever it is, I believe that is a problem for us. I think when we go forward the capitalization rate, once we figure out what the average value needs to be to be the same as it was, has to be frozen. The capitalization rate has to be consistent. It has to be the same. And then the only fluctuating value you have going forward is the production and the price because if we don't have the capitalization frozen at one certain level and you can adjust the capitalization rate as you need to, that's exactly what will happen. And as has happened in the past, when we say to some entity that's collecting taxes your budget can only go up 3 percent, that's exactly how much it's going to go up. And so consequently I don't have a provision how much it can go up. I don't want to put a restriction on that because it will be developed...that will be determined by the price and the production. So consequently going forward it will be a very straightforward program. It starts on January 1, 2019. I believe that probably sometime before we get to next session we ought to have a mock run or a pilot program put together to see what things I haven't thought of that need to be thought of and implemented and that would give us an opportunity next session. If we needed to make some adjustments before it went into effect in 2019, we could make the necessary adjustments. So I think that kind of wraps up where I'd like to be as far as explaining what I'd like to say and the concept. As I said earlier, I haven't been here very long. I don't know much about writing bills, but I do understand the concept. The bill might not be written exactly as it need to be written, but I'll tell you this, the concept is what I'm trying to promote today. And we need to make it simple, straightforward so that agriculture gets a fair shake and we don't get...we don't continually be forced to pay higher taxes because someone bought a piece of land for some other reason beside

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agricultural production. So with that, I will stop there and ask if there's any questions. I have some other people behind me that will be able to answer some of the technical things that I may not be able to. But I appreciate your time. [LB602]

SENATOR FRIESEN: Thank you, Senator Erdman. Questions from the committee? Senator Brasch. [LB602]

SENATOR BRASCH: Thank you, Vice Chair Friesen, and thank you, Senator Erdman, for bringing this bill forward. As you know, we share a concern on how we're valuing ag land today is faulty. [LB602]

SENATOR ERDMAN: That's correct. [LB602]

SENATOR BRASCH: How we're going to get to the end of the road, we have different ideas. My question--and I'm trying to visualize your board--have you talked with any of these entities? Have you reached out to the FSA? Have you reached out...? And then we have 93 counties. You know, how...what is the basis of getting one commissioner...is it Douglas County Commissioner? Is it Deuel County? I'm just looking. And some of the boards...and the reason I'm scratching my head a little bit is in the Ag Committee, we're in a quandary right now on I'm trying to get everyone together on LB600 from the Brand Committee. It's becoming like herding cats basically to get a group of people to think this is the best way. And so as you're picking a committee, I don't know if it's ideal. I don't know...and a commissioner, are you paying? Will this board receive wages, a salary, or is it just a per diem for travel? Commissioners do get wages currently, correct? Is that right? [LB602]

SENATOR ERDMAN: Yeah. Yes. [LB602]

SENATOR BRASCH: And they get maybe health insurance or something like that, too. There are some benefits built in. Are there any benefits here other than being a part of the board? What are we going to have to lay out to get a committee of...is it either goodwill or compensation? The committee is what I do question, but I understand why you're doing it. [LB602]

SENATOR ERDMAN: Okay, so when you mention commissioner, can I ask you what you're referring to when you say commissioner? [LB602]

SENATOR BRASCH: I thought I read one of your...excuse me, oh, county assessor. Some of them call them commissioners, correct? [LB602]

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SENATOR ERDMAN: No. [LB602]

SENATOR BRASCH: Oh, no? That's totally separate? Okay. Your county assessor, we have 93 counties, so is it just...? [LB602]

SENATOR ERDMAN: I don't think that would be a problem getting a county assessor or just to get a hold of NACO and find out which one would be willing to do that. I haven't reached out to these committee people. It's a little difficult to get the cart before the horse. I have no idea whether it's going to get any traction. [LB602]

SENATOR BRASCH: Exactly. That's my point being... [LB602]

SENATOR ERDMAN: And I didn't reach out to these people. [LB602]

SENATOR BRASCH: ...will the committee get traction? [LB602]

SENATOR ERDMAN: The committee will be appointed by the Governor. [LB602]

SENATOR BRASCH: Correct. [LB602]

SENATOR ERDMAN: That will not be my selection. [LB602]

SENATOR BRASCH: Correct. [LB602]

SENATOR ERDMAN: That will be the Governor's decision who he appoints there. And I would assume that he probably appoints...I think there are some people he appoints to the committee that reviews the...our funding every year, the review committee. So he's used to appointing people. I think he'll have that opportunity in this bill as well. My thought for the committee, my thought why we'd have a committee is because I believe it's a conflict of interest when we have the Property Assessment Division tells my county assessor how to value her property because when that happens there's a conflict there because the county assessor follows those directions. And the Property Assessment Division, their goal is to keep my value as high as possible because the higher my value is, that's the less state aid we need and the less help the state has to give us. It's a conflict of interest when the people who are telling you how to value your properties stands to gain the most by having it high. So this takes that authority away from them. It gives an opportunity for an independent body to look at the information and all they're gathering is from the USDA, what was the acres planted in that county; from the USDA, what

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was yield; what is the average price? All those things are very easy to discover, multiplication and division is all the committee will do and their job is to figure out what each county has grown and what was the price. [LB602]

SENATOR BRASCH: And I understand what you're saying, too, but again, out of the 93 counties, finding the right county assessor, will NACO be able to pick the right one? And also when you're talking about a farm advocacy organization, there's numerous organizations, too. And only to pick one, again, I just see the potential for questioning. When one is picked, another will second guess or question. And so bringing this entire group together, I think, would be a challenge, most likely time consuming, and just to get it operational would take time. And I don't think we have that much time is my opinion on trying to get off of real estate valuation onto a commodity based similar as you're saying to South Dakota. Do they have a committee? [LB602]

SENATOR ERDMAN: I realize that government moves slow, but we have almost two years. I think that would be sufficient time to choose a committee. The Governor chooses committees now. How do you think he does that? I have no idea how he does it. I believe the Governor is smart enough to figure out who these committee members should be. I don't see that as a problem. I don't see that as a problem at all. The concept... [LB602]

SENATOR BRASCH: And forming a new committee. [LB602]

SENATOR ERDMAN: The concept of this bill is trying to change the market from market to income, okay? That's the concept. What this committee is going to be reimbursed or remunerated for being here, I didn't put that in there. If that needs to be included I can sure do that. The point is we have already...the Governor is in place to appoint other committees. He can do this one as well. I don't think the criteria to try to figure out who needs to be on this committee is a difficult situation. [LB602]

SENATOR BRASCH: And I don't know how many new committees are being created as we speak. I believe, you know, it comes with legislation and then...and it does matter if there is compensation because that is a fiscal note. And... [LB602]

SENATOR ERDMAN: Yeah. Well, we'll talk about...the fiscal note, if we would put this in place, there would be people that I would assume in the Assessment Division that would no longer be needed. So if you want to talk about a fiscal note, it may be a savings... [LB602]

SENATOR BRASCH: And you're talking about... [LB602]

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SENATOR ERDMAN: ...because these people won't be paid near as much as those people that are working there now. [LB602]

SENATOR BRASCH: And you're speaking about the Department of Revenue or within the assessors' offices? [LB602]

SENATOR ERDMAN: I'm talking about the PTA. [LB602]

SENATOR BRASCH: Okay, very good. Now, I do agree...and then my other question is, does South Dakota have such a committee and, if so, are they similar? Was that question asked of them? [LB602]

SENATOR ERDMAN: I do not know that. [LB602]

SENATOR BRASCH: You did not ask them. [LB602]

SENATOR ERDMAN: I did not ask them. [LB602]

SENATOR BRASCH: Okay. And we do know that many other states are no longer using the real estate. And when you talk about compared land sales, you know, just most recently it was told to the assessors that you can throw out once-in-a-lifetime sales, land sold for recreational use. There's four different ways where immediately without legislation assessment can...valuation can take place that would help offset what we've seen as the anomalies. [LB602]

SENATOR ERDMAN: Okay. [LB602]

SENATOR BRASCH: Would you agree? [LB602]

SENATOR ERDMAN: No. [LB602]

SENATOR BRASCH: No. [LB602]

SENATOR ERDMAN: My problem is you do those, you remove those sales, you throw those out, then the percentage of sales even goes lower. If 1 percent of the land is being sold now including those sales and you remove those then you have less sales. The problem is we have too few of sales to set the price for everybody. That's the problem. And those sales have been...the Governor had mentioned that about a month ago. He was going to ask the Assessment Division

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to tell people that and I understand that. It should have been happening like that all along and statute allowed that. The Assessment Division chose not to let them do that and instructed them to do otherwise. That's the problem. The problem is the Assessment Division has too much authority over how they value your property. [LB602]

SENATOR BRASCH: Thank you. I have no other questions. Thank you, Mr. Vice Chair. [LB602]

SENATOR FRIESEN: Thank you, Senator Brasch. Any other questions from the committee? I've just got a couple. I guess I'm kind of clarifying how we...how you're setting some values. Currently, you know, I've visited with my assessors this summer and when I look at my land values I've never really had a complaint on the value that they've assessed it at. But we're kind of a different area than you. We have probably a few more sales. And my assessor has done a really good job of, I think, taking out the highs and lows that she felt she needed to. And they were experienced. They've done a good job. I've got no complaints. I've had two or three phone calls with people complaining about their valuation. So when I look at this, you're going to get a crop production and the type of crops and you're going to get that from the USDA and that's going to be an eight-year average, is that way I understand it? [LB602]

SENATOR ERDMAN: Correct. Senator, when sometimes like on the grassland, it may have to go to the university on three-year average of rental rates. But all those statistics that we need to gather are out there. [LB602]

SENATOR FRIESEN: So those are done through farmer surveys, different census... [LB602]

SENATOR ERDMAN: Right, that's correct. [LB602]

SENATOR FRIESEN: ...types, forms that are filled out. Do you feel those are fairly accurate? [LB602]

SENATOR ERDMAN: I believe they are. You know, I believe they're as accurate as we can get. I mean those people do that for a reason. They put out those NebGuides that tell you what the rental rates are and those kind of things and that information needs to be as accurate as possible. [LB602]

SENATOR FRIESEN: So then when you're getting...are you getting down to those...you're taking out the soil survey maps. You're not going to look at those anymore. You're just going to look at the productivity of that farm? [LB602]

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SENATOR ERDMAN: The productivity of the soil types and that's what the...when I passed out that information there, that is an example that's in...this information I gave you was an example of the soil types that are used in South Dakota. That's how they do it. And in Nebraska we have the same kind of classification of soil. Right now, they have land class groupings. They group certain soils all together in a grouping and that does not work as well as when you divide it out to each specific soil. They have the information about how much each type of soil will produce, whether it was dryland or irrigated, and that information is readily available. [LB602]

SENATOR FRIESEN: And so you're just going to establish the yield by soil type. [LB602]

SENATOR ERDMAN: Correct, the production. [LB602]

SENATOR FRIESEN: And that will have a...each parcel of ground will have total amount of production on that parcel. [LB602]

SENATOR ERDMAN: Yeah. [LB602]

SENATOR FRIESEN: And so it will take into account dryland, irrigated, different corners, things like that. [LB602]

SENATOR ERDMAN: Right. So on the piece of paper I gave you, okay, if you'll go down and look at the bottom where those...where the ratings are, the map unit, if you see that there, it's this one here. [LB602]

SENATOR FRIESEN: Yep. [LB602]

SENATOR ERDMAN: Okay. So the soil type, this is a 160-acre farm. And the soil type, HIB. There was 42 acres of that soil. And that soil rating was 72 percent. So what they did is the whole county value for that crop...that county was \$125 an acre. So they multiplied \$125 by the 72 percent. That got the \$90 per acre. There were 42 acres of that HIB land in that quarter, and they multiplied the 42 acres times the \$90 and they \$3,780 in value. And they did that with every soil type down to the bottom. And then you go down to the bottom. Evidently this quarter must have had some grass. Noncrop soils, you see that at the bottom? Those noncrop soils were then added back in and then clear at the bottom it says 160 acres. That would be what they would similar do on your agricultural land. They would do the same thing. So you'd have a total number of acres. You'd have a unit of value. And then you'd have a total value for the property. [LB602]

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SENATOR FRIESEN: So in the end, you mentioned that we were going to end up with the exact same value that we currently have. What changes then? What are you not happy with in establishing the price, because if we're...the prices are correct where we're at, that's where we're going to end up, what have we accomplished? [LB602]

SENATOR ERDMAN: When you say price, what do you mean? [LB602]

SENATOR FRIESEN: You said when you were done with the calculations here we were going to end up with the same values. [LB602]

SENATOR ERDMAN: Correct. [LB602]

SENATOR FRIESEN: We're just going to come about it from a different direction. [LB602]

SENATOR ERDMAN: Correct. So let's say today it's estimated there's \$100 billion worth of ag value. If that went into effect today, I want to have \$100 billion worth of ag value. And my agricultural friends would like me to lower that value because agricultural value has increased more rapidly than any other class of soil or property. I understand that, but I don't believe we can get that passed. So my goal is to keep it the same, revenue neutral, value neutral, but it will eliminate those problems going forward when those arm's-length sales happen that are outside the arm's-length transaction, they're considered and people buy land for certain reasons that are not production. And if you freeze the capitalization rate and the only thing that can change is the production and the price, your value is going to be very consistent. And if we get...when we get down...I forgot to mention that I'm going to use three years the first year, four years the second, five the third, and we'll go on until we get to eight years. Once we get to eight years we'll go to an Olympic average. [LB602]

SENATOR FRIESEN: Okay, so you're not looking back eight years. [LB602]

SENATOR ERDMAN: No, sir. I'm going back three years. And my thought for going back three years is very simple. I'll just tell you straight up. I don't want to go back and pick up some of those yields and prices in 2012 and '11 when it was \$12 wheat and \$8 corn. So we're going to go back three years to start with. And so when we get to '19, we will use '18, '17, and '16, those three years, and we'll move forward. The next year it will be four years, five years, and then when we get to 2024 it will be an eight-year Olympic average. We'll throw out the high and low and average other six. My goal is to keep that value of ag land consistent. If you do not lock in the capitalization rate and you're able to adjust that, you have the same procedure as when you were going to lower ag land values from 75 percent to 65 percent and you don't freeze the mill

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levy, you're not...you haven't done anything because the mill levy will just go up. That's why it's vital that the capitalization rate has to be one consistent number. And I want that number to be discovered on that very first day so the valuation is the same as it was before. The savings in property tax has to come in a new way to fund schools and a different way to fund those things that property tax is paying now, not through this program. I don't believe this is the mechanism or the vehicle to get property tax relief. [LB602]

SENATOR FRIESEN: You know, and without understanding it I guess better yet, and you did a pretty good job, I just need to sit down and go through some numbers now. But my concern initially is when I think about in our area we are at a highly inflated land price right now yet and probably still going to stay steady. And our corn price obviously has dropped. And so when we start to put this into action here I'm concerned that we're kind of out of whack with everything. And if we would be putting this...and if we would have put this in before the spike or after our land prices have settled at a low, I can see where it would work in a nice, stable manner. I'm a little concerned now of where we're at in prices and the differential between the two I guess. So if we could work through some numbers down the road I'd be glad to work with you. [LB602]

SENATOR ERDMAN: I understand. So let me just mention this. Do you think that the ag land is slipping back some, their values? [LB602]

SENATOR FRIESEN: It is. Our cash prices have dropped in our area, I would say, \$3,000 an acre. [LB602]

SENATOR ERDMAN: Okay. [LB602]

SENATOR FRIESEN: But our valuations are probably going to hold steady to go up a little bit because of the three-year rolling average, whatever they call it. I didn't go into the details on how they average or if it's the mean. [LB602]

SENATOR ERDMAN: Let me share a story or example of what happened to us several years back in Morrill County. We had a gentleman who was older, lived in Kansas, owned 17 farms in our county, and he was wanting to get out of the agricultural land because his kids weren't interested in it. So he decided to sell all of his farms to his tenants at the assessed value. And the assessed value was between \$1,800 and \$2,300 an acre. The land was probably worth \$4,000 to \$4,500 an acre. So it's about half price. So he made those sales, sold them all. And everyone in our county said, okay, our ag values are finally going to go down because it's a three-year average. Remember the three-year average. They're going to go down. So we do those sales. A year goes by. Our ag land goes up 6 percent. Everyone says, what happened? Well, what happened was when we did the formulation or the calculation and we chose the median number,

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not one of those 17 sales got to the median number. And so consequently the number they chose was higher than the average would have been because there's no average. And now these farmers are totally upset because they thought it was a three-year average and we had these 17 sales way below market, so the price should be cheaper, right? But it didn't happen. And so consequently by the time we get through...Senator, by the time we get to '19, I would hope that our values have slipped back 15 percent, 20 percent and the starting level in '19 will be substantially less than we are today. [LB602]

SENATOR FRIESEN: Do you feel this is widespread problem? Are we trying to fix one or two counties' problem by changing our method? [LB602]

SENATOR ERDMAN: No. This is everywhere. [LB602]

SENATOR FRIESEN: Okay. Thank you. Senator Groene. [LB602]

SENATOR GROENE: I'm confused. There's a lot of words here. Thank you, Vice Chair. The market value plays no part in this at all? [LB602]

SENATOR ERDMAN: Not at all. [LB602]

SENATOR GROENE: If you're using capitalized income and you say the values aren't going to change, then the market value must be accurate. The Greens that you talked about that come in every year, they're going to end up with the same value? [LB602]

SENATOR ERDMAN: They'll have the same value. [LB602]

SENATOR GROENE: So when does it fix it? [LB602]

SENATOR ERDMAN: It fixes it that we don't use those sales to inflate the price of the land; 99 percent of the land is based on 1 percent of land selling. [LB602]

SENATOR GROENE: All right, so let's say land prices go down... [LB602]

SENATOR ERDMAN: Yes, sir. [LB602]

SENATOR GROENE: ...and income stays about the same, their land will not go down. [LB602]

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SENATOR ERDMAN: Their land value will be steady; based on production. [LB602]

SENATOR GROENE: So it wouldn't go down. You're going to have to explain it to me. [LB602]

SENATOR ERDMAN: But that's what the goal is, to keep land values steady. And consequently, if you change the capitalization rate and if you do not keep that consistent, then it has an opportunity to fluctuate. [LB602]

SENATOR GROENE: Can I continue? Somebody has a real sandy quarter right next to three quarters that are hard ground--and we see it all the time in our area--that person's sand right now is valued the same as the good ground. This doesn't help him? [LB602]

SENATOR ERDMAN: Yep, it does. [LB602]

SENATOR GROENE: You said it stayed the same. [LB602]

SENATOR ERDMAN: His ground will be based...his value will based on the production of his soil. [LB602]

SENATOR GROENE: So his valuation should go down. [LB602]

SENATOR ERDMAN: Right, correct. [LB602]

SENATOR GROENE: You just said everybody's stays the same. [LB602]

SENATOR ERDMAN: Well, I meant it stays the same once it's put in place. The value, the percentage, the capitalization rate... [LB602]

SENATOR GROENE: So everybody's will adjust. [LB602]

SENATOR ERDMAN: Right. It will adjust according to their... [LB602]

SENATOR GROENE: So the Greens' will adjust. [LB602]

SENATOR ERDMAN: Yeah, according to their production, according to their... [LB602]

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SENATOR GROENE: I think you said their name was Green, the family that comes in every year. [LB602]

SENATOR ERDMAN: Yeah. [LB602]

SENATOR GROENE: Theirs will adjust? [LB602]

SENATOR ERDMAN: Correct. [LB602]

SENATOR GROENE: So they will quit coming in and protesting. [LB602]

SENATOR ERDMAN: Well, we have a better way to defend what we're doing. [LB602]

SENATOR GROENE: Yeah, I'm just saying it would adjust for them. [LB602]

SENATOR ERDMAN: Yeah. [LB602]

SENATOR FRIESEN: Done? [LB602]

SENATOR GROENE: I'm done. I think so. [LB602]

SENATOR FRIESEN: Thank you, Senator Groene. Any other questions from the committee? Seeing none, you going to stick around for closing? [LB602]

SENATOR ERDMAN: Oh, yeah. I will. Thank you. [LB602]

SENATOR FRIESEN: Okay. Thank you. Any proponents who wish to come testify on LB602, proponents. Welcome. [LB602]

KEN HERZ: (Exhibit 7) Good afternoon. Thank you, Senator and members of the Revenue Committee. My name is Ken Herz, K-e-n H-e-r-z, and I'm here today on behalf of the Nebraska Agriculture Leaders Working Group which is comprised of elected leaders from the Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Farm Bureau, Nebraska Pork Producers, Nebraska Soybean Growers, and the Nebraska Dairy Association. We are testifying in support of LB602. This bill was introduced by Senator Erdman to adopt an income capitalization methodology, which is basically income divided by the rate of return, or capitalization rate, to

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valuing agricultural land. We would like to start by thanking Senator Erdman for his leadership on this issue and the thoughtfulness behind his approach. Currently, Nebraska determines the taxable value of agricultural land using a comparable sales approach, while our bordering states use some form of an income capitalization approach. Our organizations, to various degrees, have policy supporting the use of an income-based approach to valuing agricultural land for tax purposes. The longstanding belief has been that an income approach, similar to that used in surrounding states, gets us closer to taxing ag land based on its true production capability. It is also a way to minimize outside influences which can drive ag land value beyond actual production capabilities. As earlier mentioned, there are two basic parts to an income approach to setting value: an income figure and a capitalization rate. LB602 takes an approach similar to that used in South Dakota to calculate gross income in terms of yield and prices over time. It also sets in law the landowners' share of income, again like South Dakota, and it sets a single capitalization rate statewide, like South Dakota and Iowa. Prior to the 1980s, Nebraska used an income approach to valuing land with a single capitalization rate which caused constitutional problems under the uniformity clause, so the committee should examine this aspect carefully. In analyzing the approaches used to value agricultural land in other states, we noticed a few aspects of note. In South Dakota, for instance, the Department of Revenue contracts with South Dakota State University to produce the productivity value of each county. We believe a shift to an income capitalization approach offers an opportunity to take advantage of the valuable talent and research in the Agriculture Economics Department at the University of Nebraska. Also, we would support capping the rate of growth in value, which is the case in Iowa and South Dakota. The income capitalization approach has merit and could provide more certainty to landowners, but this change is not guaranteed to prevent double-digit growth in values from one year to the next or, in and of itself, reduce property taxes. Experience in other states has shown year-to-year jumps in value can still occur; the jumps just might take longer to materialize. To conclude, it is the goal of the Ag Leaders to secure \$600 million in property tax reductions this legislative session. Based on our calculations, that would bring the property tax burden from 48 percent of the combined total of property, sales, and income taxes to roughly 40 percent. No one wants to increase taxes, which is why we're working for revenue neutral solutions. The Ag Leaders Working Group supports LB602 and a shift to valuing agricultural land on an income basis as one part of the overall solution. We hope this committee will work with our organizations to apply these and other improvements to the underlying bill. Thank you and I'd be glad to answer any questions. [LB602]

SENATOR FRIESEN: Thank you, Mr. Herz. Any questions from the committee? Senator Schumacher. [LB602]

SENATOR SCHUMACHER: Thank you, Senator Friesen, and thank you for your testimony. Now as I understand it, this...(inaudible) part of this formula is the landlord's share of the crop is how...is the number that plugs into it? [LB602]

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KEN HERZ: Yes, that's the way I understand it. [LB602]

SENATOR SCHUMACHER: Okay, now, none of the landlord's costs are taken into consideration? [LB602]

KEN HERZ: I believe the way it is written, the cost...there are some costs taken into consideration, too. It's his share minus his cost. And...but it's on a...as I understand it, the bill is income times price times the percentage, depending upon what type of land it is, that would be the landlord's income. And then it would be subtracted off of there, some cost. I imagine there might be some management fees or something like that. [LB602]

SENATOR SCHUMACHER: Well, one of the things that comes to mind is, it probably won't happen this year but some future Legislature may very well look at the situation that we have regarding irrigated land. In Nebraska, the farmer does not own the water. That's given to the farmer by the state without charge. But at some point we may choose to charge for the water and that would, of course, have to be paid for by the landlord. What kind of impact would that have on this system? [LB602]

KEN HERZ: Senator, I'm sorry, I cannot tell you that because we're dealing with hypothetical situations and neither one of us knows what's going to actually happen until it does. But I do not know how that would impact us. [LB602]

SENATOR SCHUMACHER: Okay. Thank you. [LB602]

SENATOR FRIESEN: Thank you, Senator Schumacher. Any other questions from the committee? Seeing none, thank you for your testimony. Other proponents. Welcome. [LB602]

DENNIS DONNER: Thank you. My name is Dennis Donner. I'm... [LB602]

SENATOR FRIESEN: Will you spell that, please? [LB602]

DENNIS DONNER: D-e-n-n-i-s, Donner, D-o-n-n-e-r. Your questionnaire asks who I represent. I don't represent anyone other than myself and my family. I'm currently semiretired. My primary responsibility today is my grandchildren. However, I worked for the Department of Revenue for 48 years. The last 20 years of that 48 years was...part of my responsibility for the last 20 years was the development of the sales file which has been referenced primarily by Senator Erdman. That sales file was the result of legislation 30, 40 years ago which was supposed to be developed to provide assistance to assessors in developing...in value a hard-to-assess property. Well, it grew

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into being a database of all sales information that occurred in the state of Nebraska. Senator Erdman referred to the fact that for agricultural sales there's only about 1 percent of the total agricultural land that's sold every year. That's true. It's a very small sample of agricultural land. And in addition to that, I saw, particularly in the last ten years, the selling price of agricultural land did not have any linear relationship to the productivity capability of that soil. There would be Class 4 sales...Class 4 land sell for more than Class 1 sales. Yet the department, in an effort to classify land, required the application of selling price to the land classified by dryland productivity. And it's important to look at the fact that it was only dryland because dryland has a different capability or relationship to productivity than that land if water is added, that land if grass is grown on it. But yet the classifications were made strictly by the dryland category. Why? I don't know, because it was there. Sales of agricultural land in the last ten years have not had any predictive value...or let me put it this way, minimal predictive value as to what a similar piece of agricultural land will sell for because the productivity, what you would think would have a linear relationship to its market value, was gone. I'm familiar with a article in The Wall Street Journal where it said that agricultural land is the new art. In other words, wealthy investors will invest in agricultural land so they can have a piece of the rock, so to speak, where they used to invest in art. Well, they don't buy based on the capability of the soil, in my opinion. They buy because they can. That's the market that we're dealing with today. The reason I think LB602 is a good idea is it takes that subjectivity out of the marketplace and creates a linear relationship of soils based on the ability to produce agricultural crops. Now, we passed a constitutional amendment in Nebraska that said agricultural land can be valued by a different method than other types of property. Well, what happened was...but as long as the various classes of property remain proportionate to each other. We have operated on the premise that selling price creates that proportionality. When we look at sales of agricultural land, there is no proportionality of selling price to productivity. So perhaps a much more appropriate method of showing relationships would be the productivity of the land. That productivity is created each year by the USDA. The soil surveys have rankings of one soil compared to another and we can create that proportionality through a, I'll call it, a modified income approach. Continuing to use sales the way we use sales to value agricultural land...can I continue? [LB602]

SENATOR FRIESEN: If you'd just try and wrap it up as soon as you can. [LB602]

DENNIS DONNER: Okay. I just want to point out that valuing agricultural land by a statistic that is based on a nonlinear marketplace is wrong. If we would have used...if we continue to use statistics as if they had mathematical certainty, we are defying the whole...we are ignoring the meaning of what statistics could be used for. This is probably not a very appropriate example, but had we used statistics during the last national election we all know who would have been President. Statistics are only good if they appropriately represent the population. Sales of agricultural land, in my opinion, while they generally move in the area of market value, do not proportionately represent market value. And a methodology introduced by Senator Erdman takes

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a finite, known quantity of that land compared to other finite, known qualities of land and assigns a value. Now, it's not a pure income approach because the capitalization rate would have been drawn from a starting point, so to speak. But as you increase the years in your exposure, you will stabilize the agricultural valuation and you will recognize the differences of individual soils. It's my first time. I... [LB602]

SENATOR FRIESEN: Thank you, Mr. Donner. Are there any questions from the committee? Senator Brasch. [LB602]

SENATOR BRASCH: Thank you, Vice Chair Friesen, and thank you, Mr. Donner, for testifying today. I believe we know each other. [LB602]

DENNIS DONNER: From many years ago. Yes, Senator. [LB602]

SENATOR BRASCH: Many years ago, I knew you as Denny Donner then. When you kept saying Dennis I thought I knew a Donner but not a Dennis. And as you know, back in the '80s, we had ag land manuals. I made many of those...there was a lot more done in a finite manner within the department, would you agree? [LB602]

DENNIS DONNER: Yes, definitely. [LB602]

SENATOR BRASCH: And my question, I agree that we need to get away from the real estate value. I introduced a bill that said the same thing. The difference here is we're proposing getting out of the department, where if anything, I think we need to take the department and turn it more into finite assessment as it was when it was you and Jerry (phonetic) and Bill (phonetic) and the old gang that you guys went at it like you were killing snakes, correct? [LB602]

DENNIS DONNER: I think we had a passion. [LB602]

SENATOR BRASCH: Absolutely. So would you think if the department made fundamental changes and returning to more of a scientific ag land assessment and actually utilizing the tools they were already given that...and maybe putting some teeth behind it where we throw out once-in-a-lifetime sales, the exceptions, that that would help stabilize? [LB602]

DENNIS DONNER: Senator, my personal feeling is it would not, that... [LB602]

SENATOR BRASCH: But change it to the commodity value. [LB602]

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DENNIS DONNER: Yes. [LB602]

SENATOR BRASCH: Yes. [LB602]

DENNIS DONNER: The market value of agricultural land is not linear. It depends more on the depth of pockets of the adjoining owner than it does the productivity of the land. That's been my experience in working with the sales file. We have put together studies. Historically, we put together studies of does Class 1 land actually sell for less than Class 4 land, or whichever? And while you...I'm a statistician. I can say, no, it does not and I could say, yes, it does. But the fact of the matter is that our valuation of agricultural land, just like houses in Omaha and Lincoln, needs to be transparent so that the typical person out there who works that farm, who builds that house can understand the processes used. I think Senator Erdman's processes lays out the commodity value, which anybody can look up on the Internet. It lays out the...well, the USDA does a lot of studies that would also provide information. But... [LB602]

SENATOR BRASCH: But it takes control out of the department is what it's doing and putting it into the hands of a commission built of individuals based on the Governor, the future Governors. And I've seen how commissions, they may or may not be successful. You have your NRDs. You have your different entities that regulate, but... [LB602]

DENNIS DONNER: I don't want to make a smart comment. [LB602]

SENATOR BRASCH: Uh-oh. Please don't. (Laughter) [LB602]

DENNIS DONNER: But this is not going to be rude or anything. [LB602]

SENATOR BRASCH: Okay. [LB602]

DENNIS DONNER: But do you believe the department has the will to recognize the things we've talked about based on current activity...? [LB602]

SENATOR BRASCH: The department follows directions and the directives of the Tax Commissioner... [LB602]

DENNIS DONNER: Well... [LB602]

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SENATOR BRASCH: ...and they're a code agency. And I believe if they went...my belief...and you're here to testify, so respectfully I'm letting you testify. But because I know of your past experience and your expertise, which you have quite a bit, that I felt...I do believe has gone to the wayside in best practices, that if we return to some of the best practices, we go to the commodity system that is in South Dakota, North Dakota, Iowa, Kansas, there's nine states already. [LB602]

DENNIS DONNER: There's different versions of it, yes. [LB602]

SENATOR BRASCH: Yeah, it's not rocket science. It's already there, that I believe and I support doing that. Going to a commission I think is also trying to...and that's my only hesitation. [LB602]

DENNIS DONNER: I certainly don't set policy. I feel that there's expertise that exists that can emulate the formula that Senator Erdman put out as of South Dakota. I think there's enough... [LB602]

SENATOR BRASCH: And Kansas and Iowa. I mean, again, it's a very common formula. [LB602]

DENNIS DONNER: Yeah, well, it's...when you get into the like Kansas, they legislate their cap rate. That's...I don't think... [LB602]

SENATOR BRASCH: All right. You're just saying the cap rate is what (inaudible) to the market. [LB602]

DENNIS DONNER: Yeah, and the cap rate that Senator Erdman developed...or LB602 develops, starts with a targeted value, adjusts based on averages of commodity prices over the built-up period. It's not a locked cap rate, but it is...it does start with a target. And I think there was a question about, what about land that starts out at an elevated basis? Well, it may start out at an elevated basis, but for some reason it's judged as being equalized with other areas that may not be elevated. Now, does that make right or wrong? I don't know. But theoretically right now, every time agricultural land is...the value is challenged, statistics which, at best should be used with confidence intervals, are used as mathematically precise points. The assessors do it based on the department's insistence. The TERC does it. The TERC attempts to adjust land by four positions past the decimal point to hit a precise point that...well. [LB602]

SENATOR BRASCH: Mr. Donner, Denny. [LB602]

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DENNIS DONNER: Yes. [LB602]

SENATOR BRASCH: It's good to see you again. Thank you. There are maybe others with questions. Thank you, Mr. Chairman. [LB602]

SENATOR FRIESEN: Thank you, Senator Brasch. Senator Schumacher. [LB602]

SENATOR SCHUMACHER: Thank you, Vice Chairman Friesen, and thank you for your testimony today. We start out with this lock in the system as the beginning point in the graph with reality, what things are selling for today. And then we let this program run for a number of years. [LB602]

DENNIS DONNER: You're talking about LB602? [LB602]

SENATOR SCHUMACHER: This bill, yes. [LB602]

DENNIS DONNER: Okay. [LB602]

SENATOR SCHUMACHER: We start out in there saying, okay, we're going to lock in and say it's going to be equivalent. When we initiate the program we're going to use a number equal so that it's...the values overall don't change. And then we're going to let this program run for a number of years. And let's just let it run for a number of years and we'll take a look at the value that it generates. And let's say that the program runs and it started out at today's value at \$500. And when we take this reading sometime down into the future, it's at \$1,000. Well, lo and behold, when land goes on sale it's selling for \$2,000. So at what point do we reconcile this program and this theory as to its value with reality again of its value? I mean isn't that critical? Otherwise, we've got one direction where we're saying due to this calculation it's worth something, but by gosh it's selling for something higher or lower. Shouldn't there be a reconciliation? [LB602]

DENNIS DONNER: Senator, that...I don't have an opinion on that. What I have...my opinion has to do with a transparent system that appropriately uses statistics. That will arrive at a value. That is not market value. Market has no play in this formula in LB602, the way I read it, other than the starting point to stabilize the contribution of each sector. [LB602]

SENATOR SCHUMACHER: Well, as I understand it, at one point you said that the flaw in the present system is it depends on the depth of the pockets, not on its real value, okay? Am I reading that right? [LB602]

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DENNIS DONNER: Well, my concern about the current system is taking a sale of a particular piece of property with a certain set of circumstances and using that as the premise to value a different piece of property that may have totally different characteristics. Now, it may be the same production capability, but the sale value may have two neighbors with deep pockets. It may have popcorn potential. It may...but you can't use that sale to value another property because, lo and behold, six months later that property that has identical production capability may sell for 40 percent more. The key of LB602 is it takes a market that is nonpredictive out of the equation. [LB602]

SENATOR SCHUMACHER: But in most of our counties, I know in Platte County, and I think if I interpreted Senator Friesen correctly, there's sufficient number of sales for you to get a pretty good guess of what the next piece of property is going to bring. And so you distribute those sales on a normal distribution, Gaussian distribution curve, and you get an idea if you've got something that's on outer limits beyond one or two standard deviations of the mean. [LB602]

DENNIS DONNER: The last year I was with the department, the average coefficient of dispersion of an array of sales in a county was 13 percent. That means that the average sale, you could expect it to be 13 percentage points...up to...the average sale would be 13 percentage points higher than the median or lower than median. This is not every sale. This is the average distance of a sale. [LB602]

SENATOR SCHUMACHER: You're using average is the mean? [LB602]

DENNIS DONNER: No, I'm using the median. [LB602]

SENATOR SCHUMACHER: And the median, mean, and mode are all the same in a normal distribution. [LB602]

DENNIS DONNER: Well, in a normal distribution, but we do not have a normal distribution. The statute, at least the way I would interpret it in the past, said you're supposed to work with the level of value, not with the absolute median. Now, the median is used in the median might be preferred, but when you get a sample where the average coefficient of dispersion is 13 percentage points--that's the average sale is 13 percentage points from the middle--I don't think that middle is a good indicator of the level of value of anything. [LB602]

SENATOR SCHUMACHER: But you...this thing starts out with a formula that's based upon average production in that county. [LB602]

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DENNIS DONNER: Yes, but... [LB602]

SENATOR SCHUMACHER: And that average is going to not all be right on line in the middle of that distribution. You're going to have a spread there, too, and that inequity is going to be spread across landowners. [LB602]

DENNIS DONNER: That...the way I read LB602 is that...and South Dakota, they use the productivity of individual soils to take that average value and spread it higher, lower for the individual parcel. That would create...that would answer the senator's problem over here where he talked about different productivity capabilities would be recognized in the formula in South Dakota and in LB602. The differences...anyway, that's... [LB602]

SENATOR SCHUMACHER: Okay, I think I've got some general ideal where you're coming from. One last thing, using the idea of not looking at the market value, something sells, is almost contrary to the entire economic system we have. If we were to do that and we would project out stock prices, we would say, okay, this is what this is worth and this is worth. And the Dow Jones should not have gone from 16,500 a year...within the last 52 weeks to 20,700. It shouldn't have happened because...but yet reality is what it brings. And when you've got enough sales--maybe that's not the case in every little county--but when you've got enough sales to begin to get that pattern, even if there's a 13 percent deviation, you're getting a pretty good idea of what it is worth and the market is bringing. This divorces from real market, a theoretical market. [LB602]

DENNIS DONNER: Yes, it does. [LB602]

SENATOR SCHUMACHER: Okay. Thank you. [LB602]

DENNIS DONNER: Yeah. [LB602]

SENATOR SCHUMACHER: I think we're reading each other. Thank you. [LB602]

DENNIS DONNER: And the reason I liked it is because it does make that break because I don't have the confidence in a sale over here being representative of a sale over here, but yet using that sale as the basis for valuing this property for tax purposes. [LB602]

SENATOR SCHUMACHER: Thank you. [LB602]

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SENATOR FRIESEN: Thank you, Senator Schumacher. Any other questions from the committee? Seeing none, thank you for your testimony. [LB602]

DENNIS DONNER: Thank you. [LB602]

SENATOR FRIESEN: Any other proponents for LB602? Welcome. [LB602]

TERRY JESSEN: (Exhibit 8) Good afternoon. Thank you, committee. My name is Terry Jessen, J-e-s-s-e-n. I am from Scottsbluff. I'm an accountant and an ag land owner and operator. Real estate taxes and valuations in Nebraska are totally out of line. When ag land produces a good return for the owner, the owners are willing to pay real estate taxes without complaint. We're not in that situation today. Ag is in a serious economic situation caused by depressed livestock and crop prices. The current system of assessment is totally broken. LB602 is a step in the right direction. Real estate today...real estate taxes today make up 48 percent, if I quote that correctly, of the total tax burden in Nebraska, whereas apparently there's a public policy goal of having real estate taxes be one-third, sales taxes one-third, and income taxes one-third. We're way outside of those, that realm. The Property Assessment Division has regulations that were last updated March 15 of 2009 according to their Web site when I was on their Web site this morning. I've only given you a two-page handout, but that's enough to show you that it's coming from their regulations. On page 1, they talk about actual value, which I think means the same as assessed value. And they talk about it can be three different appraisal methods, which is the same thing that we learned in college. Nothing has changed. Sales comparison approach is one approach, income approach, and cost approach. So even though that's in their regulations and I highlighted it on the front page and on the second page, they totally ignore it. That's the reason the Property Assessment Division needs to get out of the mix. They are not even following their own regulations. And, no, we can't fix it. We can't instruct them. We can't get them to follow their own regulations. How are they going to follow any other instruction? They need to be out of it. The change proposed in LB602 has been discussed for many years. We're past the discussion. It needs to be time for action. Two recent land sales in western Nebraska, both of them sold and came from families that had owned those individual properties for over a hundred years. So if you're a neighbor to one of those properties and you're interested in buying that property and you've had your parents, your grandparents express a desire that that piece of property would be a real good addition to your farm property, it's now or never. So the price that that brings on that particular day really honestly has no direct relationship to the productivity, the income approach, from that property. If you're looking for other sources for where can you get a rental value, the Board of Education Lands and Funds leases ag land for cash in many counties in Nebraska. They have a formula. They've done it for years. They can easily provide documentation as to what they believe the market value for a rental piece of property is. After hearing Senator Friesen's questions today, I've kind of changed my mind on part of this bill. And in giving it some thought I think that you were hinting at something that I might have to agree with you or make my

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statement. I think the three-year average price that is suggested in the bill is wrong, because if you look...I'm a wheat farmer, but you look at corn, you look at wheat, you look at livestock, the last three years, three years ago the price of wheat was roughly \$6 a bushel. Today it's roughly \$3 a bushel and it's been \$3 a bushel for over a year, or less, \$2.80. I think the better answer to end up with the right balance is probably starting with the six-year average. The idea of the three-year average was that we got to start somewhere and probably starting at eight wasn't...you know, you're looking back and maybe that's hard to do. I think maybe a six-year average to start with and then moving quicker to that eight-year average probably is more realistic. If you start with a three-year average--so I think in terms of wheat--that three-year average on the price of wheat by the time this goes into effect, if we still spend another year at \$3 wheat, at \$3.50 wheat, we're going to have that base price, that income set at a \$3.50 average, a \$3.75 average. And you would anticipate that that would not be reflective of a longer stretch of years. And if we're going to use this and take the current assessed value and divide by that income approach and only limit that to three years I think you're going to get way too high of a number. I think a larger number of years is going to be a more accurate deal. So I've changed my position today listening to you, Senator Friesen. And the only other thought I had was for Senator Schumacher. It seems that he was expressing the idea that this formula might give us assessed values that are divorced or different from market values. And that is true over...it wouldn't start out that way but that is true over a period of time. There are many states...I own some property in Indiana, South Carolina, and in Indiana especially, market value has...market value and assessed value are two totally different concepts. And I don't see anything wrong with if that's where we would end up. But they are, by description, two different things. And that was hard for me to understand because in Nebraska we've had the mindset that assessed value equals market value and many states do not follow that model. I'd be happy to answer any questions. [LB602]

SENATOR FRIESEN: Thank you, Mr. Jessen. Senator Groene. [LB602]

SENATOR GROENE: Because isn't market value an instant in time? It's what that brought today at this date; that's what the market is. [LB602]

TERRY JESSEN: I understand that's what the market is. [LB602]

SENATOR GROENE: When you start doing averages or means, it really isn't market value, is it? [LB602]

TERRY JESSEN: Right. True. [LB602]

SENATOR GROENE: Constitutionally, it's probably a little adrift from there. [LB602]

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TERRY JESSEN: Sure. I agree. [LB602]

SENATOR GROENE: I guess that's...it's a mess. [LB602]

TERRY JESSEN: It is a mess. [LB602]

SENATOR GROENE: One question, I asked this in another hearing. What does rent have to do with anything? If I own a piece of equipment and I use it, it has that value, income value. If I own that piece of equipment and I rent it to somebody, it has the same...I'm basing that rent on my income value. What does rent have to do with anything? If I own the land and farm it, it's going to create so much income. If I rent it out, the renter is going to create so much income. If you're...a rent is supposed to offset the cost of the taxation and the cost to own the property. So why would rent be included in any income figures? [LB602]

TERRY JESSEN: But the rent should cover one other thing than just the cost of ownership. It should include a return to that owner/investor. I think the reason for rent, you're looking for some mechanism to treat you fairly where you operate your own ground and Senator Friesen fairly when he rents his out. And it's to equalize between so that you do have a uniformity of application. So rent is a method of doing that. [LB602]

SENATOR GROENE: But rent in a free market should fraction that out already, that that rent owner has taken into account the taxes he pays on it, what his...he's got no labor now so he doesn't have a return on it. He's just factoring in what the free market will allow him. And then the renter has lost..doesn't have the cost of the taxation. He doesn't have the cost of capitalization of the land. Rent should have no place in this. [LB602]

TERRY JESSEN: But just try to think of a different example. So you have a young farmer who doesn't have much equity. He has new equipment. He's paying...paid a high price for the equipment. He's paying interest on it. And now you have...his neighbor is a towards retirement age farmer. He has equity. He doesn't owe anything on either his land or his equipment. And now you look at cost of production. Going to be two totally different numbers. So rent is a way to equalize the taxation value of those same two properties. It takes...it's a different equation. [LB602]

SENATOR GROENE: So if I own land and I'm renting it out, I pay a different tax than the person who owns it and is operating. [LB602]

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TERRY JESSEN: No. No. So the reason you're valuing both properties on a rent basis is so that they are equal. We're talking about just real estate value and that would be a way to get them equal. If there's another mechanism, you know, so be it. But that's the reason of the suggestion of rent. [LB602]

SENATOR GROENE: Why not just...it just says here the income approach. Why not just figure what the income approach is...productivity... [LB602]

TERRY JESSEN: Well, that's what it is. [LB602]

SENATOR GROENE: The productivity of the... [LB602]

TERRY JESSEN: The challenge, if you used a true income approach, is really what I just told you. A farmer with brand new equipment, he comes in, provides what his costs are, bushel per acre. He has his CPA tell him that it costs him \$3.18 to raise corn. You have the retired guy. He brings in his CPA and he says it costs him \$1.50 a bushel. Well, then you're going to tax one more than the other. So the rent is a way to equalize those. [LB602]

SENATOR GROENE: The rent should equalize itself in that situation in a free market. But anyway, thank you. [LB602]

TERRY JESSEN: Thank you. [LB602]

SENATOR FRIESEN: Thank you, Senator Groene. Any other questions from the committee? [LB602]

TERRY JESSEN: Thank you for the opportunity. [LB602]

SENATOR FRIESEN: (Exhibits 9-11) Seeing none, thank you for your testimony, Mr. Jessen. Any other proponents wish to testify? We have three letters: Riggin and Katie Epp from Lisco; Ron and Linda Bright from Bridgeport; and Gary Shoults from Lyman, Nebraska. Is there anybody wish to testify in opposition to LB602? Welcome. [LB602]

JOHN HANSEN: Senator Friesen, members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and I have worked on this particular issue for a good 25 or 26 years. So today, just to tell you how the thinking process goes with me, I've gone from strong support to neutral to opposed.

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And here's where, if I understand what we're doing, where I jumped off the wagon today, was that it is the view of ag generally and most folks that ag land valuations in our state, at the beginning, compared to other states, is already too high. We have a higher starting place than any other state in our area. So when you take a look at the amount of potential tax liability we have, we start out at a higher place. And so where we lost enthusiasm for LB338 and LB602 is that if we use an alternative process to end up at approximately the same place, then we still don't want to go there. We're still too high. We're still at a place that we think does not reflect our earning capacity and is a fair place to start for taxation. So, you know, if we look at LB338, we end up with about a 2 percent difference. If we use a different process to end up where we are now then what have we gained? What's the advantage? After hearing Mr. Donner, who I've talked to down through the years, he helped refresh my memory just why it is I don't like what we have now. (Laugh) I am good with the general idea of why sales is not an accurate reflection of earnings capacity. But also if you just look at productive capacity alone in isolation and say how is that as a basis to value things, the fact that I can produce a lot of stuff doesn't necessarily reflect whether or not I made any money doing it. So if I could produce a lot of stuff at a loss, I'm not sure that that helps me very much as a farmer or helps come up with a better, more rational basis to value ag land. So, you know, you own all of this property which is your tools of your trade and you look at the productive capacity, I'm much more interested in the net. So what...you know, at the end of the day, is this a profitable thing that we're doing or is this an unprofitable thing that we're doing? And so our recommendation is...and we thank Senator Erdman for bringing this forward; we really do. He's put his finger on a real sore spot. We're just not convinced, after I went through and marked up all 18 amendments this morning that were proposed and plugged all of them in, you know, it got the thought process going in terms of why are we taking net out? And how does that end up and how does that work? And I think that both of the bills that we have before us ought to be studied. I think we ought to use the expertise of the Revenue Committee and the Revenue Department and also the ag stakeholders--and there's a fair amount of expertise within the ag community--to look at how we value ag land and give this the kind of thoughtful study that it needs in order to come up with a product that everyone understands, that everyone thinks is a better, more rational basis for doing things, and takes us to a better landing spot at the end of the day. And so that would be our recommendation and I would be glad to...that ends my remarks and I'd be glad to answer any questions in that increasingly off chance that I might be able to answer them. [LB602]

SENATOR FRIESEN: Thank you, Mr. Hansen. Any questions from the committee? Seeing none, thank you for your testimony. [LB602]

JOHN HANSEN: Thank you very much. [LB602]

SENATOR FRIESEN: Any others wish to testify in opposition to LB602? Seeing none, anyone wish to testify in a neutral capacity on LB602? Welcome. [LB602]

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BETH BAZYN FERRELL: Thank you. Good afternoon, Senator Friesen, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm appearing in a neutral capacity on LB602. That is the same position that the Nebraska Association of County Officials took on LB338. The comments that I was going to make today were going to be directed toward the implementation of the bill as it was originally drafted. With the amendment, that changes some things. One of the suggestions that we were going to make was rather than having a cap rate that's set in statute and that is somewhat difficult to amend if the economic situation changes somewhat rapidly, we were going to suggest looking at a panel like the Forecasting Board. That was something that Senator Erdman said that he would have in his amendment. We've had pretty good success with that kind of a panel and the representation from counties on the panel. I would refer you to the Rent-Restricted Housing panel that we have participation on, as well as I know in the past we've had members that served on the Greenbelt Advisory Committee. So we've been able to come up with members that have a broad representation, broad knowledge base, both rural and urban. As far as the rest of the amendments, we'll take those back to our assessors to look at. We would offer any assistance from our assessors, their knowledge and expertise, as you look through these bills...this bill. And we do appreciate your thorough and thoughtful study of this issue and how any of these changes would apply to political subdivisions. I would be happy to answer questions. [LB602]

SENATOR FRIESEN: Thank you, Ms. Ferrell. Any questions from the committee? Senator Groene. [LB602]

SENATOR GROENE: If it's based on net income, in fact, you're purely income, if you have negative net income, would you have a negative tax? I mean, how do you get to this point where you have a base? [LB602]

BETH BAZYN FERRELL: And that's a good question, Senator. And that's not one that I can answer. I think I would refer that back to our county officials that would have more knowledge in that area. [LB602]

SENATOR GROENE: Thank you. [LB602]

SENATOR FRIESEN: Thank you, Senator Groene. Any other questions from the committee? Seeing none, thank you for your testimony. Any others wish to testify in a neutral capacity on LB602? Hello. [LB602]

NATHAN LEACH: Mr. Acting Chairman, members of the committee, thank you very much for your time. For the record, my name is Nathan Leach, that's spelled N-a-t-h-a-n L-e-a-c-h; I reside in District 27, but grew up in Kearney, Nebraska, and graduated from Kearney High

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School in 2015. I'd like to submit some statements for the record on the procedure used to deliberate on this bill in committee and how the procedure of the Legislature will be if this committee...this bill should advance onto the floor. And primarily I'd like to read a portion of a speech made by U.S. Senator George Norris to the Unicameral on the first day that it met in 1937. He said to the newly elected members: You are members of the First Legislature of Nebraska to hold your positions without any partisan obligation to any machine, to any boss, or to any alleged political leader. Your constituents do not expect perfection. They know that it is human to err, but they do expect and have the right to expect absolute honesty, ultimate courage, and a reasonable degree of efficiency and wisdom. The people of Nebraska will not condemn you even if they do not agree with your official actions. We realize that honest disagreements on things which are not fundamental is an evidence of courage and independence. We expect an economical and efficient administration, and above all, an honest administration free from any partisan bias, political prejudice, or improper motives. I would simply encourage the committee and the Legislature as a whole to reflect on these words as it moves forward. Thank you.

[LB602]

SENATOR FRIESEN: (Exhibit 12) Thank you, Mr. Leach. Any questions from the committee? Seeing none, thank you for your testimony. Any others wish to testify in a neutral capacity on LB602? We have one letter from Tom Placzek from Platte County Assessor. Seeing no one wishing to testify, Senator Erdman, you wish to close? [LB602]

SENATOR ERDMAN: Thank you, committee, for listening to the testimony this afternoon. I'll just wrap up with a few things. First of all, Senator Groene, we chose landlord share, that was a term we used. We could have just used 35 percent; we wouldn't had to include the landlord share. We chose not to use the net income because then that process goes through and you have to develop what are the expenses and everybody's farm is different and their expenses may be different and you'll have people protesting because my expenses were different than my neighbor's. So we just used a percentage. You can call it whatever you want. We did it 35 percent because we felt it was a number that was the same for everybody and it puts everybody in the same category. Senator Schumacher, I have an example what happens in ag land sales if you and I both owned a hundred cows, and I took them to town and sold them and they brought \$1,200. Then they would automatically assume that your cows are worth \$1,200. You haven't sold them yet, you have no idea what your cows are worth. And that's what happens in ag land sales, we sell a piece of land somewhere, like in the northern part of our county, access to markets are difficult, it's hard to get out of there with your equipment, and consequently that land is valued the same as the land right down by the elevator because it's the same type of soil. And so there is a very discouraging price that is put on things that are remote for other reasons, but not in agriculture, we base it on what the land...our assessments are based on what the land is...the same type of land. So this has an opportunity for us to get away from what we do. I think you heard from Mr. Donner about the situation we have with the system we have now. Mr. Jessen

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suggested the same thing. He thought we should go to a longer average. My concern was when we did the three-year average, what happens if we have a couple of high years. In the fourth and fifth year, that would kind of skew the average, so perhaps a six year would be a better starting place. We would arrive at the Olympic average sooner. I hope that the point has been made today that the process that we use now and with the Assessment Division being in charge of that, I would hope that that information has come through loud and clear that we can't continue to do what we've been doing. What happens so many times is we keep doing the same thing over from one year to the next and we get the same results and we're so surprised and that is not going to work for us and so we've got to make a change. And I think even Mr. Hansen alluded to the fact that this is something that needs to be addressed. He's not at all happy that we didn't change the value. I'm not either. I would like to lower the value. As I said earlier, I don't think that has a snowball's chance in June to getting through this Legislature if we're going to lower the value. And so that's why I did what I did making it stagnant at the same value. If that is something I thought we could get through, I would sure probably push for that, because I understand agriculture needs some help and it needs it today. It doesn't need it two years from now and that's when this bill goes into effect. So I would encourage you to advance this bill. I would like to work with anybody that I could to come up with a better solution. As far as studying goes, that's what we do here in this body quite a bit; we put together a task force or a commission and we study it, we kick the can down the road, and then two years from now we write a report and nothing happens. We've done that hundreds of times and nothing ever happens. And I'm tired of nothing never happening. It's time to do something. We've been talking about property tax relief for 40 years. Forty years we've been talking about property tax relief and we've gotten absolutely nothing. This bill is not intended for property tax relief, but it's a fair way to value ag land going forward so you get a fair shake when you want to continue to produce products on...agricultural products on your property, you're not paying according to what someone else is willing to pay for the property. So I would encourage you to advance this bill. Let's move forward and make a difference for agriculture. Thank you. [LB602]

SENATOR SMITH: Thank you, Senator Erdman, on your closing. Do we have remaining questions from the committee? My apologies, I was in another committee on another bill, but I know you and I have had conversations about this bill and I'm looking very forward to working with you to seeing what we can do and getting something done in the state. [LB602]

SENATOR ERDMAN: Thank you, Senator Smith, welcome back. [LB602]

SENATOR SMITH: Yes, and thank you, Senator Friesen, for running the committee for the last hour and 45 minutes. So thank you. And that closes our hearing on LB602. [LB602]

SENATOR ERDMAN: All right. Thank you very much. [LB602]

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SENATOR SMITH: We now move to LB498 to be introduced by Senator Brewer. It relates to changing provisions relating to transfer of homestead exemptions. I was just in Senator Brewer's committee, so now we get to exchange. Welcome. [LB498]

SENATOR BREWER: (Exhibits 1 and 2) Thank you, Chairman Smith, and good afternoon to my fellow senators on the Revenue Committee. I'm Senator Tom Brewer, for the record that's T-o-m B-r-e-w-e-r, and I represent the 43rd District of western Nebraska. I'm here to introduce LB498 which makes a small but important change to the language of the law that concerns the Nebraska Homestead Exemptions. As a refresher, I am passing out a handout that has everything that you probably ever want to know about the Nebraska Homestead Exemption. It's the one that's entitled Information Guide. As you can see, this benefit is for seven different categories of people, all of whom must remain below a fairly modest amount of income to qualify for this exemption. It is important to remember this benefit is designed for people of very limited means. The individuals who will testify after me are ready for more detailed questions on this issue if you should have them. I will try to do a quick review at the end. So I will keep my opening short here, but I do want to touch on a few key issues in the bill and what it does. LB498 makes the Homestead Exemption something associated with the person who qualifies for it, and it removes language from the law that currently has effect of tying these benefits to a piece of real estate by an arbitrary date in the law. The bill is only five pages long. You'll note the stricken language is in a number of places. It speaks to a date or range of dates. This limits the beneficiary of the Homestead Act in an over and above the income requirement by adding an additional residency requirement. I think this should be removed. The current language punishes a person who they pick the wrong time of year to sell their home and move to a different one. As it stands right now, if their timing is off, they can lose their homestead exemption. When you take a look at how low the income threshold is in order to qualify for this benefit, you'll quickly see we are talking about people who really depend on this exemption. I believe individuals who meet the income requirements for the Homestead Exemption have met a fairly narrow standard already. I don't think that we should apply a tougher standard and set the bar higher by adding a residency requirement. Having met the income and disability requirements, I think the date range and residency requirements is arbitrary and unnecessary. I urge you to vote for LB498 out of committee. And I would like to take your questions at this time. [LB498]

SENATOR SMITH: Thank you, Senator Brewer, for your opening on LB498. Do we have questions from the committee? Senator Harr. [LB498]

SENATOR HARR: Thank you, Chairman Smith. And thank you, Senator Brewer, for introducing this bill. Do you know why that the requirement to live in the home, residency from January to August currently exists in the statute? [LB498]

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SENATOR BREWER: I do not. We asked some questions when we were researching this and the arbitrary date of 15 August, and that was that break day where if it was 16 August, you wouldn't, but 15 August you would. So that's part of what generated the interest in changing that. [LB498]

SENATOR HARR: I'm not asking how you got August 15, but why there is a residence requirement? Do you know why that's in there? [LB498]

SENATOR BREWER: A residency requirement is part of the homestead exemption. [LB498]

SENATOR HARR: Well, that you live in the home for a certain period of time. [LB498]

SENATOR BREWER: Well, I guess not offhand. I mean, otherwise...if you go to the table where it lists the seven different categories, it has the requirements. I mean, that whole ownership, occupancy was just part of, I guess, what the Homestead Exemption Act was designed for so that you had that residency. [LB498]

SENATOR HARR: Thank you. [LB498]

SENATOR SMITH: Other questions from the committee? I see none. Thank you, Senator Brewer. Will you remain for closing? [LB498]

SENATOR BREWER: I will. [LB498]

SENATOR SMITH: Thank you. We now move to proponents of LB498. Proponents. Welcome. [LB498]

GREG HOLLOWAY: Senator Smith, committee, my name is Greg Holloway, G-r-e-g H-o-l-l-o-w-a-y, from the beautiful, tropical city of Bee, Nebraska. I got here today. This...actually this issue was brought to me by Colin Fury from Senator Garrett's office. Since he wasn't reelected, he...if he would have been re-elected, he would have brought this forward. So Colin asked me to find a senator to bring this issue forward because of constituents of Senator Garrett brought it to him that was a service-connected disabled veteran that had to move from his resident because he became severely disabled and needed a home that was handicap accessible. It was cheaper, actually, to buy another home. So when he did this deal, which unbeknownst to him, turned his time frame, he lost his homestead exemption and the people that bought his home from him, which not necessarily were eligible to receive the homestead exemption, received the homestead exemption and they lost theirs. Now this is brought to me as a veterans' issue, but this is actually

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an issue that encompasses all recipients of the homestead exemption. And this could happen anyway because realtors, probably, have no clue about this in the laws. They say--no, we can't do it right now, we got to wait. So you know when it's time...when you've got somebody who wants to buy your home, you're going to do the deal or you might lose the deal. So, we get rid of this arbitrary date and this will kind of fix those problems a little bit and we'll still have to get together with the county assessor to be able to move one home to the next home and get it on the schedule. I've spoken with a couple of county assessors--Platte County, which actually testified on LB12 when I was here, on LB12. And my county assessor in Seward County said we'll fix it, we'll just handle it if this is done. And it should be that the homestead exemption moves with the recipient of the homestead exemption, not the home. It makes sense. I think they put that arbitrary date in there and the residence requirements to...so like take for instance, if you went and bought a duplex and you lived in half of it, you wouldn't get the homestead exemption for the other half. You have to be the primary resident of the recipient of the homestead exemption. I've followed homestead exemption for many years. People come to me when they got a problem with homestead exemption, that's why you see me on it a little bit, every now and then. It's a very good...I'm a recipient of homestead exemption because I'm 100 percent service connected, disabled veteran. But this takes care of not just veterans, even though it was brought to me as a veterans' issue, it's an overall issue. It makes sense. I think the date was probably put in there just to make it easier so everything comes in at once. When the homestead exemption was in its infancy, it was a lot smaller. Now that it's grown, it might even actually be a benefit the county assessors will say in Hall County, Lancaster County, Douglas County because maybe they could split up their homestead exemptions notifications and make life a little bit easier for them in the long run where they could have maybe all the veterans in a certain time and all the non-veterans in another time, might make their county assessors a little easier to work the program. And personally, LB12 that we already had the hearing on, this will actually clear up that issue on the timeliness factor of the LB12 that was brought up in LB12 for DIC recipients. Still, you still have to have the documentation; you still need the application done. I get mine every January. I've already received mine in January. I've already filled it out and sent it back to my county assessor. I think it's a commonsense thing to do. You have received a letter from Ron Dupell. It actually happened to him and he's indicated how much it physically cost him for the loss of his homestead exemption. So I would like you to consider this. It's a simple thing. It's not going to cost you no money, I promised I wouldn't bring you any bills that cost money, this time anyway. It's a commonsense...clean up some language that makes it difficult for people to actually function and live on what means they have more efficiently. I'll answer any questions you have. I'm not real smart, but I can figure some stuff out. [LB498]

SENATOR SMITH: Thank you, Mr. Holloway, for your testimony. Senator Groene. [LB498]

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SENATOR GROENE: I hope the representative from the county assessors testifies, but I would assume August 15 kind of coincides with dates about certification of property taxes (inaudible) and stuff. [LB498]

GREG HOLLOWAY: Probably does...probably does. [LB498]

SENATOR GROENE: And also, but in reality when your veteran sold his house, the seller pays the property taxes for the next year, so he benefited from the property...his homestead exemption because what he paid in the closing was a lot less than what it would have been if it was...he wasn't a homestead exemption. So that did follow him. [LB498]

GREG HOLLOWAY: It could, it could. [LB498]

SENATOR GROENE: It does. [LB498]

GREG HOLLOWAY: Once you read Mr. Dupell's letter, it will show you actually it physically cost him. But actually it cost...if you have to put out out-of-pocket money right away and you're not ready for it and you're on a limited income to start with, it's going to hamper your ability to carry on your livelihood. [LB498]

SENATOR GROENE: But he had to pay the property taxes for that year because we're always a year behind in the closing. He paid the homestead exemption taxes. And I guess I don't understand when he moved to a new home he didn't go down and apply for a homestead exemption then on his new home, he had a new tax which he would have been a year in arrears because the seller of that house paid the prior property taxes. So anyhow...maybe the assessor...I already asked you the questions. [LB498]

GREG HOLLOWAY: Yeah, the...my assessors...the assessors that I have talked to said that the homestead exemption should follow the recipient, not the house. And the way it does now, it follows the home more than it does the recipient. [LB498]

SENATOR GROENE: But this is only on veterans and handicapped. [LB498]

GREG HOLLOWAY: Of all recipients. [LB498]

SENATOR GROENE: If you're just a regular person, you have to live in the home for so long. [LB498]

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GREG HOLLOWAY: Same thing for a veteran. It has to be your principal residence. [LB498]

SENATOR GROENE: No, there's two...three or four classifications of homestead exemption. Thank you. [LB498]

GREG HOLLOWAY: You're probably much more knowledgeable about it than I am. [LB498]

SENATOR GROENE: I hope so, I'm not blowing air. Thank you. [LB498]

SENATOR SMITH: Other questions from the committee? I see none. Thank you, Mr. Holloway, for your testimony. [LB498]

GREG HOLLOWAY: Thank you. [LB498]

SENATOR SMITH: (Exhibits 3 and 4) Next proponent of LB498? Next proponent? We do have letters for the record, in support of LB498: Dean Kenkel of Omaha, Nebraska; and Ron Dupell of Elkhorn, Nebraska; both sent in letters in support of LB498. We now move to opponents, anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Welcome. [LB498]

BETH BAZYN FERRELL: Good afternoon, Chairman Smith, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Association of County Officials and I'm appearing neutral on LB498. An assessor had planned to be here today, but because of the weather couldn't be, so he asked me to share his comments with you. And I know I'm not going to do them justice and I probably am not going to be able to answer your questions, Senator Groene, to the extent that you'd like, but I'd be happy to take them back and get an answer for you. [LB498]

SENATOR GROENE: I appreciate it. [LB498]

BETH BAZYN FERRELL: And the comments really were aimed at the date situation, and I think some of that goes to Senator Harr's question about how that date was put into statute. The August 15 date is what's in statute now. What happens is, if sales come in later than that, then sometimes it can take up to 30 days for the assessor to be able to get the information that they need on those sales. So if a sale comes in, say, after September 30, then it's November 1 by the time that they would get the information they need. They need to have the information to the assessor by, basically, November 15th so that they can get information then to send out the tax statements. So that's probably where that date came from was just to be able to get everything

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lined up to be able to get the tax statements out in time. I know there's probably more that a assessor could actually share with you, but like I said, I'd be happy to take questions back and get some answers if we can do that. [LB498]

SENATOR SMITH: Thank you for your testimony. Senator Schumacher. [LB498]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Just briefly, the homestead exemption exempts what a certain amount of value of the property from taxation? [LB498]

BETH BAZYN FERRELL: Yes, it depends on... [LB498]

SENATOR SCHUMACHER: So, basically, you figure out \$100,000 and, what did you say, the exemption was \$30,000...it's not that (inaudible), and so you then tax it on \$70,000. [LB498]

BETH BAZYN FERRELL: Right. [LB498]

SENATOR SCHUMACHER: Okay. So theoretically this can't work because it is the land that owes the tax, not the person, is that correct? [LB498]

BETH BAZYN FERRELL: Yes. [LB498]

SENATOR SCHUMACHER: Okay. So if we tax the land but give the exemption to the person, the land will still owe the tax. I mean, you got to take...you got to give the land the exemption if the land is what you tax. Okay, thank you. [LB498]

SENATOR SMITH: Senator Harr. [LB498]

SENATOR HARR: Thank you. And thanks for coming. Thank you, Chairman Smith. I'm just not sure...I mean...correct me if I'm wrong, but this bill would remove the requirement for occupancy and ownership, is that correct? [LB498]

BETH BAZYN FERRELL: I believe so. [LB498]

SENATOR HARR: And now we don't require a person to occupy or own the property for a full year, but merely from January 1 to August 15. It seems like we're already giving a break by not requiring that to the last couple of months. I'm a little concerned about what would...what could

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occur if we get rid of the occupancy requirement. Could a disabled vet or someone who has a homestead exemption buy and sell property for profit then? [LB498]

BETH BAZYN FERRELL: I suppose there would be the potential for that. I mean, I don't know if it would happen, but I...maybe. [LB498]

SENATOR HARR: Okay. I'm just trying to figure out why we have an ownership and occupancy requirement, and now we're eliminating it. I don't know...in order to eliminate it, I have to know the reason we had it to begin with. And that hasn't been answered for me. [LB498]

BETH BAZYN FERRELL: And I'm sorry, I don't have that answer for you either. We can see if we can find it though. [LB498]

SENATOR HARR: Okay. Thank you. [LB498]

SENATOR SMITH: Other questions from the committee? I see none. Thank you for your testimony. Next person in a neutral capacity on LB498? Welcome. [LB498]

NATHAN LEACH: Mr. Chairman, members of the Revenue Committee, my name is Nathan Leach, that's spelled N-a-t-h-a-n L-e-a-c-h. I reside in District 27 and grew up in Kearney, Nebraska. And I'd like to submit some statements relevant to the procedure utilized by the Legislature relevant to this bill, and particularly the deliberation of the committee. And to do so I'd like to tell you a little bit about my experience in the Arizona State Senate. I worked as a page for a semester after graduating from high school. And the state senate is a partisan bicameral system. And they used the procedure when deliberating on the floor called a Committee of a Whole. And so when bills are taken from the committee, the legislature, as the entire body, would actually refer the committee...or refer the bill to itself and deliberate in what's called a COW, or Committee of a Whole, and that would allow members of the legislature to debate without any limits on debate and on the rules that are generally applied to a committee would be applied to the membership of the Committee of the Whole, which is, basically, every single member of the legislature. And in this procedure, like all parliamentary procedure on the United States, it originated in the English House of Commons. It used to be that the king would appoint the Speaker of the British House of Commons and so the members didn't like the king's person would be able to listen in on deliberations of the legislature. So what they would do is they would technically go into a committee or a Committee of the Whole and that way the Speaker couldn't be in the chamber as they deliberated, that's its origins. And the Unicameral itself actually used a Committee of the Whole process in 1937 when the Legislature was first used and then it switched to the General File/Select File/Final Reading system after the first Unicameral Legislature. And I bring all this up primarily to tell you a little bit about procedure and the

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importance of nonpartisanship, but mostly to reflect on the unnecessary...the lack of necessity for using that Committee of the Whole system. The members of that institution, particularly the Arizona State Senate used that system because it was the tradition of the body. But they took that process out of its intentional usage which would be to make...so the Speaker, who was appointed by the king, couldn't deliberate in that. And they used it just because it was the tradition. After my statements on this bill, I'd like to tell you why it's important sometimes to understand the intent of specific procedures when applying the procedures used by this committee and the Legislature as a whole. And I share this mostly for the record and so that it can be read by those who read transcripts in the future. So when you consider this bill, I encourage you to consider it in a nonpartisan manner. And I would be open to any questions. [LB498]

SENATOR SMITH: Questions from the committee? I see none, thank you for your testimony. [LB498]

NATHAN LEACH: Thank you. [LB498]

SENATOR SMITH: (Exhibit 5) Others wishing to testify in a neutral capacity? Neutral on LB498? We do have a letter for the record in a neutral capacity on LB498 that is from Diane Battiato, Douglas County Assessor and Register of Deeds. We now invite Senator Brewer to close on LB498. [LB498]

SENATOR BREWER: Thank you, Mr. Chairman. All right, so we can kind of get back on the same sheet of music here. We go to the Information Guide on Homestead Exemption, page 3, bottom paragraph, that breaks out the seven categories. The homestead exemption is designed for and to protect the individuals that are in these seven categories. And so I guess I'm still struggling on the...it is not about the land, it is about these individuals that meet these certain criteria. And then the requirements, in order to fulfill that requirement to participate in the program are primarily in the top four categories on page 4 in the chart there. And for example, if we were to take category 4 which is veterans totally disabled, you go over to 4 on the chart, I'd be required to do four of the top five items there in order to be qualified. And ownership and occupancy are part of that. The only thing we're trying to do here is instead of having that arbitrary date of 15 August, have that changed so that if you're an individual and you are eligible and you meet all the requirements and you were to have a change of occupancy after that date, that you would still be eligible for that. So with that said, sir, ready for any questions. [LB498]

SENATOR SMITH: Thank you, Senator Brewer, for your closing. Questions from the committee? I see none. Thank you. [LB498]

SENATOR BREWER: Thank you. [LB498]

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SENATOR SMITH: And that closes the hearing on LB498. We now move to LB253 introduced by Senator Crawford, relates to authorizing intergovernmental service agreements under the County Industrial Sewer Construction Act and to provide for a special tax levy. Welcome. [LB498]

SENATOR CRAWFORD: Thank you. Thank you, Chairman Smith and members of the Revenue Committee. For the record, my name is Senator Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th District. I'm here before you today to introduce LB253. And this is a bill I'm introducing on behalf of the Sarpy County Board of Commissioners to help Sarpy County continue its economic growth and contribution to the state revenue through taxation by building a regional wastewater system in southern Sarpy County. LB253 would enable cities, villages, or sanitary improvement districts within a county to enter into an interlocal agreement or create a public agency in coordination with a county to establish and fund a regional wastewater system. Regional sewer services can help counties avoid the proliferation of individual or community septic systems as they expand and develop into areas with minimal sewer infrastructure. All special taxes levied for purposes outlined in LB253 have the same status and requirements as any tax from those jurisdictions or paying bonds that are approved according to law and secured by a levy on the property of such county, city, village, or sanitary improvement district. And that language is in the bottom of page 3 and top of page 4 in the bill. The emphasise...the reason I'm pointing to that language is to emphasize that LB253 does not provide new tax authority; it allows a use of existing tax authority that these public entities have. So it allows the use of that existing tax authority for the purpose of this regional cooperation for wastewater system. The benefits of a new regional wastewater system will not only benefit Sarpy County, but the state of Nebraska as well, as Sarpy County is the state's third largest contributor to state tax revenues. There are others behind me who will discuss in detail the history, technical, and economic aspects of this opportunity. I'm happy to try to answer questions now, or if you'd like to hear the testifiers, I will be staying for closing, I can answer questions then. [LB253]

SENATOR SMITH: Thank you, Senator Crawford. Do we have questions from the committee? Those following you, Senator Crawford, will they be able to talk a little bit more about the background and what's driving this in terms of, I believe, it's the ridgeline and such. [LB253]

SENATOR CRAWFORD: Yes, that is their task exactly. [LB253]

SENATOR SMITH: I think it's quite fascinating and it shows us a challenge that we have in economic development. [LB253]

SENATOR CRAWFORD: Absolutely. Absolutely. Thank you. [LB253]

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SENATOR SMITH: Thank you. Welcome, Commissioner. [LB253]

DON KELLY: Hi, Senator. How are you, sir? [LB253]

SENATOR SMITH: Good. [LB253]

DON KELLY: (Exhibit 1) Chairman Smith and members of the Revenue Committee, my name is Don, D-o-n, Kelly, K-e-l-l-y, and I'm Chair of the Sarpy County Board of Commissioners. Thank you for the opportunity to appear before you today and we wish to thank Senator Sue Crawford for introducing LB253 on our behalf and on the behalf of our partner cities within the county. I'd like to offer a brief history of Sarpy County's involvement in the provision of the sanitary sewer service within our boundaries. In the early 1990s, we recognized that many of the prime development areas in our county were outside the reach or ability of any of our municipalities to provide such service. We worked with the former Senator Paul Hartnett to introduce LB1139 in 1994 which was passed by the Legislature to create the County Industrial Sewer Construction Act. In 1996, as a result of the authority granted by this body, Sarpy County constructed the first portion of our current system. I've asked our fiscal office to create a summary of financial status of this system and I have attached that summary to my testimony, but it is important to emphasize that absolutely no property tax dollars have been used in the construction or operation of the county sewer system. I've also attached a map of our current system and most of the growth along the I-80 corridor in Sarpy County has been a result of our investment in that infrastructure. Topographically, Sarpy County is divided by the Papillion Creek, or Papio Creek as we call it back home, and the Platte River watersheds. The lack of sewer capacity in the Platte watershed will hinder future economic development in southern Sarpy County. Testifiers will follow that can address the challenges posed by the ridgeline dividing the two watersheds. Engineering firm, HDR, conducted their initial study of this issue in 2006-2007 time period. So now let's fast forward to 2017. Due to continued growth in the metro area, the availability of developable land is becoming extremely limited. Future economic development not only impacts the greater metro area but the entire state by bringing in additional sales and income tax dollars, creating good paying jobs for the Nebraska citizens. You may be aware of the growth along our Highway 50 corridor--Traveler's Insurance, the Omaha Veterans Cemetery, and the recently announced Project Raven, but without addressing the issue of sewers south of the ridgeline the ability to continue this momentum is limited. It is time to address this issue for the benefit of us all. LB253 offers a regional solution to the need that neither Sarpy County or any or our cities could address individually. This is a cooperative effort among the county, cities, and the development community to meet this need. Cost estimates for the full build out of this area are approximately \$220 million. It is important to note that this is a multi-agency, multi-phase project that will take years, if not decades, to complete. But as noted previously, the time to act has reached a critical stage. Representatives of HDR will follow later to address the parameters of the study and their economic projections. I also want to touch on the tax levy issue. It is

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important to note that the current levy authority already included in the County Industrial Act does...to this...that this is not a new tax, but rather a shift of some authority to the new agency. Mike Rogers, our bond counsel, will follow and address the needed taxing authority to make the bonds marketable. As indicated, the previously referenced funding attachment we have a history of not depending on property taxes to accomplish our goals. I can attest that, like many of you, I did not run for office with a platform of raising taxes. Rest assured we are good stewards of resources and this approach...will approach this effort with the same resolve. In closing, I want to thank you for your time. Sarpy County believes LB253 may be the most important economic development legislation to come before you this session. Are there any questions I can address? [LB253]

SENATOR SMITH: Thank you, Mr. Kelly. Do we have questions? Senator Groene? [LB253]

SENATOR GROENE: What elected office did you have? I missed that. [LB253]

DON KELLY: I'm sorry, say that again. [LB253]

SENATOR GROENE: What elected office do you have? [LB253]

DON KELLY: I'm on the Sarpy County Board of Commissioners and I'm the current chair. [LB253]

SENATOR GROENE: So this sewer project will be a county owned? [LB253]

DON KELLY: Well, we already have a...under the previously approved in 1994 County Industrial Sewer Act, we have the authority to construct and build and raise funds to put sewer in place. But if I could show you a map of Sarpy County today, the difference between now and 1994; in 1994, the county was large, huge, it encompassed most of the territory of the smallest county in the state. But if you look at a map today, as the cities grow outward, the cities are growing in size and the county is shrinking. We have a tool already in place to construct this sewer, but now we want to bring in the cities because they are stakeholders in this development because more and more this development will occur in their extraterritorial zoning districts. [LB253]

SENATOR GROENE: So then they'll annex it? [LB253]

DON KELLY: Yes, sir, they will. [LB253]

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SENATOR GROENE: Who will get taxed? Everybody in the county? The farmer and everybody? [LB253]

DON KELLY: Nobody will be taxed. If it goes according to plan to our projections, we will...we have a couple of funding mechanisms. We can either use bonds, as we did initially when we began the project back in 1996. We raised \$3 million in bonds, revenue bonds, you know, and we paid it off that way. And then the way we paid it...those bonds off were through connection fees. We'll try to approach it in the same manner in the future. So although we do have a taxing mechanism in place, it's never been used or implemented and all our sewers have been done through bonding and then through connection. So as growth occurs and connection occurs, fees are collected and that pays off the cost of the sewer system. [LB253]

SENATOR GROENE: But why do you need the cities involved and the NRD...whoever else you're going to get involved in this interlocal? [LB253]

DON KELLY: Well, because if we don't involve the whole county in this effort... [LB253]

SENATOR GROENE: Well, you are the county. [LB253]

DON KELLY: Yes, but if we don't involve the municipalities, they don't have the authority or the, probably, the bonding ability, singular, to do it by themselves. So we create this interlocal agreement that brings the resources of the county and the five municipalities together so that we can...\$220 million is a pretty significant cost for any single entity. [LB253]

SENATOR GROENE: I still don't get it. You can tax right now everybody in the county. So... [LB253]

DON KELLY: Well, we can. [LB253]

SENATOR GROENE: But you don't want to do the farmers and...I mean... [LB253]

DON KELLY: Well, I've been here for two hours and I've heard a lot of conversation today about taxes. And people... [LB253]

SENATOR GROENE: And we've heard a lot more. (Laughter) [LB253]

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DON KELLY: And so...the last thing we want to do is put more tax burdens on our citizens. [LB253]

SENATOR GROENE: I understand. [LB253]

DON KELLY: So this is a mechanism that will allow us to develop almost half of our county for economic development and growth which will broaden the tax base, which will improve the quality of life of our citizens without putting an additional tax burden... [LB253]

SENATOR GROENE: I'm still waiting for my taxes to go down with the growth I've had around where I've lived for 40 years, but it doesn't seem to ever happen. They always find a new way to spend it. [LB253]

DON KELLY: Sir, you need to move to Sarpy County. (Laughter) [LB253]

SENATOR GROENE: My tax rate is less than yours. I'm from Lincoln County, bet it's less than yours. But anyway, no, so you're still looking at revenue bonds or are you looking at property tax? [LB253]

DON KELLY: Well, right now, well, there's going to be people behind me, our bonding agent will give you all the financials behind it. [LB253]

SENATOR GROENE: I'm just curious. [LB253]

DON KELLY: I'd rather let him speak to it. I think he'll be able to answer your questions. [LB253]

SENATOR GROENE: He knows my questions. Thank you. [LB253]

DON KELLY: Okay. [LB253]

SENATOR SMITH: Senator Harr. [LB253]

SENATOR HARR: Thank you. I heard you say this is the biggest economic development bill we pass this year. If we do this, does that mean we don't have to do any other economic development bills? (Laughter) [LB253]

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DON KELLY: I wouldn't categorize it that way. But when you hear the financials... [LB253]

SENATOR HARR: Well, let's say it this way, do we have to do any more for Sarpy County? [LB253]

DON KELLY: In what regards? [LB253]

SENATOR HARR: Well, you tell me. You say this is the biggest one. If we give you this, do we have to do anything else for Sarpy County? [LB253]

DON KELLY: Well, it has the potential to add \$3 billion of economic impact to our county, so if there's a bigger bill in front of you this year, I'm not aware of it. So if I overstate it, I apologize. [LB253]

SENATOR HARR: I'm not saying you overstated it, I'm saying if we do this, because we have limited resources, if we do this, is that enough for Sarpy County? [LB253]

DON KELLY: Well, we're not asking you for any resources, sir. All we're asking you for is the ability to change this agreement...or this already existing statute that will allow us to go from a single entity, the county, to an interlocal agreement which brings in our city partners so that we can fund this. [LB253]

SENATOR HARR: Okay. [LB253]

SENATOR SMITH: Other questions for Commissioner Kelly? I see none. [LB253]

DON KELLY: Thank you very much, Senators. [LB253]

SENATOR SMITH: Thank you for your testimony. Welcome, Mayor Black. [LB253]

DAVID BLACK: (Exhibit 2) Thank you, sir. On behalf of our joint constituents, thanks for your service; honored to be in front of you. I wouldn't mind that one question, but I won't take up my time. I'm Mayor David Black, D-a-v-i-d B-l-a-c-k, mayor of the city of Papillion. But I'm here on behalf of the United Cities of Sarpy County, an official organization that represents Springfield, Gretna, Papillion, and La Vista, and we all took a vote and I am their spokesman on this item. And we want to, all together, offer our support and proud to follow county, I don't know how many times you hear city and county agreeing with a state senator, but we think it's a

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big moment for Sarpy County. We believe it's going to create upwards of 18,000 jobs and \$100 million worth of new revenue for the state, Sarpy County, and the five cities. And it's the first time that I can remember that the United Cities and the county are coming to the Legislature in a joint effort supporting the same item. And it's taken a lot of work, it's not been a small task. We've had almost two years worth of meetings, research, discussion, compromise; some of the HDR information assimilates that, and you'll hear that. But it's not just the government entities, we've got a lot of support from our business community, Sarpy County Chamber of Commerce, and Sarpy Economic Development both took official votes of support. And I believe the Omaha Chamber, and potentially the Bellevue Chamber of Commerce might send in support as well. But aside from that broad support, I want to get into some of the specific details. As mentioned, we are the smallest geographic county in the state, about 158,000 acres. And about 65 percent of that land is on the southern side of the ridgeline. There is a map that is handed out; very simply shows the blue has sewer access and is developing. The red is south of the ridgeline and does not have sewer access. So it's the red portion that we're talking about. And that's about 65 percent that is not served by gravity flow sewer. And the absence of that is preventing the red from developing. The area north...so the blue area is served by the city of Omaha regional system, so we already participate in a regional system, much like we want to on the southern side. And what's unique there is that regional system only handles so much sewage. So if we do a development in the red area south, our only option today is pump it over the ridge. But the regional authority, the city of Omaha, will only allow a certain capacity into their system. So if we pump something from red to blue, we have to find that same number of acreage in the blue and not develop it because we have to stay net neutral on the amount of sewage. And so the blue regional solution system is not a solution for the red. We've had about ten years of cooperation with the other cities and the county trying to figure this out. And LB253, as mentioned, is probably...we're at a critical point of development and LB253 helping solve that. The taxing portion, the idea that...the authority is already there, this just authorizes a project under that is for a shortfall of a project. The fees that we use are more development and user fees. I don't want to take my time, but I'd like to dig into that a little bit more if that question would follow. From a growth perspective, MAPA, the Metro Area Planning Agency that does the eight-county regional planning, I think today, would say the eight-county metro area is about 846,000 people. That eight-county bubble by 2050 is projected to grow to about 1.2 million, or increase about 350,000. Sarpy County in that same time frame is projected to grow about 140,000, 141,000; so just Sarpy County is about 40 to 45 percent of the entire eight-county region's development. Sixty percent of our growth is in that red area. And so that's the growth we're enabling from a regional perspective. And that accounts for about 90,000 people; 86,000, 87,000 people from our projections. Economic development impact, five years ago Sarpy County generated \$50 million in sales tax for the state of Nebraska. Today, we generate \$90 million for the state of Nebraska. And we believe just to the state, at this build out, will add...easily add another \$45 million. Job creation, we believe it will be adding about 30,000 jobs in that same time frame. Again, about 60 percent of those are 18,000 in that red area south of the ridgeline. It was mentioned the

governance, it will be the four cities...it will be the cities and the county together in an agency that this enables, and everybody will have an equal vote. We'll governance together much like the governance in the blue, but each of the cities will still be autonomous in deciding how they do their build out. I've been in front of this...in front of you for about the last three or four years about frozen boundaries and the Learning Community. That was our number one economic development issue. We were not developing south of that line. In your wisdom, you unfroze that boundary last session. We've already had plats come forward since that was unfrozen. It was frozen for ten years; it's unfrozen. We now have development occurring that is north of the ridge. This is now the second step of that kind of frozen area in Sarpy County. So those two play hand in hand. I see I'm out of time. [LB253]

SENATOR SMITH: Thank you, Mayor Black. Would you like to take a shot at answering Senator Groene's question. [LB253]

DAVID BLACK: I would. The question of why not just the county and why do the cities have to play? Again, Sarpy County is a very small geographic area. And we've got our...Papillion, Bellevue, and La Vista have our two-mile zoning jurisdictions; Springfield and La Vista have their one-mile. But because we're so concentrated, a lot of that, what you would say is county ground, is in our zoning jurisdiction. But if you look at our extraterritorial zoning jurisdictions, a lot of it is in that red zone. And so in the red is zoning jurisdiction of each of the cities and the county, a mix of that. And so, yes, the county theoretically could probably today throw a tax on there and fund it. But most of the funding sources, development fees and sewer fees, those are under city jurisdiction. So as a developer comes forward and wants to develop in this red area, in the regional authority, it's the city they're working with that gives them permission. We collect the developer fee; we can collect the sewer fee, and so that's why the cities have to be involved to make that work. [LB253]

SENATOR GROENE: Thank you, that answers... [LB253]

DAVID BLACK: Thank you. [LB253]

SENATOR GROENE: The counties only have one way of raising funds and that's to have property taxes. [LB253]

DAVID BLACK: Correct, and it's the last source. [LB253]

SENATOR GROENE: All right, now you've answered it. But there is a lot of development there now and it's all septic tank. [LB253]

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DAVID BLACK: There is old development that's septic, but we don't allow new developments with regional septic, so it tends not to develop. [LB253]

SENATOR GROENE: Right now, nobody can build it...buy an acreage, put a house on it because they don't have sewer? [LB253]

DAVID BLACK: If it's in a city jurisdiction, we would not allow that. And I think the county would be very restrictive as well. [LB253]

SENATOR GROENE: Out in the country we could. In Sarpy County right now, I couldn't buy ten acres and build a house out in the country? [LB253]

DAVID BLACK: You might be able to do an individual house, but you wouldn't be able to do a large subdivision. [LB253]

SENATOR GROENE: That's what I mean, (inaudible) septic tank. [LB253]

DAVID BLACK: The type of development we're talking where it's going to be a large subdivision, a manufacturing...building industrial, you would not be able to put in a package plant most likely. [LB253]

SENATOR GROENE: So you would put in infrastructure throughout that red area... [LB253]

DAVID BLACK: That's correct. [LB253]

SENATOR GROENE: ...lay line... [LB253]

DAVID BLACK: And HDR, I think, will go... [LB253]

SENATOR GROENE: ...pumps and all that have in place? And you would pay it with your fees? [LB253]

DAVID BLACK: Correct. [LB253]

SENATOR GROENE: Thank you. [LB253]

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SENATOR SMITH: Senator Schumacher. [LB253]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for your testimony. I'm looking in here, I mean, through the bill for the meat. And a lot has been said about the development of the area and stuff, but, basically, it looks like this bill adds to those organizations which may operate a sewage disposal system, a village or sanitary improvement district, that's step one. [LB253]

DAVID BLACK: And that is the meat of it. [LB253]

SENATOR SCHUMACHER: Well, I don't know, let's go down through here once. The next step is that, notwithstanding any other provision of law, a city or county or sanitary improvement district may enter into an agreement with this joint entity that's created pursuant to the cooperation it has which might include the use or right to use the real personal property. And that that agreement then could provide for a stream of income of...to operate this whole thing. And then I get down to what I think is the meat, and that is, in order to provide for any and all payments due under this service agreement where money flows around in order to make and build this sewer system, in order to provide for that, and this is all new language, any county, city, village, or sanitary improvement district may provide that payments be made from a special tax, I take that to be a new tax, levied for the purpose upon all the property within the county, city, or improvement district. And this special tax, including limitations on tax levies, budgets, revenues, and expenditures have the same status as a bond. I would guess that means that's a general obligation bond of the county. So what we're doing is creating an arrangement that allows this kind of tax which is going to...it's going to take a tax to fund this, to be imposed and that tax will have the same lien authority as a bond. How far off is that guesstimate? [LB253]

DAVID BLACK: You get into the bond authority and the lien status, you're probably a little bit beyond me, and somebody will be testifying that can go into detail there. Specific to the meat, what is not in place in...there is taxing authority in the Industrial Sewer Act today. What we don't have the authority to do is come together as the cities and the county in this new agency to extend for this project. So we need the authority to come together which this enables, and then in doing that we need to have access to that funding. Now, the primary funding as mentioned, we've always used as the developer fees and the sewer fees. But to make the bonds marketable, you need the ability to cover a gap if there is one, which is that levy authority. [LB253]

SENATOR SCHUMACHER: So right now interlocal entities don't have the authority to levy a tax. But this special interlocal entity would have the authority to levy a tax to fund this whole thing? [LB253]

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DAVID BLACK: That authority already exists under the Industrial Sewer Act. The county can do that today. Bond counsel might be able to go a little bit deeper on that. [LB253]

SENATOR SCHUMACHER: Yeah. Well, I'll wait for bond counsel then. [LB253]

DAVID BLACK: Okay. And the cities have already...we've got the draft of our interlocal already; we're pretty close on having that together. So if this authority would pass, we're pretty close with that interlocal. [LB253]

SENATOR SCHUMACHER: One follow-up--this applies statewide, not just to counties that have a metropolitan city or... [LB253]

DAVID BLACK: A little bit out of my specific knowledge, but I believe when the Industrial Sewer Act was first passed in the mid-90s that Chairman Kelly mentioned, I believe the Legislature, the way they set that up, it only applied to Sarpy County. But from a city perspective, we have no opposition if this goes broader than Sarpy County. We think it's a good system. But I think the way the Legislature has it set up, it's only Sarpy. [LB253]

SENATOR SCHUMACHER: Okay. Thank you. [LB253]

SENATOR SMITH: Senator Groene. [LB253]

SENATOR GROENE: Thank you, Chairman. Is there an old barn out there? [LB253]

DAVID BLACK: Is there what? [LB253]

SENATOR GROENE: Is there an old barn or a house out there? [LB253]

DAVID BLACK: Out where? [LB253]

SENATOR GROENE: Where you could TIF it? [LB253]

DAVID BLACK: From Papillion's perspective, we've never TIFed a project. [LB253]

SENATOR GROENE: I know you didn't; I knew that about you guys. Thank you. [LB253]

DAVID BLACK: I'm not saying we never will, but we never have. [LB253]

SENATOR SMITH: And, Mayor Black, I know you had to rush through your testimony, but I...can you go over those economic development numbers again, because I think it's worth noting. And again, there's a lot of growth taking place in the Omaha metro area, and Sarpy County is contributing a great deal to that. And this is going to help to continue to fuel that growth. Those numbers that you shared with us, a type of new sales tax revenues coming into the state, to what tune was that? [LB253]

DAVID BLACK: Yeah. And to put it into context, let me start at that metro level again, because this is not a Sarpy issue, this is a metro-wide issue. And with us being the...with the metro being the economic engine, it's a state issue. So Metro Area Planning Association, MAPA, plans for an eight-county region; basically, Fremont to Blair, couple of counties in Iowa, down to Cass County and back around. So big eight...eight-county bubble is the Omaha metro. Today I believe that population is 846,000, somewhere in that range. They plan by 2050, which is only 34 years, that that will be 1.2 million, or increase about 44 percent, 350,000. Of all of that eight-county bubble growth, about 44 percent of it is centered in Sarpy County. If this structure is in place, we're planned to double in size, 94 percent. And so if we increase 140,000, 60 percent of that is south of the ridgeline. So that's kind of general population numbers. That would translate to...I don't know the exact number of people, but 60 percent of 141...this is the number committee, I'll let you do the math. On the economic development side then, what does that volume of people translate to? Five years ago, we contributed \$50 million to the state of Nebraska through sales tax. Today that's \$90 million. We believe then that that's \$45 million... [LB253]

SENATOR SMITH: And that's the state's portion of the sales tax. [LB253]

DAVID BLACK: That's the state's portion. And so we believe if this build out, that's another \$45 million annually in sales tax to the state. The county, just because of natural growth with current rates, would receive about \$21 million in property tax. And then the city share a little bit of the property tax, a little bit of the sales tax. And so I mentioned the hundred million, that's the sum of those. From a jobs perspective, we believe that translates to 30,000 jobs. Again, 60 percent of those being on the other side of that ridgeline. The important thing on the jobs front, I don't think people think about, a lot of times they'll think sewers, we're just building houses because that's primarily what's in Sarpy; our phase of growth now is industrial manufacturing, project, or even those types of things you heard of, that's a lot of the Highway 50 corridor. So a lot of this is going to enable industrial manufacturing type development to occur, so it is a jobs, not just housing. [LB253]

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SENATOR SMITH: Okay. Thank you, Mayor Black, for going over that. Senator Schumacher. [LB253]

DAVID BLACK: Yes, sir. [LB253]

SENATOR SCHUMACHER: Just quickly...thank you, Chairman Smith...now you're talking about your growth in Sarpy County. But most of your growth is not migration into the state, it's from attrition from out of state, is that correct? [LB253]

DAVID BLACK: We had--I need to update this information--we had a...UNO did a study, I think it was about four or five years ago, because we were talking a lot about growth in Sarpy County, and somebody said, well, it's just people moving around in the metro, so what's the big deal. UNO had done a study and they had found, I think at that time, about half of our growth actually was from outside the metro, outside of Nebraska. And as we were doing...as they looked into the demographics, there was no real one logic to tie to exactly where it was coming from. So some of it is Nebraska coming in, some is moving around the metro, but a significant is from outside the state coming in. [LB253]

SENATOR SCHUMACHER: But if the evidence would show that a great deal of it is coming from out of state, then whatever growth is occurring there has to be subtracted off of outstate, not out of state, but outstate. [LB253]

DAVID BLACK: Outstate versus out of state, I don't necessarily know those numbers. [LB253]

SENATOR SCHUMACHER: Right. And so this may all...these big numbers you threw out may not be net numbers. Thank you. [LB253]

SENATOR SMITH: Thank you, Mayor Black, for your testimony. [LB253]

DAVID BLACK: Thank you, sir. [LB253]

SENATOR SMITH: Next proponent of LB253. Welcome. [LB253]

DAVID DECHANT: (Exhibit 3) Thank you. Good afternoon. I'm David Dechant, D-a-v-i-d D-e-c-h-a-n-t; I'm with HDR as the project manager on this project. As indicated by the two before me, the lack of sewer service in southern Sarpy County is increasingly becoming an impediment to growth. Recognizing this need back in 2006 and 2007, HDR put together a plan for sewer

service in the southern part of the county. Just as that plan was being finished up, the economy took a downturn and the plan was put on hold. Over the last five years, increasing development pressure enabled the county to retain us to update the previous plan working collaboratively with the cities, with the county, and with other stakeholders. We updated that plan and we accomplished two things: first, we reviewed and validated the feasibility of the prior concept from regulatory, from environmental, and from governance perspectives. And secondly, we refined the technical aspects to reflect current conditions and affirmed the financial feasibility. While not without challenges, the proposed regional system is both technically and financially feasible based on multiple regional systems that I've been involved with over the years. The updated plan proposes a \$200 million regional sewer system constructed in multiple phases over 30 and 50 years, depending upon the rate of growth. The middle part of the handout, that goes around, shows you that regional system. Addressing one of the comments that came up earlier-- why a regional system? Well, regional system is able to take advantage of economies of scale. Rather than have each of five or six entities deal with their own problem individually, a regional system enables them to address those on a collective cost-effective basis. The regional system will be constructed and operated by a regional agency that will be comprised of the cities and the county. It will include a regional wastewater treatment plant south of Springfield that will discharge high quality, treated effluent protective of the Platte River. The first phase is currently proceeding south of Gretna, north of Springfield; the rest of Phase 1 is planned to respond to continued development pressure in those two areas, as well as development pressures that are occurring north and east of Springfield and southwest of Papillion. Funding the project will primarily be capital, connection fees paid by development as development occurs, and sanitary sewer rates that are charged. Forecast: sewer rates are comparable to the sewer rates that are currently being charged in the area. The connection development fees are higher than what is currently being charged, but consistent with the national average and are supported by the local development community. This bill provides the regional agency with the means to provide a third funding source of revenue. And this third funding source which we've estimated is about \$1.3 million a year is the bridge that's required to get from start-up to a fully operational system. As mentioned previously, Sarpy County generates the third highest sales tax revenue stream for the state having grown from \$50 million to \$90 million over the last five years. Continued growth and sales tax revenue is dependent upon sewer service south of the ridgeline. As the senator mentioned in her opening remarks, without this regional sewer system, there will be a curtailment in development south and only development could occur with septic systems or community systems of that sort. So there would be an adverse environmental, as well as a reduction in revenue production without that growth. With that I'd entertain any questions that you may have. [LB253]

SENATOR SMITH: Thank you, Mr. Dechant. Senator Harr. [LB253]

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SENATOR HARR: Thank you. Thanks for coming. Let me first start off by saying I thought LB253 was a great idea, and I still think it's good, but there is so much language of comparable pricing, the cost will be determined later, it depends on how we do it, what the cost is, that I'm not quite sure I'm on board. What do you think the cost of creating sewer systems...I mean, you have phases here so you've obviously considered it, what are the costs for each phase? [LB253]

DAVID DECHANT: Well, the total is \$220 (million). [LB253]

SENATOR HARR: The total is \$220 (million)? [LB253]

DAVID DECHANT: The total is roughly \$220 (million)... [LB253]

SENATOR HARR: And that's if we built it all three phases today. [LB253]

DAVID DECHANT: Yes...yes, that...yes, if all three...if you just went out right now and built all three phases, it would be \$220 million. [LB253]

SENATOR HARR: Okay. Okay, and then my next question is, something in my mind about, we in Omaha, where I think HDR is located, we tried a couple years ago to get the sales tax that we pay for our new sewer separation to come back to Omaha and it was declined. And I know when you have interlocal agreements, correct me if I'm wrong, they don't pay sales tax, is that correct? [LB253]

DAVID DECHANT: I will defer that question to the subsequent speaker, if that's all right. [LB253]

SENATOR HARR: Because I know we did a JPA...we made it tax exempt for those purchases. So I want to make sure...and I hear a lot of talk in here about sales tax revenue, I want to make sure that...I'm going to use it--what's good for the goose is good for the gander. If we are collecting money, if we are paying sales tax to Omaha, I want to make sure this collects the same amount of sales tax in both regions. And I don't know if it does or it doesn't, but if we're going to do this, that's a question for the senator, maybe she can answer that. And to your knowledge...well, actually bond counsel is coming up after, I'll ask you another question. But it's \$220 million for the whole...if we were to build the whole sewer system today, then who services that sewer after that? I know in Omaha we have MUD. Who services it for this area south of the ridgeline? [LB253]

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DAVID DECHANT: It will be a regional entity that will operate...will construct and operate the regional system. [LB253]

SENATOR HARR: Okay, so it's not just the construction, it's also an operation? [LB253]

DAVID DECHANT: Um-hum. [LB253]

SENATOR HARR: Is what this interlocal agreement is creating? [LB253]

DAVID DECHANT: That's what the plan would be, yes. [LB253]

SENATOR HARR: Okay. And there's enough water in Omaha metropolitan area? [LB253]

DAVID DECHANT: That's an interesting question. One of the things that we actually talked about doing was moving the discharge from this sewer over to the Missouri. And the environmental folks and the DEQ folks really want the discharge to be from Sarpy County so that you're not moving the water from upstream of Omaha to downstream of Omaha, that water is still flowing... [LB253]

SENATOR HARR: Okay, great, thank you very much; I appreciate it. [LB253]

SENATOR SMITH: Mr. Dechant, the way I'm looking at this, let's say Phase 1A...because some of the discharge is into some of the smaller creeks and it deals with a smaller area, I'm going to assume that the way this is laid out that it gets progressively more expensive as we move through these phases? Is that correct? And then...so the final phase is in 2044 and those final phases will probably...in the final phases there will be more complexity in that engineering...is that the way it works? [LB253]

DAVID DECHANT: To some extent, although it's kind of like...it's kind of like a snowball. I mean, you know, getting it rolling to begin with takes a lot of working capital, so to speak, or takes a lot to get it started. But once you have development occurring and you have the connection development fees coming and you have existing customers that are paying sanitary sewer rates, there is additional costs with the more regional portions that follow in subsequent phases, but there is also a larger base of development and sewer rates to pull from. And so the third funding source is really kind of like a working fund to get you from start-up where you have no customers to that point where you have a critical mass of customers and you have more demanding that service and can build more to serve them. [LB253]

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SENATOR SMITH: And will that progression be based on the fulfillment of the growth in Phase 1A before you move to 2 and so on? [LB253]

DAVID DECHANT: Yes. Which... [LB253]

SENATOR SMITH: Okay. So if that growth doesn't happen, those future investments don't take place. [LB253]

DAVID DECHANT: Exactly. And that's...you're right on there, that's a real critical element in any regional system is to have the flexibility in the phasing and to respond the phasing to development pressure so that you're not building more than what the development actually is occurring and can pay for. So that's a critical element and that's why the plan is set up the way that it is. [LB253]

SENATOR SMITH: Okay. Senator Schumacher. [LB253]

SENATOR SCHUMACHER: Thank you, Chairman Smith. So you just talked about the energy it takes to get the snowball moving. [LB253]

DAVID DECHANT: Um-hum. [LB253]

SENATOR SCHUMACHER: Okay. And as I get it, where that energy is going to come from is...because there won't be any revenues until the snowball is rolling down the hill, this special tax that will be levied on the property in the county. [LB253]

DAVID DECHANT: Well, the development connection fees will actually come in advance or in parallel with construction. [LB253]

SENATOR SCHUMACHER: But somebody has got to push the snowball to get it going. [LB253]

DAVID DECHANT: But there is a third funding source, yes, that we're estimating at \$1.3 million a year that's required to bridge that gap as the snowball gets rolling. [LB253]

SENATOR SCHUMACHER: And then I just want to...the property that's added...connecting to these sewer systems and, hopefully, from the growth, you anticipate much of that to be TIF, tax increment financing property? [LB253]

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DAVID DECHANT: I'll have to defer that to the county and city representatives. [LB253]

SENATOR SCHUMACHER: Maybe because if it's TIFed it probably wouldn't be subject to this special tax. [LB253]

DAVID DECHANT: I'll have to defer that to the... [LB253]

SENATOR SCHUMACHER: Okay, all right, thank you. [LB253]

SENATOR SMITH: Senator Groene. [LB253]

SENATOR GROENE: So the first thing you build is a sewer plant, right? [LB253]

DAVID DECHANT: Yes. [LB253]

SENATOR GROENE: That's the first thing. Is it going to be one huge plant that it goes through, or are you going to have sub... [LB253]

DAVID DECHANT: If you look at the map in the middle... [LB253]

SENATOR GROENE: Yeah, that's...probably another one? [LB253]

DAVID DECHANT: Another handout that looks like this on the front. [LB253]

SENATOR GROENE: This? I don't know where she put it. Yeah. [LB253]

DAVID DECHANT: So if you look at that map, the yellow shaded areas are Phase 1A, and the yellow dots are part of Phase 1A. And so there are some satellite facilities that get constructed in Phase 1A to serve the yellow highlighted areas that are Phase 1A. And then those yellow dots actually get expanded to serve the blue shaded area which is Phase 1B. And then eventually as part of Phase 2, which is the green area, the regional facility south of Springfield gets constructed. And the sewer lines that you see on there...the sewer lines that you see on there are color coded as well, consistent with the phase. And this really reflects the forecast that MAPA has put together and the development pressures that are being experienced now. But it's critical that Phase 1A and Phase 1B, as they occur, will be adapted to reflect the development that's actually occurring. And that's another reason why a regional entity operating such a system

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works pretty well is that regional entity then gets comprised of each of the cities and county represents the collective attitude of the group. [LB253]

SENATOR GROENE: So the build a new house subdivision, people move into it, then the SID sends them...it's on their bill, the sewer bill, and the sewer bill then starts going to this interlocal agreement revenues? Or don't you have a sewer... [LB253]

DAVID DECHANT: This is really not anticipated to be set up as a sewer improvement district. [LB253]

SENATOR GROENE: So I own a house, I'm connected to this sewer system; how do I pay for that? I'm using it more than the guy that already lives in La Vista or someplace, how do I help pay for this as a homeowner now? [LB253]

DAVID DECHANT: Well, if... [LB253]

SENATOR GROENE: I should be paying more than the average taxpayer across the whole county. [LB253]

DAVID DECHANT: If you live in the city, the way this is anticipated, is that the city will bill you just like they bill their current customers for sewer services... [LB253]

SENATOR GROENE: So this isn't developments outside the city's SIDs? [LB253]

DAVID DECHANT: I'll have to defer that to one of the city representatives as well. [LB253]

SENATOR GROENE: All right, thank you. I just thought... [LB253]

SENATOR SMITH: I see no further questions. Thank you for your testimony. Next proponent of LB253? Welcome. [LB253]

MICHAEL ROGERS: Thank you. Mr. Chairman, members of the committee, my name is Mike Rogers; I'm a bond attorney with Gilmore and Bell here representing Sarpy County today. [LB253]

SENATOR SMITH: Let me ask you to spell your name for us. [LB253]

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MICHAEL ROGERS: Oh, spell my name, it's M-i-c-h-a-e-l R-o-g-e-r-s. [LB253]

SENATOR SMITH: Thank you. [LB253]

MICHAEL ROGERS: Thank you. I'm here to testify in favor of this bill and to help provide some technical information for you and a little bit of explanation as to the tax levy language in the bill. And I do public finance work, that's my only practice, and so I'm involved with communities around the state in doing bond issues. And one of the issues with the bond issue for a revenue financing for a utility like this is that it would, typically, be based on historical operations and historical revenues. That would be the credit that a bond issue would be based on. And here we have, as you've heard, a rather large system which is effectively a start-up with no historical revenues to base a large financing on. And so the challenge was to try to find a way to provide some sort of credit support to allow a bond issue to move forward. And the method identified was to allow interlocal agency that is proposed to be created to enter into service agreements, as Senator Schumacher identified. And those service agreements with the members would provide the revenue to pay debt service on the bonds whether it be through sewer connection fees, as Senator Groene and Mayor Black discussed, or other sources; but, ultimately, a bondholder would want to know that there is something standing behind that in order to make those payments. And here with the start-up, that would be the ability of the member under the service agreement to levy taxes to make those payments and to meet the obligations in order to pay debt service on the bonds. That allows bonds to be issued based on a credit that is worthwhile and allows for financing with relatively lower interest rates than you would find on something that had no credit standing behind it. So, that's really the idea behind that provision of the bill regarding the tax levy authority. And it does not require that the members of the agency or the parties to the service agreements levy taxes, rather it allows them to levy taxes to the extent revenues would fall short. And again, that gives a significant credit to a financing for a project like this. So with that I'd be happy to answer any questions. [LB253]

SENATOR SMITH: Thank you, Mr. Rogers. Senator Harr. [LB253]

SENATOR HARR: Thank you. Thanks for coming, Mr. Rogers. Can you...I'm still...and I appreciate your comments, but I'm still a little worried about the taxpayers of Sarpy County. Can you walk me through how the money flows? So we form this local (inaudible). There is a bond issue, is that correct? [LB253]

MICHAEL ROGERS: That's correct. [LB253]

SENATOR HARR: And it would be voted on by the citizens within that interlocal agreement. [LB253]

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MICHAEL ROGERS: It would not be a voted bond issue. [LB253]

SENATOR HARR: Okay, and why is that? [LB253]

MICHAEL ROGERS: The legislation does not call for an election. The idea is for this to be primarily revenue based. Historically or traditionally revenue bond issues are not required to be voted in Nebraska. [LB253]

SENATOR HARR: Okay, so who would make the determination on the bonds...to issue bonds? [LB253]

MICHAEL ROGERS: The agency that's formed would need to approve a bond issue, and that... [LB253]

SENATOR HARR: Okay. [LB253]

MICHAEL ROGERS: ...the board of that agency would be determined based on the organizational documents for that, which has not yet been created. [LB253]

SENATOR HARR: Okay. [LB253]

MICHAEL ROGERS: And then in addition to that, the service agreements that are entered into by the political subdivisions or the members of the agency, would need to be approved by each, either city council or the county board, to those separate service agreements. [LB253]

SENATOR HARR: So, let's call this "Sarpy Area Water," "SAW." Okay? So they all come together and they form "SAW." Is that correct? We have MUD in Omaha, this would be "SAW"...or is this something...in Omaha is it done by the city of Omaha? [LB253]

MICHAEL ROGERS: MUD has it's own separate statutes that govern its existence. This would be an interlocal agency created under the Interlocal Cooperation Act, but a separate entity nonetheless. [LB253]

SENATOR HARR: And so who controls the...what this entity does or does not do? [LB253]

MICHAEL ROGERS: The board. [LB253]

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SENATOR HARR: Where is it just limited to just water or sewers within this agreement, within the statute...or proposed legislation? [LB253]

MICHAEL ROGERS: Well, it's under the Industrial Sewer Act. It's an amendment to the Industrial Sewer Act. And so it would...the statutes...the service agreements would only be allowed to be entered into with respect to sewer projects like this. [LB253]

SENATOR HARR: And something that was brought earlier was that...by Mayor Black...was that somehow this industrial act is limited to Sarpy County only. Is that correct? [LB253]

MICHAEL ROGERS: Yes, that's correct. [LB253]

SENATOR HARR: How is that now special legislation? [LB253]

MICHAEL ROGERS: I was not involved in...when the Industrial Sewer Act was put into place. And I don't remember what the specifications are. They currently only apply to Sarpy County, but the definition of the type of county it applies to could include other counties at some point depending on size and population of the county is my understanding without going back to study the language in the statute. [LB253]

SENATOR HARR: Okay. So this is an amendment to the "industrial act," let's call it. The "industrial act" then allows for this interlocal agreement to form. They form "SAW," is that correct...what we're calling "SAW"? [LB253]

MICHAEL ROGERS: Right. [LB253]

SENATOR HARR: Okay. And then "SAW" is made up...we don't know what the governance of that is, if it's members of each of the communities or if they elect their own members, we don't know that today how it will be made up? [LB253]

MICHAEL ROGERS: The members of...would be required to... [LB253]

SENATOR HARR: What's the board of "SAW"? [LB253]

MICHAEL ROGERS: It depends on how it's established, but it could be members appointed by...it would need to be members appointed by the political subdivisions in "SAW." So the

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county could appoint certain number of board members, or the cities, sort of depending on how they agree to form the entity. [LB253]

SENATOR HARR: Okay. So they form a board and that board is appointed, probably not elected, but... [LB253]

MICHAEL ROGERS: That's correct. It would not be elected. [LB253]

SENATOR HARR: Okay. Does it require that they are appointed, not elected? [LB253]

MICHAEL ROGERS: That's right. The interlocal act does not have a provision for electing board members. [LB253]

SENATOR HARR: Okay. So it's an appointed board that would then turn around and create revenue, not general obligation bonds, is that correct? [LB253]

MICHAEL ROGERS: That's correct. [LB253]

SENATOR HARR: Okay. And these revenue bonds would be paid for by revenue from hook up fees or they would have taxing authority? [LB253]

MICHAEL ROGERS: The interlocal agency would not have taxing authority. It would have the ability to issue revenue bonds payable from revenues generated by anything that it owns, so the system itself. It would also have the ability to pay those revenue bonds from any payments under contracts that it has in place. And here each of the members would have a contract in place with this agency so that, as Mayor Black indicated, payments of sewer connection fees to the city of Papillion could come from the city of Papillion through that service agreement to this agency to help service bonds. [LB253]

SENATOR HARR: So if I...I want to buy the bond and I'm reading the disclosure statement, where would I...to determine if this is a good bond or not, I want to make sure I get repaid, right? That's the whole idea, plus interest. What would I say the revenue comes from to pay those bonds? What the disclosure form say the revenue to pay that bond back comes from? Hook up fees? Monthly fees? [LB253]

MICHAEL ROGERS: Yes. [LB253]

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SENATOR HARR: Anything else? [LB253]

MICHAEL ROGERS: Yes, it would also describe the ability of members, under these service agreements, to levy taxes to the extent necessary to provide sufficient money to pay debt service on the bonds. [LB253]

SENATOR HARR: So an appointed board, if the revenue comes up short, agrees to create these revenue bonds, the revenue then from the sewer fees and from the hook up fees are short could then hold Mayor Black accountable? [LB253]

MICHAEL ROGERS: The...yes, the agency would have a contractual obligation with the city of Papillion or Sarpy County whereby they would be required to make certain payments. And if there isn't enough money to make debt service payments on the bonds, they could say to those contractual counter parties that they need to levy taxes to meet their obligation. [LB253]

SENATOR HARR: And the city could pay for that through property taxes or sales tax or some other special assessment on the property? [LB253]

MICHAEL ROGERS: Correct. I'm not sure about special assessments, but property tax or sales tax or other sources that they have available. [LB253]

SENATOR HARR: Okay. Now in order to become a member of this interlocal agreement, is it just...forgive me because I've not read the industrial act and I hope you have, to become a member of this interlocal agreement, is that by a vote of the people or is it by just a vote of each of the councils of each of those organizations...of each of those cities and/or county? [LB253]

MICHAEL ROGERS: It's a resolution adopted by each city council or the county board of commissioners. [LB253]

SENATOR HARR: Okay. [LB253]

MICHAEL ROGERS: It doesn't require an election of the people. And by the way, I should...I meant to mention earlier that this concept is nothing...it's not a new concept. The same method of allowing an interlocal agency to be formed with service agreements with members is something that was used in the Integrated Solid Waste Management Act in the 1990s. Regional solid waste disposal facilities were created where they had service agreements with members to allow bond issues to happen. And likewise, under the Nebraska Public Safety Communication System Act, so it's a...something (inaudible). [LB253]

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SENATOR HARR: And I will just say, and I appreciate that, and this is almost more for the senator than for you, we got burned here in the Legislature a number of years ago because we allowed for occupational taxes that allowed to increase the liability a taxpayer has without any vote of the people. So I would be a little hesitant to say maybe at some point this needs to have in it a vote of the people agreeing to join either this...either joining the interlocal agreement or a vote of the people agreeing to the bonds, just so there's some oversight for the liability that these taxpayers are ultimately responsible for; just because we've been burned on that in the past with occupation taxes and I'll leave it at that. And I can talk to Senator Crawford about that. But I appreciate your comments here today. [LB253]

MICHAEL ROGERS: All right, thanks. [LB253]

SENATOR SMITH: Senator Brasch and then Senator Schumacher. [LB253]

SENATOR BRASCH: Thank you for your testimony today. You somewhat answered my question, you said that this concept is not new, correct? [LB253]

MICHAEL ROGERS: Right, that's correct. [LB253]

SENATOR BRASCH: Is it...and then you had also said it was exclusive to Sarpy County as it's written, but I don't see anything in the language that says a county, a city or village, so it could apply to elsewhere in the state? [LB253]

MICHAEL ROGERS: The Industrial Sewer Act in the definition of county is narrowly defined, and so you'd have to look at the beginning of the Industrial Sewer Act to find...which is not part of the legislation. [LB253]

SENATOR BRASCH: That Sarpy County is the only one that fits that definition. [LB253]

MICHAEL ROGERS: Currently, that's correct. [LB253]

SENATOR BRASCH: Okay. And then you had said this is your specialty. Where else is this being used, if not in Nebraska, is this a model from Iowa, South Dakota? [LB253]

MICHAEL ROGERS: It's not. And my practice is limited to...most...90 percent of my practice is in Nebraska. [LB253]

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SENATOR BRASCH: Okay. [LB253]

MICHAEL ROGERS: And this format, and I'm not sure where it came from originally, but I think the first time it appeared was in the early 1990s with the Integrated Solid Waste Management Act which created the regional landfills. This same concept and the language was taken from that act where an interlocal agency is formed to operate something regional and then have service agreements with members in the area to manage something that is in the interest of everyone to manage within that geographic area. [LB253]

SENATOR BRASCH: And tell me again what your practice is? [LB253]

MICHAEL ROGERS: Public finance, I'm a bond attorney. I do tax exempt financings for political subdivisions around the state. [LB253]

SENATOR BRASCH: So basically what this will do is ensure the construction that there is finances and those finances will be assessed upon those who need sewer services. [LB253]

MICHAEL ROGERS: Right. The idea is for the users of the system or people connecting to provide sufficient revenue to pay debt service on the bonds through the service agreements and then through the agency to bondholders. [LB253]

SENATOR BRASCH: Is it going around bonding, is it a work around? [LB253]

MICHAEL ROGERS: It's not. [LB253]

SENATOR BRASCH: It's not. [LB253]

MICHAEL ROGERS: It's not interlocally...any political subdivisions could form an interlocal agency now and issue revenue bonds payable from revenues generated by the property owned by that interlocal agency. That's not anything new. And those don't require elections under Nebraska law. And again, as is customary in Nebraska, revenue bond issues typically don't require an election because they're expected to be paid from the revenues of the enterprise. Here we have a rather large project without any existing revenues to base a financing on, and so when a disclosure document is prepared, as Senator Harr was referencing, there is a provision in there that talks about what's the repayment source and it would describe revenues of the system, but ultimately if those fall short, there would be the ability for the members to levy a tax. And as was testified to earlier, Sarpy County currently has the ability to levy taxes under the Industrial Sewer Act and so I think the idea is that this is not intended to be anything new and is not expected to

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result in increased property taxes. The idea is that it is simply a vehicle to allow bonds to be issued and the tax levy authority is to be used as credit support for this project. Now, could someone be required to levy taxes? Yes, absolutely, and that's the idea or bondholders wouldn't buy that. [LB253]

SENATOR BRASCH: And I read that in the language there, because it does clearly say that it has the ability to derive the revenues. [LB253]

MICHAEL ROGERS: That's right. [LB253]

SENATOR BRASCH: But what does concern me is if it's nothing new, so why do we need this? And then the second is that sewer services are not a luxury, it's not like cable TV. [LB253]

MICHAEL ROGERS: Right. [LB253]

SENATOR BRASCH: You're going to have to pay for it one way or the other. [LB253]

MICHAEL ROGERS: And the other two examples of this concept being used in Nebraska were for solid waste disposals or for landfills, and 911 communication systems, also not luxuries... [LB253]

SENATOR BRASCH: Okay. [LB253]

MICHAEL ROGERS: ...things that are needed, and so the idea was to create something for this large problem that's been grappled with for a long time as a vehicle to help, I guess, get the snowball rolling, if I remember the phrasing right. [LB253]

SENATOR BRASCH: Thank you. I have no other questions. [LB253]

MICHAEL ROGERS: Okay, thank you. [LB253]

SENATOR SMITH: Senator Schumacher and then Senator Friesen. [LB253]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Now an interlocal entity, am I correct in thinking it has the authority to issue a revenue bond without a vote of the people? [LB253]

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MICHAEL ROGERS: That is correct, yes. [LB253]

SENATOR SCHUMACHER: Okay. An interlocal authority does not have the authority to issue a general obligation bond. [LB253]

MICHAEL ROGERS: That is correct. [LB253]

SENATOR SCHUMACHER: Okay, now the puzzle is coming together. Okay, so what we're doing here is we're creating an interlocal body that has unlimited bonding authority to issue revenue bonds. [LB253]

MICHAEL ROGERS: Just like any other interlocal agency would have, yes. [LB253]

SENATOR SCHUMACHER: Okay, all right, without a vote of the people. [LB253]

MICHAEL ROGERS: Correct. [LB253]

SENATOR SCHUMACHER: All right. Now... [LB253]

MICHAEL ROGERS: And the parties we're talking about could do that today; they could form an interlocal agency and issue revenue bonds if they wanted to do that. [LB253]

SENATOR SCHUMACHER: But in order to make those bonds sellable, because there's no guarantee this is thing is going to work, or at least to increase the saleability or bond rating or whatever... [LB253]

MICHAEL ROGERS: Right. [LB253]

SENATOR SCHUMACHER: ...we're going to have to figure out a way in order to make, without a vote of the people, these things ultimately backed by the property taxes in the county, right? [LB253]

MICHAEL ROGERS: That's correct. [LB253]

SENATOR SCHUMACHER: And so that's why this piece fits in at the end, because we don't...even though the bonds are backed only by revenue, we do this thing with this service

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agreement to create an...the revenue that will back the bonds and the funding of that portion of it is guaranteed by the taxpayer. So ultimately, when we look through all the smoke here or the fog or whatever we call it, we have something that is the equivalent of a general obligation bond funding this thing without a vote of the people. [LB253]

MICHAEL ROGERS: One...the...you're correct to look through the revenue bonds to the service agreements because that is in fact what makes the bonds sellable. [LB253]

SENATOR SCHUMACHER: That's what makes it work. Okay. [LB253]

MICHAEL ROGERS: That's right. And... [LB253]

SENATOR SCHUMACHER: But in the process what we've done is we've gone around the requirement that there's a vote of the people, we have an unlimited bonding authority, and we pledge the assets of the county as security. [LB253]

MICHAEL ROGERS: The idea is to provide it as credit support. There's no expectation that the taxes would be used. [LB253]

SENATOR SCHUMACHER: There's never an expectation that you'll have...come up short. I mean, but that's...when you go to Senator Harr here and he's reading his prospective, he sees, if he's sharp enough and has parsed through this enough, ultimately this is secured by the...just in the same way a general obligation bond would ultimately secure something. [LB253]

MICHAEL ROGERS: The difference being that typically general obligation bonds, there is an actual levy expected to be put onto the taxpayers and you would see that levy be made. [LB253]

SENATOR SCHUMACHER: It would appear on the books and records of the thing. And this way it escapes the books, right? There is no indication on any ledger sheet of a debt here or a potential debt. [LB253]

MICHAEL ROGERS: If the taxes are levied, it would show up on... [LB253]

SENATOR SCHUMACHER: If the taxes are levied... [LB253]

MICHAEL ROGERS: That's right. [LB253]

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SENATOR SCHUMACHER: ...it will show up as taxes. [LB253]

MICHAEL ROGERS: Correct. [LB253]

SENATOR SCHUMACHER: And it will show up as a contractual obligation on a year-by-year basis rather than a principal on a debt obligation of a city. [LB253]

MICHAEL ROGERS: That's a good...I'm not sure what the accounting treatment would be of that. That's a good question. [LB253]

SENATOR SCHUMACHER: Thank you. I think I see what's going on here. Thank you. [LB253]

SENATOR SMITH: Senator Friesen and then Senator Groene. [LB253]

SENATOR FRIESEN: Thank you, Chairman Smith. I think I'm with...Senator Schumacher, I'm on your same wavelength right here because the way it's spelled out in the law here it says the county and any other city, village, or whatever is in there is going to form this joint agency and however that process is set up under other law. [LB253]

MICHAEL ROGERS: Correct. That's right. [LB253]

SENATOR FRIESEN: So that's taken care of. So now you are doing revenue bonds. And let's just say that you get done with phase 1 and you begin phase 2 for some reason and suddenly we have an economic downturn and everything comes to a stop. And so then the revenue bonds do not cover the costs... [LB253]

MICHAEL ROGERS: The sewer connection fees and other revenues. [LB253]

SENATOR FRIESEN: The sewer connection fees because it all stops, development comes to a halt. Your backup now is this special tax. [LB253]

MICHAEL ROGERS: That's correct. [LB253]

SENATOR FRIESEN: And so now you've subjected areas of the county to pay for sewer connections up where there are in the foreseeable future will never be able to use. And so you're going to have areas of the county levied a tax to pay for development in other parts of the county

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where they'll never have an opportunity to even hook up. Would that be a fair assessment?
[LB253]

MICHAEL ROGERS: I'm not sure what the, I guess, the business deal is going to be between the members of the interlocal agency and who would be the one to levy the tax. [LB253]

SENATOR FRIESEN: Well, it's pretty clear the county is held liable because they're the start of any entity. It says the county and any other... [LB253]

MICHAEL ROGERS: Right, the county needs to be part of it. [LB253]

SENATOR FRIESEN: It will always be the county, will be the lead agency the way it looks to me because they control a larger area. [LB253]

MICHAEL ROGERS: That's correct. [LB253]

SENATOR FRIESEN: So I guess to me it looks like you're subjecting quite a large area of the county to a proposed bond payment through a property tax levy and yet they will not receive any of the benefits of the sewer system, could be, for another 40 or 50 years. [LB253]

MICHAEL ROGERS: Yeah, and I guess the question, and this is not...this is beyond a legal question that I probably shouldn't answer, but the political impact of having development in the county and the impact that has on the entire county I think is the...might be the answer to that question. [LB253]

SENATOR FRIESEN: I think I see. Thank you. [LB253]

SENATOR SMITH: Senator Groene. [LB253]

SENATOR GROENE: Thank you, Chairman. So, we did something in Government last year. How similar is this to...Senator Ebke...a JPA that Lincoln did? [LB253]

MICHAEL ROGERS: How similar is this to the...? [LB253]

SENATOR GROENE: Yeah. [LB253]

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MICHAEL ROGERS: Joint public agencies before LB132 I think is what you're referencing from two years ago. [LB253]

SENATOR GROENE: Last year we put some limits on it because it got out of control. [LB253]

MICHAEL ROGERS: Correct. That was LB132 from I think it was two years ago now. Before that, joint public agencies could be formed and political subdivisions could allocate or delegate a portion of their tax levy authority to the joint public agency and then the joint public agency itself could levy taxes directly to pay bonded...to pay debt service on bond. [LB253]

SENATOR GROENE: This is a joint public agency. [LB253]

MICHAEL ROGERS: This would be an interlocal agency...or I suppose...or a joint public agency. But the idea, it would be to create an interlocal agency. Those two are similar entities. [LB253]

SENATOR GROENE: We just...in LB132, we just, because of what happened in Lincoln with the entertainment district and the county fair, the people in Lincoln and Lancaster County got upset because taxes were being levied without their consent. And it looks to me like you're starting another one here. [LB253]

MICHAEL ROGERS: Well, one key difference between a joint public agency before LB132 and this is a joint public agency could be formed among any two or more political subdivisions and any of those political subdivisions can allocate their tax levy authority to the joint public agency. This is of limited purpose. This is for a sewer system rather than...it couldn't be used for an arena or a fairgrounds or anything else. It's limited to a sewer system under the Industrial Sewer Act which at the...currently would only be Sarpy County. [LB253]

SENATOR GROENE: So you're short of funds, all right? And you've got these appointed people on the committee, not elected, and they make a vote. [LB253]

MICHAEL ROGERS: The appointed people could not levy a tax themselves. [LB253]

SENATOR GROENE: But then they're short and they meet and they have a recommendation to who that we need more funds? [LB253]

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MICHAEL ROGERS: They would talk to the people on the other end of those contracts, the service agreements, whether it's the county or the city. And so the county, for example... [LB253]

SENATOR GROENE: What would La Vista say? Well, we're landlocked out of this thing and we don't want to raise the tax. Would they be forced to raise a tax on their people? [LB253]

MICHAEL ROGERS: If their service agreement provides that they would never have to levy a tax, then they would not have to levy a tax. [LB253]

SENATOR GROENE: But they would be part of this of the joint cities of... [LB253]

MICHAEL ROGERS: I think they would. That's my understanding. But the service agreement that they negotiate with this agency would not need to obligate them to levy taxes. [LB253]

SENATOR GROENE: So each one has a different agreement... [LB253]

MICHAEL ROGERS: That's correct. [LB253]

SENATOR GROENE: ...within the agency with this new agency. [LB253]

MICHAEL ROGERS: They could. Yes, that's correct. [LB253]

SENATOR GROENE: And I'm still trying to figure out why the county needs to be involved. [LB253]

MICHAEL ROGERS: Well, not all of the area that we're talking about is within... [LB253]

SENATOR GROENE: Within the two miles, all right. [LB253]

MICHAEL ROGERS: Yeah. [LB253]

SENATOR GROENE: All right. That's fine. Thank you. [LB253]

SENATOR SMITH: Senator Harr. [LB253]

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SENATOR HARR: Thank you, Chairman Smith. And we're getting a little further in the weeds than I ever intended to, but how does this differ from 6320 bonds? [LB253]

MICHAEL ROGERS: A 6320 bond issue is where you create a nonprofit corporation that is controlled by a political subdivision. That nonprofit corporation is treated as an instrumentality of the political subdivision. It issues bonds and then it owns a project and then leases it to the political subdivision under a lease-purchase agreement. And then the revenues under that lease-purchase agreement pay debt service on the bonds issued by the nonprofit corporation. [LB253]

SENATOR HARR: And maybe I should have been a little more specific in that from an accounting point of view, these are both somewhat off-book accounting; 6320 and this would be somewhat off-book accounting as well? It wouldn't show up as a liability of the... [LB253]

MICHAEL ROGERS: I think a 6320 financing would show up as a financing lease as a liability, but I'm not... [LB253]

SENATOR HARR: I don't think it does. [LB253]

MICHAEL ROGERS: Okay. [LB253]

SENATOR HARR: On that I'm pretty sure. [LB253]

MICHAEL ROGERS: I'm beyond... [LB253]

SENATOR HARR: I'm not sure on this one. I am on 6320. [LB253]

MICHAEL ROGERS: I'm only a lawyer. I'm not an accountant. [LB253]

SENATOR HARR: Well, and I'm not very good at either one (laughter), but I did a bill on 6320 deals a couple years ago so I learned and I know that they are not counted as an asset...a liability against the city. Are these counted as liabilities against the city if they join into these interlocal agreements and they create these revenue bonds that most likely the city and/or county would never be held liable for? [LB253]

MICHAEL ROGERS: I don't know the answer to that. [LB253]

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SENATOR HARR: Okay. All right. Thank you. By the way, I still support LB253 and I appreciate all the questions you fielded and I hope you have a safe trip home. [LB253]

MICHAEL ROGERS: Yeah, thanks. You, too. [LB253]

SENATOR SMITH: Senator Groene. [LB253]

SENATOR GROENE: Just one quick question, if this was considered economic development, which I'm hearing it is, and a city wanted to do economic development with property tax, it would have to go before the voters, would it not? [LB253]

MICHAEL ROGERS: There are limited abilities of cities to do economic development financings payable with a property tax without an election. [LB253]

SENATOR GROENE: I think it has to be an election, doesn't it? [LB253]

MICHAEL ROGERS: I think you can have up to a 2.6 cent levy in a city without an election to do a bond issue for economic development purposes under a Community Redevelopment Authority. [LB253]

SENATOR GROENE: Like Senator Harr, if it's...development is great. If you did it revenue, I've got no problem with that. [LB253]

MICHAEL ROGERS: And I would also mention and I'm not sure what the committee thinks of sanitary improvement districts and whether they're an economic development tool. [LB253]

SENATOR GROENE: I like indoor plumbing. (Laughter) [LB253]

MICHAEL ROGERS: Well, when sanitary improvement districts are created and the bonds that they issue, those are never voted bonds. They have the ability to issue general obligation bonds... [LB253]

SENATOR GROENE: (Inaudible.) [LB253]

MICHAEL ROGERS: ...without limitation and not have an election to approve those general obligation bonds. [LB253]

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SENATOR GROENE: They do, a city does when they do a water project. [LB253]

MICHAEL ROGERS: No, a sanitary improvement district. [LB253]

SENATOR GROENE: Oh, all right. [LB253]

MICHAEL ROGERS: Sanitary improvement districts are the special purpose districts that are created in mostly, almost exclusively, in the Omaha metropolitan area. Street improvement district or sewer districts in a city are different and a lot of times you can...in most cities you can do a street improvement district. People have the right to object to it but you could ultimately issue general obligation bonds for those as well. [LB253]

SENATOR GROENE: But they do it with assessment, too. [LB253]

MICHAEL ROGERS: Yes. Most...that's correct. [LB253]

SENATOR GROENE: Thank you. [LB253]

MICHAEL ROGERS: They pay most of that back with assessments. [LB253]

SENATOR GROENE: Thank you. [LB253]

SENATOR SMITH: I see no further questions. Mr. Rogers, your testimony has been very helpful and very informative. [LB253]

MICHAEL ROGERS: All right. Thank you. [LB253]

SENATOR SMITH: I don't think we stumped you. [LB253]

SENATOR GROENE: Straightforward and honest, I appreciate that. [LB253]

MICHAEL ROGERS: All right. Thank you. [LB253]

SENATOR SMITH: Next proponent of LB253. Welcome. [LB253]

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ANDREW RAINBOLT: (Exhibits 4 and 5) Thank you. Chairman Smith members of the Revenue Committee, my name is Andrew Rainbolt, A-n-d-r-e-w R-a-i-n-b-o-l-t and I serve as the executive director of the Sarpy County Economic Development Corporation. I am appearing before you today in support of LB253 on behalf of both Sarpy EDC and the Greater Omaha Chamber of Commerce. And we appreciate Senator Crawford for introducing this bill and her interest in moving growth in Sarpy and the greater Omaha metro. As you've heard today, Sarpy County is experiencing develop growth at a rapid pace and this development is fueled by and in turn fuels the continued growth of the greater Omaha metro area. Last week, you may have read that the Omaha World-Herald reported on a housing shortage facing the metro which landed us on the realtor.com top ten list of U.S. cities with the tightest housing supply. Of the 2,632 single family housing permits issued across the Omaha area last year, Sarpy County accounted for 909. This is a level that we've seen since 2013 but not one we can sustain without the addition of more developable real estate. Sarpy has also become the outlet for the growth of the metro's industrial sector. According to Colliers International, the Omaha industrial market has seen a record low vacancy of the last two years. At the end of 2016, overall vacancy sat at just 3.2 percent. At the Greater Omaha Economic Development Partnership, we are currently seeing robust interest from developers and users to build more space in Sarpy but we are quickly running out of land which can be developed. Sarpy EDC and the Greater Omaha Chamber have worked extensively with the county and each of the five cities in Sarpy to identify future development sites for new and expanding primary employers. Three corridors rose to the top of our list of most competitive sites. All three corridors--Highway 34 south of Bellevue, Highway 50 between Papillion and Springfield, and Highway 31 south of Gretna--are partially or completely south of the ridgeline. Along Highway 50 and 31 corridors, we successfully worked with the county, Gretna, and the city of Omaha to open land to development by swapping out ground north of the ridgeline and pumping waste water back north through a series of pumping stations and force mains. Although an unsustainable process, we have quickly seen the benefits to the region. Gretna is seeing a lot of interest in their ground, including a potential new industrial park. And along the Highway 50 corridor, we worked with the county and the city of Papillion to plat and zone nearly 275 acres for a new-to-market data center campus we hope to announce in the near future. If landed, this project will only propel development demand in the corridor. We will only be able to meet the demand with expanded wastewater treatment capacity south of the ridgeline. LB253 is a needed tool that will help us continue the growth of Sarpy County, greater Omaha, and the state of Nebraska. On behalf of Sarpy County EDC and the Greater Omaha Chamber, I ask that you move this bill out of committee. Thank you for your time and I'd be happy to answer any questions you might have. [LB253]

SENATOR SMITH: Thank you for your testimony. Senator Schumacher. [LB253]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony. You know your county pretty well. What if we just put one simple requirement on here, that this

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entire program, before it can be fully authorized be approved by a majority of the voters?
[LB253]

ANDREW RAINBOLT: Across the county? I think one of the issues that we're dealing with in Sarpy County is that we do have five growing communities. Every single community is seeing growth. And I think what is the benefit of this interlocal group that will come together is that we can work together to manage that growth. And so I think it would be...we would need to do some marketing to explain it, as we're doing here today I suppose. But I think if you look back at that the Industrial Sewer Act as it is, we haven't had to use that authority. We've seen the growth that's been, even through the downturns, has been able to sustain those bonds. And so I don't think that's necessary. I think that it stands well as it is. [LB253]

SENATOR SCHUMACHER: But ultimately, this has the effect of a general obligation bond on the communities that are participating in the agreement and on the entire county. And were it not for this creative mechanism that we are being asked to approve here, it would require a vote of the people. And it seems to me that (microphone malfunction)...entitled to...(microphone malfunction). [LB253]

ANDREW RAINBOLT: The only thing I can point to is if you look at the current projects that we're working on right now, we're...it will essentially install phase 1A of this of this project. And like I said, it will pump it back north. And we see that already as being able to pay for itself. So our hope is that it will continue to do that. And as David mentioned, we're not going to go out and build the entire thing and put people on the hook for \$220 million. The phasing of it I think will allow us to keep that revenue neutral. [LB253]

SENATOR SCHUMACHER: Thank you. [LB253]

ANDREW RAINBOLT: Yes. [LB253]

SENATOR SMITH: Senator Harr. [LB253]

SENATOR HARR: Thank you, Mr. Chairman. But you've read a prospectus before. [LB253]

ANDREW RAINBOLT: Yes. [LB253]

SENATOR HARR: And it says past performance is no guarantee of future performance. I think we have the same situation here. And I think this is a no-brainer. I really do. But I also think it might be good to get a vote of the people if they are ultimately possibly liable. And I would

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encourage you and I think because...I mean you sold me on it today, right, and I think a vote of the people is always important. So I wouldn't discourage that if the opportunity arose. That's it. [LB253]

SENATOR SMITH: Senator Groene. [LB253]

SENATOR GROENE: Thank you, Chairman, because I could see a situation where developer starts saying your connection fees are way too high. [LB253]

ANDREW RAINBOLT: Correct. [LB253]

SENATOR GROENE: Your cost is way too high for me to get involved here. And pretty soon developers say, put it on a property taxpayer, cut my cost to get hooked up. And I could see that happening real fast. That's why I don't like the mingling of revenue and...I'm just lecturing here but I can see that happening real fast. [LB253]

ANDREW RAINBOLT: Right. I think one of the letters I included and I gave to the page was a letter from the Build Omaha developers group. And they're actually clamoring for some kind of action and asking for this. So they're in support of the bill and we've already raised...and the county raised the fee. So I... [LB253]

SENATOR GROENE: I think you've seen that people... [LB253]

ANDREW RAINBOLT: I... [LB253]

SENATOR GROENE: ...this committee wants you to grow, grow, grow and develop and pay more taxes. But when you start taxing people that live on the corner and lived there for 100 years and took care of their house for somebody else's development, you better have them vote on it. That's just my opinion. [LB253]

SENATOR SMITH: Very good. I see no further questions. Thank you for your testimony. [LB253]

ANDREW RAINBOLT: Thank you. [LB253]

SENATOR SMITH: Next proponent of LB253. (Exhibits 6 and 7) We do have letters for the record in support of LB253: Rick Kubat representing Metropolitan Utilities District and Larry

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Dix representing NACO, both sent letters in support of LB253. We now move to opponents, those wishing to testify in opposition to LB253. Seeing none, anyone wishing to testify in a neutral capacity on LB253? Welcome. [LB253]

BRADLEY WOehler: Well, I draw the lucky straw. You know, we've all been here today. Bradley Woehler, B-r-a-d-l-e-y W-o-e-h-l-e-r. I was asked to come and listen to the hearing because we didn't know what this bill was all about. And I have a lot better understanding of it today. And we'll get back with you on our position, I guess. So that's why we took the neutral position. It's not just a Sarpy County issue, and I love what they're doing out there. But we have this issue in Wayne, too, after the NDEQ put a lot of restrictions on septic tanks and the industrial plants that use those. I'm a licensed installer of septic tanks. It made a lot of these industries around Norfolk, Wayne, South Sioux, all over the state have to find a solution. But they're not annexed. They're not in the sewer improvement district. They can't get there. So maybe this isn't the right time to look at it, but sometime in the future you need to look at expanding opportunities for the rest of us than just Sarpy County to do that. I know in Wayne they provide the sewer services outside the city limits, unannexed, and they basically have really high sewer fees to hook on. But they have no way to vote. They can't control it. They're not voting members of the city. My dad hooked onto a system like this that ran by, and he's charged double rates...1.5 time rates right now and they were going to go to double rates, but he's not represented by the city council. We went to them and they said, we can do it. So like you said, I like indoor plumbing too. And we do it for a business and the whole concept of how this happens is very complex. The thing that I'd leave you with is, the most valuable resource we have is our water. And these septic systems are pollutant sources. So the more we can take out and put into water-treated systems, the better. And to answer one of your questions, Senator Harr, about sales tax, when we do a sewer project it's exempt. A paving and storm sewer project is exempt from when we buy the material. But a water main project is not. Confuses me, but I do the bidding and I have to make sure I have my sales tax figured on the water projects but not the sewer. And I don't know why. [LB253]

SENATOR HARR: Thank you. [LB253]

BRADLEY WOehler: I hope bring a little more statewide perspective to this issue. I think they do a great job down there, but we'd all like a chance at that pie too. [LB253]

SENATOR SMITH: Very good, Mr. Woehler. Thank you for your testimony. [LB253]

BRADLEY WOehler: Thank you. [LB253]

SENATOR SMITH: I see no further questions from the committee. [LB253]

BRADLEY WOEHLER: Thank you. [LB253]

SENATOR SMITH: (Exhibit 8) Anyone else wishing to testify in the neutral capacity? We do have a letter for the record from Joseph Mangiamelli, city of Bellevue. And with that, we invite Senator Crawford back to close on LB253. [LB253]

SENATOR CRAWFORD: Excellent. And thank you, Committee. I really appreciate your great questions for the testifiers. And I appreciate everyone coming to testify who I think has really helped to lay a strong record on the questions around intent and the language and what we need to do in terms of moving forward. So back in 1994, my predecessor, Senator Paul Hartnett was probably before the Revenue Committee at that time with LB1139 because Sarpy County was a young, growing county and there was a need for the county to have some ability to have a county sewer. And he tells me now this is one of the most important bills that he passed in terms of what's allowed Sarpy County to develop and growth was that bill. Now that bill did have a 3.5 cent levy authority and the bill we're looking at today is in that chapter. We're adding new language to that bill that was passed in 1994. But the county has never used that taxing authority. As I understand it, it's like collateral. So it is there. It is...but...and if you look back, the sewer was built in 1996. So you can think of the experiences that the county went through with the economy going up and down from 1996 to today and they have never tapped that levy authority that exists. It sits there as collateral but they have never tapped it. So you can say that Sarpy County itself has a reputation of not tapping that authority. But as the bond counsel indicated, as the new entity that is created for this the regional utility that would create this sewer system south of the ridgeline in Sarpy, that new agency does not have a credit history per se for bonds. But from this in terms of our experience as the state of Nebraska with Sarpy County, we do have an experience in showing that we have not used that existing levy authority. And again, I want to emphasize the bill does not add to that levy authority at all. It just allows that this new ability to work with an interlocal agreement or a joint public agency in terms of using that levy authority. And again, any of the laws...changes that we make to tighten or restrict the joint public agency or interlocal agreement acts would be restrictions on this. So if we saw there were concerns, that's the way we address that in our laws is making sure that we address that. And it's my understand that Sarpy County intends really to use the interlocal agreement approach, but the bill is written with both as options in the bill right now. I am going to address the concerns of the neutral testifier first, sort of go backwards. So as we noted and as Senator Brasch noted, in the bill language itself it doesn't talk about the county definition. But the county definition is in Chapter 23, Section 3603. And the county definition currently in the act is: a county with a population in excess of one hundred thousand inhabitants according to its most recent federal decennial census and at least forty percent of the population resides within corporate boundaries of cities of the first and second class in the county. So that was the definition in the act. We have had some interesting conversations including our neutral testifier who suggested there are issues in other counties that this might be a useful tool for. So if that's...but that could be a future bill where

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someone goes and changes that definition of a county or we can discuss whether we think that's an appropriate step at this time or if that would be a future bill. But that...you would simply change the definition of county in the act if you wanted it to apply more broadly. As it is written now it only applies, given the current populations in the state of counties, it only applies to Sarpy County because of that definition, so. But the other point that the neutral testifier raised was a concern when someone is not in a city limit but still subject to sewer fees by a city, that they end up not being able to hold...the fees get imposed upon them and they have no way of expressing their concern about that with a vote. So actually, one of the great things about this act is by creating this interlocal agreement, those folks who are county residents actually have county elected officials who are going to be on this board deciding what those sewer fees are. So we actually would be giving those people who are not in city limits more ability to shape what those sewer fees are than we have in some other areas, Now, the bill itself does not say who has to be on that board. So in discussions with Sarpy County and their conversations, their expectation is that they would put members on that board who are elected officials. That's their current expectation. So it would have that strong connection and it would be elected officials sitting on this board making these decisions. It's not required by the bill though. I'm just clarifying that that's the expectation. So the bill itself creates this regional utility system and part of one of the questions was, why do you need it, because again we've said the taxing authority already exists and some of the ability to go...to create interlocal agreement already exists. The bill also allows the regional utility that would be created by this interlocal agreement to actually own this infrastructure, this sewer infrastructure itself. So you'll see some property language in the bill. So that's part of why it's required. It also brings in sanitary improvement districts as well, which is an important jurisdiction in this area. And so that's important reasons why it's necessary and included. So one concern was raised about tax increment financing. Counties cannot use tax increment financing, only municipalities. If you look at your map, you'll see below the ridgeline the second-class city of Springfield is the only little city there below the ridgeline. So we were trying to find out if...we don't know of any existing TIF projects that they have. And so I don't expect that there would be very much risk in this area below the ridgeline just because tax increment financing is a municipal tool and much of this area is not in an area that could be used anyway. And as you heard also, Papillion has not used tax increment financing either. Senator Harr raised the question about sewer separation tax and trying to get the state sales tax from sewer fees, so. There is sales tax on sewer fees. And there's also...it is the case right now in your map that blue area of Sarpy County and the blue area of Sarpy County, MUD collects sewer fees. And in the blue area of Sarpy County we are helping to pay sewer separation, so we are contributing to that effort already. And there is no effort in this bill to pull back or in any way claw back the state portion of the sales tax that would be on the separation...excuse me, on the sewer fees. There's no effort to do that here. So that's not...we're not trying to do I think what Omaha was trying to do before, because we're not asking for that. We're just asking for the ability to have this entity that can own the sewer infrastructure and have this creative way of working together to make sure that that can happen, and again, with the development fees and

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sewer fees and the existing levy authority existing as basically a collateral. The other thing I will stress in terms of risk is I think the fact that the project is carefully structured in phases is an important mitigator of that risk and that's an important part of the project. And again, I will remind you that we've...that Sarpy County has had this levy authority since 1994. So again, through ups and downs of the economy and they used it in their existing Sarpy sewer without tapping that levy authority. So they have experience in knowing how to charge the sewer fees and developer fees to make sure that they can make those revenue bonds work in Sarpy County. I think I've addressed most of the questions that were raised, but I'm happy to address additional questions. [LB253]

SENATOR SMITH: Is that a hand? Okay. Senator Harr and then Senator Groene. [LB253]

SENATOR HARR: Senator Crawford, thank you again. And as I've stated earlier, I believe I support LB253 with some tweaks. How do you feel about elections before these bonds are...bond obligations are created? [LB253]

SENATOR CRAWFORD: Well, the bonds they're using are revenue bonds. So that's not required in terms of... [LB253]

SENATOR HARR: I never said they were required. [LB253]

SENATOR CRAWFORD: Right, right, right. So you're asking if this entity were to issue a revenue bond, if that had to go before a vote of the people, is that...? I'm just trying to think through what you would want to have at the vote of the people. [LB253]

SENATOR HARR: You're creating...we've heard the testimony. Ultimately citizens could be on the hook. They haven't in the past, but past performance is no assurance of future behavior. [LB253]

SENATOR CRAWFORD: Right. [LB253]

SENATOR HARR: They could be. As Sarpy County matures, things change. Society, economics change. Perhaps they would be liable. And you stated it's the intent, although not required, that elected officials be on these...on this...I called this "SAW" earlier, I think you heard that. [LB253]

SENATOR CRAWFORD: Right, um-hum. [LB253]

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SENATOR HARR: And so what we have is a long obligation of the taxpayers with no real chance to vote up or down. Now, indirectly they possibly could through coming to a resolution, coming to a public hearing on a resolution, and/or voting people out. But you can only vote them out if the resolution and/or the bond were already incurred. So my question is, would you be open to an amendment that requires...I'm sold on this deal, by the way. [LB253]

SENATOR CRAWFORD: Okay. [LB253]

SENATOR HARR: But, you know, Sarpy is a little bit more conservative than crazy liberal Douglas County. And I think it would important that maybe we have a vote of the people to determine if this is the right way for the county grow or not. Would you be open to an amendment? [LB253]

SENATOR CRAWFORD: I'm open to that conversation. I don't want to commit right now without thinking through all the implications of that or thinking about how that might be structured and talking to the other stakeholders who are involved. But I'm open to having that conversation. [LB253]

SENATOR HARR: Thank you. [LB253]

SENATOR CRAWFORD: Yes. [LB253]

SENATOR SMITH: Senator Groene. [LB253]

SENATOR GROENE: Thank you, Mr. Chairman. On this map, I'm not familiar with the area, you're telling me none of the cities extend past the ridgeline, none of it has any of their area the past that ridgeline? It just stops right there? [LB253]

SENATOR CRAWFORD: Um... [LB253]

SENATOR GROENE: I mean, it's fine. There's no city...that's fine. [LB253]

SENATOR CRAWFORD: So the development right...as you heard before, when there is development below the ridgeline right now, there has to be an agreement to withhold from development some area above the ridgeline because you can't...there's a net amount of sewer we can pump out. In terms of exactly where the city boundaries are, I believe that--I just don't want to answer the wrong question--I believe you see that the city boundaries themselves are the

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darker color and the ETJ is that lighter color. And so you can see the city of Bellevue ETJ kind of runs over the ridgeline a bit down there. And I think the colors get mixed up because the phase and ETJ colors get mixed. [LB253]

SENATOR GROENE: That's fine. All right. On TIF you can annex ground next to a boundary and add it in. Ask Fremont citizens about it. You can do it. But anyway, that's not the...but you said they already have the authority to put...the county does, to put a sewer system in. They did in 1997? [LB253]

SENATOR CRAWFORD: In 1994, this Industrial Sewer Construction Act was passed to give Sarpy County the authority to have a sewer. This act itself allows this interlocal agreement to have that. [LB253]

SENATOR GROENE: And did they build a sewer system? [LB253]

SENATOR CRAWFORD: They did, yes. [LB253]

SENATOR GROENE: And there's a sewer plant owned by the county somewhere? Or did they let the city annex it in? [LB253]

SENATOR CRAWFORD: I should know the answer to that. [LB253]

SENATOR GROENE: I don't expect you to. [LB253]

SENATOR CRAWFORD: I'll have to tell you what... [LB253]

SENATOR GROENE: But I thought maybe you did. [LB253]

SENATOR CRAWFORD: Right. [LB253]

SENATOR GROENE: So I'm just figuring out why the county just don't do it themselves, they want access to those hookup fees to help pay for it from the cities. [LB253]

SENATOR CRAWFORD: Correct, because the...and I think that makes sense because the hookup fees and the sewer fees, so only municipalities, the municipalities are the ones that are collecting both the development fees, the hookup fees, and the sewer fees. So that's the revenue that's paying for it. [LB253]

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SENATOR GROENE: So you have a revenue bond, all right. I know we blur reality anymore. There's no black and white in this country. So you have a revenue bond, but you're going to help make payments with it with a property tax? [LB253]

SENATOR CRAWFORD: No. What I'm saying is they have not. [LB253]

SENATOR GROENE: Well, they might have to. [LB253]

SENATOR CRAWFORD: They have not. [LB253]

SENATOR GROENE: Well, they might have to though with this (inaudible). [LB253]

SENATOR CRAWFORD: So they've had the...in this other sewer system, they've had that ability since 1994 and they have never tapped it. So it is true that the law does create the authority. If they...if the revenues were insufficient, it would create the authority to do so. They have not done that in the past with the authority that they've had. [LB253]

SENATOR GROENE: Everybody is so confident here. Why don't we just take that section out about the property taxes and I'm voting it out of committee. [LB253]

SENATOR CRAWFORD: Because then that you could not get the bond. The collateral is important to that bonding agency. [LB253]

SENATOR GROENE: Well, it wasn't before when they had revenue bonds. There's revenue bonds all over the country. So somebody is not very confident about this project that wants that put into this legislation, that backup. Not everybody is as... [LB253]

SENATOR CRAWFORD: I think you get better financing, a better deal for the taxpayers with the backup. [LB253]

SENATOR GROENE: Revenue bonds are issued every day by communities for sewer systems or...not for streets, but for water hookups, everything. Anyway, thank you. [LB253]

SENATOR CRAWFORD: Sure, thanks. [LB253]

SENATOR SMITH: Senator Schumacher. [LB253]

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SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, Senator Crawford, for your testimony. Isn't the answer to that in the early ends of this, the revenue may not be there? You're going to have to dip into something in order to make...in order to give the bondholders the warm and comfy that they're going to get paid in the early stages of this. [LB253]

SENATOR CRAWFORD: It is the case to give them confidence that they will get paid. And again, in the Sarpy...in the past experience in Sarpy County, they did not use this bonding authority even in the beginning of the early phases of that sewer project in the 1990s. But it's because you don't have, as the bond counsel said, you don't have...this "SAW" or whatever, this new regional authority, doesn't have a credit history. That's the collateral on it. [LB253]

SENATOR SCHUMACHER: And the second thing, am I correct in thinking, this is not only the county levy authority that is maybe tapped in order to pay this, but the levy authority of any city, county, village, sanitary improvement district that may have entered into this master agreement. So the bondholders are being...getting access to the checkbook of the taxpayers not only through the county checkbook, but if the taxpayer is inside of a city, county, village, or SID, through that checkbook, too. [LB253]

SENATOR CRAWFORD: Only if the city, county, or SID in this agreement that they create choose to...oh, let me back up. Well, so on the one hand it would only be if they agreed to have that risk, but even that I'm not so sure because the...again, that levy authority for this sewer...in the Sewer Construction Act is a county levy authority. [LB253]

SENATOR SCHUMACHER: Right, but the obligation is not. The obligation is to fulfill whatever obligations you agreed to in this interlocal agreement in your lease or your service agreement. So that's how the bondholders get access to the checkbook of the city, county, villages, and SIDs involved. [LB253]

SENATOR CRAWFORD: And the city, county, villages, and SIDs, it would...I guess it would be incumbent upon them, you know, to make good agreements. And again, I think it's the county levying authority under the Sewer Act that is the real property tax levy authority that is being sought. And really the city, county, SID involvement in that agreement will be...what they bring to the table will be their hookup fees, development fees. [LB253]

SENATOR SCHUMACHER: But this obligation to rent or to get services from this central club that owns this sewer system is going to be by agreement. It's an off-the-book liability that if it were to be tapped, I mean if the money on the revenue side isn't there and it were to be tapped, under that agreement the bondholders have access to the revenue stream, because otherwise we

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could strike out of the sub (4) on page 3 any reference to city, counties...to cities, villages, sanitary improvement districts and just leave the county in their on the hook. But that isn't the way it's worded and I don't think it's the way it's intended. [LB253]

SENATOR CRAWFORD: Well, that's a good question, and I'll raise that question, because I do think it's the fees from the other entities. So that's a question. We'll talk about that. We'll talk about that. [LB253]

SENATOR SCHUMACHER: But the fees are in turn... [LB253]

SENATOR CRAWFORD: I hear you. [LB253]

SENATOR SCHUMACHER: ...the obligation to pay the fees are in turn secured by the taxpayers as a general obligation. [LB253]

SENATOR CRAWFORD: I hear you. I will raise that question. That's a very good question. Thank you. [LB253]

SENATOR SMITH: Remaining question? [LB253]

SENATOR GROENE: Yeah, one more thing. [LB253]

SENATOR SMITH: Okay. Senator Groene. [LB253]

SENATOR GROENE: At this point, Senator Crawford, Senator Schumacher makes a good point, if you live in the city they're already paying the hookup fees. And then if you live in the city you're going to get taxed by your county and then you're also to get taxed by your city. You're going to get hit three times for the same project versus the person who lives out in the country. [LB253]

SENATOR CRAWFORD: Say that...so if you are... [LB253]

SENATOR GROENE: If the city taxes you in Papillion for this project and you also get your county tax, you're going to get hit again. And then you're also...your city is also forfeiting their hookup fees. So you're getting hit three times. [LB253]

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SENATOR CRAWFORD: So again, the county has not used this property tax levy before in the past, right? [LB253]

SENATOR GROENE: Well, agreeing with Senator Schumacher. The cities should be left out of that. [LB253]

SENATOR CRAWFORD: Right. And that's a good question. I'm going to look at that question. [LB253]

SENATOR GROENE: I would think if the city is bringing in the fees... [LB253]

SENATOR CRAWFORD: I hear you. [LB253]

SENATOR GROENE: ...the county's part should be the property tax. [LB253]

SENATOR CRAWFORD: I understand what you're saying and that's a very good question. [LB253]

SENATOR GROENE: Thank you. [LB253]

SENATOR SMITH: I see no remaining questions. Thank you, Senator Crawford, for your closing on LB253. And that closes the hearing on LB253. Our last hearing of the day is on LB288, Senator Harr, relates to changing provisions relating to service of notice when applying for a tax deed and the laws governing tax sale certificates. [LB253]

SENATOR HARR: (Exhibit 1) Thank you, Chairman Smith and members of the Revenue Committee. My name is Burke Harr, H-a-r-r. I am from Legislative District 8 and it is a pleasure to be here in front of you, the Revenue Committee, at 5:20 on a Friday evening. LB288 makes technical changes to statutes governing tax certificate sale procedures. The bill authorizes the use of certified mail or designated delivery service to notify persons in actual possession or occupancy of real property for which a tax certificate holder is attempting to obtain a tax deed. It would require notice to be sent to every encumbrancer of record at the address shown in the encumbrance filed with the register of deeds. It would provide that tax deed proceedings for certificates sold before December 31, 2017, would be governed by the law that is currently in effect in this great state. I worked with Larry Dix at NACO on an amendment that I am offering and is being handed around right now to bring NACO into a position of support on this bill. AM323 would require the notice be sent to the property owner by name at the address to which the tax statement was mailed. It is a clarification to help ensure that all property owners know the

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notice is intended for them and that they recognize the property interest at stake. An individual testifying behind me will be able to answer any specific and/or technical questions you may have. Thank you. [LB288]

SENATOR SMITH: Thank you, Senator Harr, for your opening on LB288. I see no questions from the committee. And the good news is that there's only two people seated behind you. (Laughter) [LB288]

SENATOR HARR: Good. Thank you. [LB288]

SENATOR SMITH: We now move to proponents of LB288. Welcome. [LB288]

RANDY JAMES: Good afternoon. Thank you, Chairman Smith members of the Revenue Committee. My name is Randy James, R-a-n-d-y J-a-m-e-s, and I'm here to testify in support of LB288 and I'll try to keep my comments brief. I'm an attorney licensed here in the state of Nebraska and I also invest in tax liens. Basically, when the county treasurer's taxes aren't collected, the county sells the tax liens to fund the budget shortfalls. And this has been my primary practice of law for ten years. Over the last few years, there have been a few changes to the tax sale auction process and the associated matters with that. In conjunction with NACO and some other parties interested, I was involved in that as well. This bill simply clarifies some language in 77-1832 about the service of notice and the kind of foreclosure process when the lien matures. Essentially, it refers to service...when you're going through that foreclosure process, you have to serve notice to the interested parties. What this change does is it references service of process statutes that are already provided for within just judicial proceedings that are...have been present in judicial proceedings for some time historically. What it does, it avoids some current confusion over the current drafting and also provides additional methods so that actual service is...additional methods so that actual service is attained. The ultimate goal and the necessity in all of this is subject to county attorney review or judicial review is that due process, actual service of notice is attained. And this statutory scheme also has to fit that. The Supreme Court has had cases on this and due process or actual service is a case-by-case scenario. The circumstances dictate whether or not service was attained and what the best method of service is. What this does is allows parties to reference all available services or methods of service which already exist, kind of, and just when you're serving somebody with a lawsuit so that all options are available. And that also then facilitates the likelihood that actual service will be attained. And then 77-1837.01 simply updates the date that all of these changes would go in effect. So it's...there's just one bright-line rule, one bright-line date that these changes take effect so as to avoid confusion with treasurers. And I would like to thank NACO. I believe they might have a letter here supporting the bill. And I've worked with them previously and on this bill as well. So thank you. [LB288]

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SENATOR SMITH: Thank you for your testimony. Do we have questions from the committee?
Senator Friesen. [LB288]

SENATOR FRIESEN: Thank you, Chairman Smith. Mr. James, what's the current process of notifying somebody? I mean if you...if the county obviously doesn't collect their taxes, they've been sending out a notification or a bill and nobody pays them and maybe it's going to the right address, maybe it's not. But down the road you purchase that tax sale certificate and time goes on and pretty soon you have time to...the option of owning the land. So what is the process currently on notifying that owner? [LB288]

RANDY JAMES: Sure. Well, and currently this partly play with some of the changes previously. In previous years in an effort to hope to guarantee actual service there was a new definition created for an owner/occupant, which theoretically there was...if somebody was, you know, a landlord, they might be a little more sophisticated versus an owner/occupa. And the goal was to give an additional method of giving service to them via sheriff where that didn't exist previously. Before, it was certified mail and the other methods of service. And so in the previous changes over the last couple years, the statute was kind of split up. But not to testify as to everybody's intent before that, I think what we're doing here was kind of the goal previously, but it just wasn't drafted clearly. So what happened is the owner/occupant currently says that you can only serve them with sheriff, but you can't do certified mail or the other methods of service, if that makes sense. Before these changes in the last few years, you could just do blanket everything like, in this case, I'm going to serve you this way, I'm going to serve you that way, depending on what the facts are, because I think as the Supreme Court has stated in due process, in one case, personal residential service by the sheriff, they might not actually give it to them. They might tape it on the door and the wind might blow it away, etcetera. So in that scenario, certified mail might actually be the most likely method of service, depending on the facts and circumstances and what material you're garnering from your attempts to service them. So part of this issue is before you could do all the methods of service. And in a previous draft, it kind of got split out, wasn't clearly worded. And in the owner/occupant section it just says all you can do is sheriff. It didn't...which again, in my opinion, I think it was in that previous kind of drafting. You guys go into the legislative process, things get discussed, and don't get added correctly. This just basically says in each of the scenarios you can use all methods of service to gain service. [LB288]

SENATOR FRIESEN: So if owner lives out of state, you could use certified mail instead of notification. [LB288]

RANDY JAMES: Correct, correct, because... [LB288]

SENATOR FRIESEN: And if they don't answer the certified mail, what happens? [LB288]

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RANDY JAMES: Well, as a fallback to all these, there's always publication as an option. But I...so if they don't answer the certified mail...well, that means that you could then attempt sheriff service if they are in state or go to publication. I think before you go to publication, you have to do all means necessary to give notice. And depending on what the circumstance is, certified mail or sheriff may be more appropriate. So to have all of those tools in the toolbox is the most likely way to provide service. [LB288]

SENATOR FRIESEN: I guess I was given an example of an absentee landlord lived in another state and never received notification. And obviously there was some maybe due diligence on their part. They should have been kept track of it. But ended up losing their property and never knew it was going to happen, were never notified, suddenly didn't own it anymore. Is that still possible under these on these...under this scenario? [LB288]

RANDY JAMES: Well, if...not being able to specifically know the facts of that, the owner would have a statutory obligation to keep an address of record with the county assessor which would be kind of a starting point. So I don't know in that specific scenario if possibly there was an error there, etcetera, etcetera. However, I would again note that all of these files are subject to county review before the county...county attorney review before the county would issue a deed. And then also in the scenario you're talking about, that gentleman I think could easily judicially have that deed set aside if he wasn't given notice. Any attorney with some competence would be able to set that aside. [LB288]

SENATOR FRIESEN: I mean he probably didn't fulfill all of his obligations either. I don't know that, but... [LB288]

RANDY JAMES: And, yeah, I wouldn't be able to comment if there would be some kind of contributory negligence or how that would play into it. But, you know, the requirement both under constitutional due process and then the Nebraska statutes which are two separate things but obviously both have to be required, is a burden that has to be required for any transfer of property in the scenario to stand. [LB288]

SENATOR FRIESEN: Okay. Thank you. [LB288]

SENATOR SMITH: I see no further questions. Thank you for your testimony. [LB288]

RANDY JAMES: All right. Thank you. [LB288]

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SENATOR SMITH: (Exhibit 2) Next proponent of LB288. Seeing no further proponents, we do have a letter for the record in support of LB288 from Larry Dix representing NACO. Do we have any opponents for LB288? Seeing none, anyone in a neutral capacity on LB288? Seeing none, Senator Harr waives closing on LB288. That closes the hearing on LB288 and the hearings for the day. Thank you and have a good weekend. [LB288]