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Revenue Committee  
January 19, 2018

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[LB772 LB885 LB905]

The Committee on Revenue met at 1:30 p.m. on Friday, January 19, 2018, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB772, LB885, and LB905. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Brett Lindstrom; and Paul Schumacher. Senators absent: Tyson Larson.

SENATOR SMITH: Good afternoon and welcome to the Revenue Committee's public hearing. My name is Jim Smith. I'm the Chair of the committee and I represent the 14th Legislative District in Sarpy County. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation that's before us today. To better facilitate today's proceeding, I ask you to abide by the following. Would you please turn off your cell phones and other electronic devices or put them to silent or vibrate, so as to not interfere or interrupt the proceedings today? Whenever you are preparing to testify, if you would move towards the front of the room to make it move a little bit more quickly, we would appreciate that. The order of testimony will be the introducer of the bill, proponents of the bill, opponents of the bill, those testifying in a neutral capacity, and then we will close with remarks from the introducer of the bill. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand those to the page to distribute for you. We will need 11 copies of any materials that you wish to distribute and, if you need assistance in making those additional copies, if you would let the page know right away we would appreciate that. When you come up to the table to testify, we will need you to state and spell your name for the record to make certain that the transcriber gets that into the record accurately. The microphone really does not amplify your voice. It's there to transcribe your testimony, so you will need to speak up accordingly so that folks in the audience will be able to hear you. With that, I'm going to introduce the folks around the table here. To my immediate right is legal counsel, Mary Jane Egr Edson, and to my immediate left is research analyst, Kay Bergquist. And then to my left at the end of the table is committee clerk, Krissa Delka. And I'm going to allow my committee members to introduce themselves beginning with Senator Harr.

SENATOR HARR: Burke Harr, Legislative District 8, representing the areas of Dundee, Benson, and midtown Omaha.

SENATOR SCHUMACHER: Paul Schumacher, District 22, that's Platte and part of Colfax and Stanton Counties.

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SENATOR BRASCH: Lydia Brasch, District 16, that is Burt County, Cuming County and Washington County.

SENATOR FRIESEN: Curt Friesen, District 34: Hamilton, Merrick, Nance, and part of Hall County.

SENATOR LINDSTROM: Brett Lindstrom, District 18: northwest Omaha.

SENATOR GROENE: Mike Groene, District 42: Lincoln County.

SENATOR SMITH: And we have two pages with us today. We have Heather Bentley from Miller, Nebraska. Heather is a junior at UNL, majoring in agricultural economics, and we have Kylie Kotouc from Lincoln, Nebraska. Kylie is a student at UNL, studying political science. And with that, we will begin our hearings for today. And what we're going to do...we have a fair number of people in the audience today, so we're just going to use a five-minute time limit, and so what that means is whenever you're testifying on a bill, come up. You'll see a green light. That green light will stay on for four minutes. It will then turn to an amber color and it will stay on...that amber colored light will stay on for a minute while you begin to wrap up your testimony. And then once your five minutes has been reached, it will turn to red and we would ask, if you're still speaking at that point, to try to wrap up your testimony. And that gives us a chance to ask you questions and to have interaction with the committee. So with that, we invite Senator Walz to introduce LB772, which is a change to provisions relating to agricultural land that receives special valuation. Welcome, Senator Walz. [LB772]

SENATOR WALZ: Thank you very much. I think this is the first time I've appeared in the Revenue Committee, so... [LB772]

SENATOR SMITH: Are you impressed? [LB772]

SENATOR WALZ: ...very excited. I am. Good afternoon, Chairman Smith and my wonderful colleagues on the Revenue Committee. My name is Lynne Walz, L-y-n-n-e W-a-l-z, and I proudly represent District 15. I'm here to introduce LB772, a bill that I'm introducing on behalf of the city of Fremont. Currently, there is a special valuation for agricultural and horticultural land if the land is outside the corporate boundaries of a sanitary improvement districts, cities and villages. LB772 would change the requirements for counties with a population of less than 100,000. In those counties, land would qualify for special valuation as long as the land is used for agricultural or horticultural purposes and does not fall in the boundaries of a sanitary improvement district. For counties with a population of 100,000 or more, there would be no

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changes. We kept this the same at the request of Douglas, Lancaster, and Sarpy Counties. In Fremont, we are growing rapidly. Costco and many other businesses are being built or expanding. New housing developments are going up and many more are needed, as a recent housing study showed that Dodge County will need 5,000 more housing units in the next years. This is an important piece of legislation that will allow cities to plan ahead for upcoming developments to grow our community and our economy. And it is important for the landowner that is farming the land to be able to pay the rate of special valuation that most farmers pay, rather than the inflated commercial or residential rate. I know the city of Fremont is going to be following me today. They will be able to explain their reasonings for the bill and give specific examples of why this is important to the city and to the landowners. I hope they can answer your questions that I may not be able to. I'm happy to work with the committee on amendments and hope you will advance LB772 to General File. Thank you. [LB772]

SENATOR SMITH: Thank you, Senator Walz, for introducing LB772. Questions for Senator Walz? I see no questions, will you remain for closing? [LB772]

SENATOR WALZ: I will. Thank you. [LB772]

SENATOR SMITH: Thank you. We now move to proponents of LB772, those wishing to testify in support. [LB772]

LYNN REX: Senator Smith, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And first, I would like to thank Senator Walz for introducing this bill on behalf of Fremont and also the League of Nebraska Municipalities. Our League board unanimously supported introduction of this measure with the provision that it would not include Sarpy, Lancaster, or Douglas Counties. We think that there are differences in other parts of the state. I also think that it's important that you note that one of the things that Brian Newton will be handing out to you--he's the city administrator from Fremont--is a map showing that Fremont has doughnut holes of land, the ag land that is in the corporate limits. Let me rephrase that. It's...their doughnut holes are not considered in the corporate limits but the boundaries of the city of Fremont surround them. And so if the analogy would be for Senator Smith and some of you that are familiar with sanitary improvement districts, the same sort of thing that has happened around the metro area in those major counties where you end up with SIDs and what happens when you've got those doughnut holes and you're trying to provide infrastructure to them and you're trying to make sure that they are part of a city. So we think that this would be very important. This would allow the greenbelt protections to apply when that land is actually annexed and becomes part of the city of Fremont and other cities too. This is not just unique to Fremont. In addition, in order to keep that greenbelt status, if they're annexed, they will also be...retain that greenbelt status unless they are no longer being

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used for agricultural purposes. The city administrator will tell you that this land right now is farmed for ag land. It's totally surrounded by the corporate limits of Fremont. It doesn't really make sense to have these doughnut holes there and that the property owners, in his view, would not have a problem with them being annexed if they could have that same protection. So with that, we would strongly hope that this committee would advance the bill with the limitations that we've outlined for you, and I'm happy to answer any questions that you might have. [LB772]

SENATOR SMITH: Thank you, Ms. Rex, for your testimony. Questions for Ms. Rex? Senator Friesen. [LB772]

SENATOR FRIESEN: Thank you, Chairman Smith. Ms. Rex, why is it that Douglas and Lancaster Counties...that you wanted to be exempt...that those cities wanted to be exempt, do you know the reason for that? [LB772]

LYNN REX: Well, what I can tell you is that my understanding from our committee process, we've got an internal committee--two internal committees--one representing all first-class cities in Lincoln and Omaha, that's our larger cities' legislative committee. A smaller cities' legislative committee, representing about 40, represents the second-class cities and villages, and I will share with you that Papillion and La Vista made it very clear that they could not support this, they wouldn't support it. And I think part of it is the same issues that dealt with the SIDs. It's a similar...it's a similar analogy for them. And so, and then with Omaha, Omaha's concern was it would have some implications for them that they didn't feel would be appropriate. So when we really looked at it and our cities discussed it, it's really for cities, we think, outside of that, those three counties, those three metro counties. [LB772]

SENATOR FRIESEN: Okay. Thank you. [LB772]

SENATOR SMITH: Senator Groene. [LB772]

SENATOR GROENE: Thank you, Mr. Chairman. Does this have something to do with the annex of all the farm ground for Costco and there's some farmers upset that they got drug into that just so they could TIF Costco? [LB772]

LYNN REX: My understanding is no. The city administrator is going to follow me and he can answer that specifically, but he will give you a map, which is this map that he's got copies for you. It's going to show you four areas that are already within the corporate limits of the city of Fremont, but are not part of the city of Fremont. They're within the boundaries of the city of Fremont, but they're not part of it. [LB772]

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SENATOR GROENE: But wouldn't this make TIF easier for cities who want to abuse it, and they'd go out to the farmer and said, we need to annex you in, so we can leapfrog you and get to this area so we can put a TIF out there but it won't affect your property taxes? [LB772]

LYNN REX: I don't think so and I'll tell you why. I think that in order to, just for the purposes of annexation, you know, you don't annex land unless it's adjacent and contiguous and that it's urban in character. [LB772]

SENATOR GROENE: They leapfrog. [LB772]

LYNN REX: And this is all land that is urban in character. The only time the Legislature has allowed kind of what you're talking about is a different model which is skip annexation, was several decades ago when Cap Dierks, who you may remember, I don't know that the rest of you do, but Senator Cap Dierks allowed for one of his cities to be able to have skip annexation for a potato plant out there. [LB772]

SENATOR GROENE: Let me rephrase that. [LB772]

LYNN REX: Okay. I'm sorry. [LB772]

SENATOR GROENE: You annexed a mile of farm ground so that where you're going to build the TIF is then all part of the city. It's not skipping over an area, it's annexing that area plus the area where you want to build the potato factory. And then you'd...this would ease the farmers concern that they're going to get taxed higher and make it easier to annex it and then use TIF. [LB772]

LYNN REX: That is certainly not the intent. Yeah, that is certainly not the intent of this bill, and we'd be happy to work with you on language that would address that issue. [LB772]

SENATOR GROENE: It's just kind of coincidence that Costco...that happened and the city of Fremont is here, I guess. [LB772]

LYNN REX: I think he'll be able to answer your questions more specifically, Senator. [LB772]

SENATOR GROENE: Okay. Thank you. [LB772]

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LYNN REX: I'm not trying to be evasive, but I think he can answer those questions. But I can also tell you, with our cities in our discussion, with the cities of the first class, we've had cities that have had farmland within the boundaries of their cities for a very long time, and they're facing these same sort of issues of these doughnut holes there of service. So the cities said...you know there's an issue in terms of infrastructure and providing services. [LB772]

SENATOR SMITH: Thank you, Ms. Rex, for your testimony. I see no further questions. [LB772]

LYNN REX: Thank you very much. Thanks for your consideration. [LB772]

SENATOR SMITH: Next proponent of LB772. Welcome. [LB772]

BRIAN NEWTON: (Exhibit 1) Thank you. Good afternoon. My name is Brian Newton, B-r-i-a-n N-e-w-t-o-n. I'm the city administrator of the city of Fremont. First, I want to thank Senator Walz for introducing this bill on our behalf. I'm certainly here today to speak in favor of LB772. The map that I'm distributing to you shows four distinct doughnut holes, as we'll call them, that clearly identify particular properties that you can see the yellow is the boundaries of our corporate limits, but these doughnut holes exist inside those corporate limits that are currently not annexed into the city of Fremont. Okay. And the reason they're not annexed is that these are particular farm ground, they're farmed. They grow crops every year but they're carved, maybe some day, for a development, whether it be commercial or residential. The reason that they don't want to be annexed, either voluntarily or involuntarily, is because the minute they would be annexed, the county clerk would increase their taxes to next and best use. And so their taxes would go up four or five, at least, times what they're currently valued at ag rate. Okay. The current law simply says that these have to be valued at next and best use because they're inside of our corporate limits. This change in the statute would simply allow these particular parcels, and other parcels that are ag inside of our corporate boundaries, to remain to get that special valuation that those that are outside can get today. And so, we're simply asking to help us cleanup some of these things. As Senator Walz said, we are growing and we're going to see this happen more, simply because those that don't want to be annexed in, voluntarily, involuntarily, don't want their taxes to go up. So we're going to have to make exceptions and just keep growing Fremont to the east. But you have...we just creating these doughnut holes. So what happens when we create these doughnut holes, we grow around them. All the services are provided to everybody around them except no services are provided to these doughnut holes. But, in fact, they get the services because we surround them. And so they get the same fire, police, and all the other protections, but yet they don't pay any property taxes to the city of Fremont because they're not in the city of Fremont. So it's kind of a fairness issue. We'd love to provide the services. We've built all the services around them, but yet they don't want in because they're afraid to pay

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the higher taxes. So, we'd like to see this change so we can incorporate some of these things into our planning. Right now, we have to plan the utilities around them. We have to plan the streets, storm sewers, and all the drainage around these areas because they're not in our corporate limits. The solution would be very simple. Allow these folks to be annexed. Allow them to qualify for the special valuation. Allow them to get the same services that all their neighbors surrounding them get without having to pay the higher taxes. And with that, I would be willing to answer any questions. [LB772]

SENATOR SMITH: Thank you, Mr. Newton, for your testimony. Senator Groene, then Senator Schumacher. [LB772]

SENATOR GROENE: Thank you, Mr. President (sic--Chairman). Thank you, sir, for coming here. [LB772]

BRIAN NEWTON: Sure. [LB772]

SENATOR GROENE: Where's Costco on this map? [LB772]

BRIAN NEWTON: So if you look to the south...the further south down there you kind of see there's Costco, about 400 acres down there as four parcels. You kind of see it, a little strip. I know, it's really hard to show. There's a strip in the middle so you see...see where the orange box is right there? Where the one with the doughnut holes I just described to you, the orange box? And then you go straight south of that and then off to the west. See that strip, that's Costco's area right there. [LB772]

SENATOR GROENE: Is it all Costco area or is some of it farmland now? [LB772]

BRIAN NEWTON: Yes, it's all Costco area. [LB772]

SENATOR GROENE: So would any of this be reevaluated as farmland? [LB772]

BRIAN NEWTON: It's inside...we annexed it all. They voluntarily annexed it. [LB772]

SENATOR GROENE: I understand that, but is it considered farmland that now you could...is there areas in your city that have had the higher valuation now that you could...put a valuation on it at the lower cost? [LB772]

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BRIAN NEWTON: No. [LB772]

SENATOR GROENE: That none of the Costco area. [LB772]

BRIAN NEWTON: No. [LB772]

SENATOR GROENE: But, I don't understand annexation law completely, but couldn't you annex these farm fields if you wanted to? [LB772]

BRIAN NEWTON: Which farm fields? [LB772]

SENATOR GROENE: Without...the four parcels you have here. [LB772]

BRIAN NEWTON: Well, we have annexed them because they voluntarily asked us to annex them. So the property that Costco is on is annexed. [LB772]

SENATOR GROENE: No, I switched gears on you and it changes the question. [LB772]

BRIAN NEWTON: Yeah, I'm sorry. [LB772]

SENATOR GROENE: So they won't get a reevaluation on any of it that they... [LB772]

BRIAN NEWTON: No. Exactly. [LB772]

SENATOR GROENE: ...and there's no other ground that's farm ground in the city limits right now that's being farmed. [LB772]

BRIAN NEWTON: That's being taxed at the lower rate? No, because the law doesn't allow it. They don't qualify for special evaluation currently today. [LB772]

SENATOR GROENE: What I'm asking you, is there farm ground presently in the city limits and it's being taxed higher? [LB772]

BRIAN NEWTON: No. [LB772]



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SENATOR GROENE: If we passed this law, those parcels would also have a lower value. [LB772]

BRIAN NEWTON: No, there is none inside the city right now that is being taxed at the higher rate. There was a small piece, Diers's, up around Deer Pointe Drive. There was piece of property that the city forced Diers to bring into the city limits. I think they paid, and Maggie Diers is here, I think they paid ten years, it was an agreement. They paid ten years of higher taxes. They just came in last fall and asked for a disconnect on annex simply because they didn't want to pay the higher taxes because it had been farmed the entire ten years. [LB772]

SENATOR GROENE: You don't have to allow that, though, do you? [LB772]

BRIAN NEWTON: We probably...that's a legal question. I'm not sure if we have to allow it but we did. [LB772]

SENATOR GROENE: In my community when they annexed some farm fields to add it to TIF, the farmer had no avenue to stop them from doing it, so why can't you just annex these four parcels? [LB772]

BRIAN NEWTON: We could. Involuntarily, we could annex it and provide services but then again, they would have to pay the higher taxes and it would be very controversial. Fremont has a habit, we don't involuntarily annex anybody. We typically only voluntarily annex. They ask to come into the city and that's what has happened down here with Costco. It's happened almost every...all the growth areas that we've had, it's been voluntary annexation. We work with the developers. [LB772]

SENATOR GROENE: Thank you. [LB772]

SENATOR SMITH: Senator Schumacher. [LB772]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony. The real value--let's forget about make-believe value--of the four colored parcels, is substantially, is substantially higher than what you're asking them to be valued at...at the highest and best use. [LB772]

BRIAN NEWTON: Because you're...because you're saying it's surrounded by development. [LB772]

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SENATOR SCHUMACHER: Yeah. [LB772]

BRIAN NEWTON: And that was the argument of the assessor. That's why they taxed it at next and best usage, correct. [LB772]

SENATOR SCHUMACHER: Right. [LB772]

BRIAN NEWTON: Our argument is that it should stay ag until they truly develop it and then it goes to the higher valuation. [LB772]

SENATOR SCHUMACHER: But, in fact, as I look at Fremont's numbers and population growth, 1990, 23,886; 2016 estimate 26,516, about 3,000 difference over 16 years. That's kind of turtle pace for growth. [LB772]

BRIAN NEWTON: It has been. [LB772]

SENATOR SCHUMACHER: So we're not talking about a rapidly growing community. And that's not unusual in the state for a town of Fremont's size. [LB772]

BRIAN NEWTON: Sure. [LB772]

SENATOR SCHUMACHER: That's pathetic growth levels. So by creating an incentive for these lots which look like they're...must be in pretty decent areas of town, or could be a growing area on that east edge of town, you're creating an incentive for them not to be developed if, in fact, you don't tax them at their highest and best use. Because the farm family that might own it and might own other land that's out there for development, they say, why would we want to develop that land because if we do, the minute we start developing they're going to jack up our taxes. [LB772]

BRIAN NEWTON: And actually that exists today. So today as it currently exists, they stay outside the city for that very reason. They don't want to pay the higher tax. [LB772]

SENATOR SCHUMACHER: Why don't you annex them? [LB772]

BRIAN NEWTON: And so there's really no incentive. The advantage to them is, is they would get city services. So if they would voluntarily come into the city, we would provide all the city services that they currently are not eligible for today. [LB772]

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SENATOR SCHUMACHER: But if you undertook a policy of annexing those areas, involuntarily, not the world's hardest thing to do, and taxed them at the highest and best value, there would be a real incentive for those...for whatever reason they're not being developed, to be developed, so that they could get the income off of, necessary to pay the taxes. [LB772]

BRIAN NEWTON: To pay for the higher taxes? [LB772]

SENATOR SCHUMACHER: Yeah, why not? [LB772]

BRIAN NEWTON: I don't know if that's true or not. I mean, we probably...we have not involuntarily annexed them. We probably won't. We have a better relationship with our developers than that. We are not going to do that just to force them to go develop the property. I think it behooves them to develop it as they wish, not as the city wishes. [LB772]

SENATOR SCHUMACHER: Am I given to understand that down just immediately to the south and west of the orange blob, that's Costco? [LB772]

BRIAN NEWTON: Correct. [LB772]

SENATOR SCHUMACHER: You put how many...100,000 chickens right next to your town? [LB772]

BRIAN NEWTON: No, there's no chickens there. This is a processing plant. [LB772]

SENATOR SCHUMACHER: Yeah, but chickens come with feathers even if they're dead, don't they? [LB772]

BRIAN NEWTON: Yes, I'm sure they do, but that will be handled in the processing plant so what we did is, we annexed this area simply because they wanted city services. They voluntarily wanted to be annexed because they wanted city services. [LB772]

SENATOR SCHUMACHER: And are they being taxed at the same rate per square foot as the folks in downtown? [LB772]

BRIAN NEWTON: You know that's up to the county assessor. I don't set those rates so I have no idea how they're going to be taxed. [LB772]

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SENATOR SCHUMACHER: And that whole area has been TIFed? [LB772]

BRIAN NEWTON: Yes, it has been TIFed. Again, the reason we TIFed it was because this area was blighted and substandard. It can't be TIFed unless it meets the blighted and substandard test. [LB772]

SENATOR SCHUMACHER: And what was more blighted about that farm field than the farm field next to it? [LB772]

BRIAN NEWTON: Well, the farm field next to it actually is blighted and substandard too, but in particular this area has been sitting there for probably 30 years in the flood plain and nobody would ever develop. These used the TIF funds to be able to elevate this so we could develop it, because we've had numerous activities in this interest...interested parties, and as soon as they find out it's got to be elevated by six foot and it's going to cost millions of dollars, they pass. And so this is a perfect example of blighted and substandard. [LB772]

SENATOR SCHUMACHER: But it's also a perfect example...there's plenty of area in this whole area that doesn't need to be elevated. [LB772]

BRIAN NEWTON: That's true, but you've got to have willing sellers. And you've got to have the infrastructure that they wanted. And so this particular area has great infrastructure because Hormel sits right across the street, so the city has great infrastructure already serving the industrial customers in this area, so it was a natural fit. But Costco is another industrial customer in this area. [LB772]

SENATOR SCHUMACHER: So by not having to pay their taxes, they get to kind of mooch off of what all the other people's tax investment is and build the feather plant there. [LB772]

BRIAN NEWTON: So they were...TIF allows them to defer their taxes to help pay for the infrastructure. [LB772]

SENATOR SCHUMACHER: Not defer, not pay. [LB772]

BRIAN NEWTON: No, defer. [LB772]

SENATOR SCHUMACHER: That tax that's forgiven is not deferred and paid twenty years from now. [LB772]

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BRIAN NEWTON: That's true, it's forgiven. It pays for the infrastructure. It goes to another use, you're right. It doesn't go to taxing, it goes for the infrastructure and improvements. [LB772]

SENATOR SCHUMACHER: Well, it would seem to me if you want it to grow you would annex those four parcels of land, charge the higher tax rate, and you'd have those landowners convert those into lots pretty quick. (Laughter) [LB772]

BRIAN NEWTON: Well, if that was the case, I think we...I'm sure the developers would argue about that, so. [LB772]

SENATOR SCHUMACHER: Thank you. [LB772]

SENATOR GROENE: One quick question. [LB772]

SENATOR SMITH: No, we have Senator Brasch, Senator Harr, and then back to you. Sorry. [LB772]

SENATOR GROENE: All right. [LB772]

SENATOR BRASCH: Thank you for coming forward today. [LB772]

BRIAN NEWTON: My pleasure. [LB772]

SENATOR BRASCH: I have been asking others questions when Costco did come up. My understanding of some history, when you mentioned 30 years, is that that property, as you're describing, did have flooding or issues, and basically until a buyer could come along or some purpose, someone was allowed to farm there. So it was not a piece of farm ground other than special favor, or whatever, is you might as well farm it, nothing else is happening there. And so now that we do have the Costco plant, it has returned to its TIF status, and as you described. Is that accurate or is that hearsay, I guess? [LB772]

BRIAN NEWTON: And the Hills Farm folks owned this entire parcel, and they had a farmer that farmed it, the same farmer for years down there. It's such a low area. You know, sometimes it didn't do very well because of the standing water, other times it raised good crops. I can tell you this, you know, the area that's not being developed, Costco still intends to have ag, you know, corn produced in there because you might as well. They don't want to maintain it, they're

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going to farm the rest of it, so. Was it valuable farm ground? You know, it's in a flood plain. I mean, how valuable is it? [LB772]

SENATOR BRASCH: All right, okay. [LB772]

BRIAN NEWTON: But you're right, it needed improving, be able to use it as industrial and that's why we used the TIF for them. [LB772]

SENATOR BRASCH: And then help me understand. I know a little bit more about ag land values, but when you're talking about something that already is valued as ag land, and you're asking for special, or...what, what... [LB772]

BRIAN NEWTON: No, the special valuation allows them... [LB772]

SENATOR BRASCH: Yeah. [LB772]

BRIAN NEWTON: ...to get the ag land values they can't today, okay? [LB772]

SENATOR BRASCH: Oh, okay. They can't because they're within the... [LB772]

BRIAN NEWTON: The law only says if these parcels would be outside the city, they can get it, but anything inside the corporate yellow boundaries, they cannot get that special valuation today. The law prohibits it. [LB772]

SENATOR BRASCH: But they're asking for that valuation even though its purpose is not for agriculture. [LB772]

BRIAN NEWTON: No, it is entirely for agriculture. [LB772]

SENATOR BRASCH: It is, okay. [LB772]

BRIAN NEWTON: And they only get it if it remains at...the minute they start developing it, then they lose that exemption status and they have to pay the next invest. [LB772]

SENATOR BRASCH: Because it overlaps is why they lost their ag land valuation, because it's in a... [LB772]

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BRIAN NEWTON: You know, I'm not familiar with why the law was set prohibiting it inside years ago. I don't know the reason. Lynn may know the answer to that question. I don't know why couldn't get it back then. [LB772]

SENATOR BRASCH: Okay, and it's for commercial purposes, or is this also for residential? [LB772]

BRIAN NEWTON: So anything other than ag, they pay the next best use higher taxes. [LB772]

SENATOR BRASCH: Okay. [LB772]

BRIAN NEWTON: Only ag... [LB772]

SENATOR BRASCH: Can get...right. [LB772]

BRIAN NEWTON: ...would be exempt, would be allowed to be...use the special valuation, okay? [LB772]

SENATOR BRASCH: All right. Very good. I have no other questions. Thank you. [LB772]

BRIAN NEWTON: Thank you. [LB772]

SENATOR SMITH: Senator Harr, then Senator Groene. [LB772]

SENATOR HARR: Thank you, Mr. Chairman. And I'm going to go to that Costco for a second. It's your statement that that was in a flood plain, is that correct? [LB772]

BRIAN NEWTON: It is in a flood plain. [LB772]

SENATOR HARR: It is a flood plain. [LB772]

BRIAN NEWTON: It still remains in a flood plain. [LB772]

SENATOR HARR: It's still flood plain. And there used to be a bar across the road, is that right? [LB772]

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BRIAN NEWTON: A bar? [LB772]

SENATOR HARR: From where that Costco is? And it's called Uncle Larry's or something right there? [LB772]

BRIAN NEWTON: Well, if you're talking...yeah, Uncle Larry's was on old 275. [LB772]

SENATOR HARR: Yeah. [LB772]

BRIAN NEWTON: So if...you know, you see where that orange little blob is right there? [LB772]

SENATOR HARR: Yeah. [LB772]

BRIAN NEWTON: Straight south, that's...you can see the angle right there, that's 275. [LB772]

SENATOR HARR: Yeah. [LB772]

BRIAN NEWTON: Larry's is now in that annexed area. So we've annexed the old bar, Larry's. [LB772]

SENATOR HARR: And I guess my question is, is that the reason that bar had an elevated stage on it was because it was a flood plain? [LB772]

BRIAN NEWTON: Oh, I doubt it. (Laughter) You know, I doubt it. I don't think so. [LB772]

SENATOR HARR: All right. That's all I had, thanks. [LB772]

SENATOR SMITH: Sounds like there's a story there, somewhere. Senator Groene. [LB772]

SENATOR GROENE: Couple of questions. You told me earlier that Costco will...none of that area was farm ground and that they would not ask to have it revalued and then you just told Senator Brasch that they were going to raise corn out there. [LB772]

BRIAN NEWTON: They are. [LB772]



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SENATOR GROENE: So they will come to you and say...oh, you will naturally, if we pass this law, devalue their land in that area. [LB772]

BRIAN NEWTON: No, we will not. [LB772]

SENATOR GROENE: Because it's farm ground. [LB772]

BRIAN NEWTON: No, we won't. We won't because they can ask all they want, we're not going to ask that they detach that and they get a special valuation on that, no. [LB772]

SENATOR GROENE: You're going to have to treat them the same way on their farm ground as you do these other four individuals, that's equality under the law. [LB772]

BRIAN NEWTON: They aren't going to ask for one thing, simply because they have, you know, potential use for that. [LB772]

SENATOR GROENE: That's right, they don't pay any taxes for 15 years. You said earlier about this area was blighted and substandard. That's untrue. You can only blight and substandard a part of the city. You can annex adjacent ground to a blighted area. Where on this map was the blighted area in your existing community that you blighted and substandard and then annexed this to complete the project? [LB772]

BRIAN NEWTON: So this entire area that Costco bought was not blighted. The study that we did blighted this entire area plus some of the adjacent parcels to this area. In fact, the gap in-between that is county industrial. We blighted a lot of that at county industrial. [LB772]

SENATOR GROENE: Which area was originally in the community and then you annexed this farm ground? [LB772]

BRIAN NEWTON: So before the line was drawn, you know where that orange blob I keep talking about? [LB772]

SENATOR GROENE: Yes. [LB772]

BRIAN NEWTON: That's where the line existed about right into there. [LB772]

SENATOR GROENE: On the bottom side of that that's running north and west. [LB772]

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BRIAN NEWTON: Yes. And so then we annexed that little subdivision to the south... [LB772]

SENATOR GROENE: And that's how you blighted and substandard. [LB772]

BRIAN NEWTON: And then we blighted this entire area. So, remember you have to blight first and then you can annex. I take that back. [LB772]

SENATOR GROENE: No, you have to annex first. [LB772]

BRIAN NEWTON: You have to annex first, then blight. [LB772]

SENATOR GROENE: Supposed to be in the community for 40 years, but... [LB772]

BRIAN NEWTON: Yep. So, we annexed this parcel first and then we actually blighted a larger area than this. [LB772]

SENATOR GROENE: And TIF says it has to be blighted and substandard, not or. [LB772]

BRIAN NEWTON: Right, (inaudible). [LB772]

SENATOR GROENE: You said this was blighted. I can understand substandard because of the flood plain, but what part of that bean field, the corn field was blighted? Did it have a disease or something or...? [LB772]

BRIAN NEWTON: No, there were several parcels of property on there that had dilapidated structures, there was lacking infrastructure that met the test quite easily. [LB772]

SENATOR GROENE: Thank you. [LB772]

SENATOR SMITH: I see no additional questions. Thank you, Mr. Newton, for your testimony. [LB772]

BRIAN NEWTON: Oh, my pleasure; thank you. [LB772]

SENATOR SMITH: (Exhibit 2) Next proponent of LB772. I see no additional proponents. We do have a letter for the record that was submitted in support of LB772 from Rocky Weber,

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representing Nebraska Cooperative Council. We now move to opponents, those wishing to testify in opposition to LB772, opponents. Seeing none, those wishing to testify in a neutral capacity, neutral capacity. Welcome. [LB772]

MAGGIE DIERS YOST: Thank you. Could I (inaudible)? Let's see. My name is Maggie Diers Yost, M-a-g-g-i-e D-i-e-r-s Y-o-s-t, and...get to my notes here. I'm looking to see. We have some of the doughnut holes, so we have land in Fremont that we are developing and it's both residential and commercial. There's 100 acres north of the Rawhide Creek that we're developing as commercial, and then there's about 300 acres, plus or minus, additionally that we are developing as residential land. It is family farmland and it has been...much of it in our family. Some of it was homesteaded and the original farm house is still there. About 12 years ago, we began a site development plan to try to begin developing this family farmland and to try to help grow Fremont. And at that time we did many studies and we were told that it could take a minimum of ten to twenty years to just get started, given the growth and the rate of growth that Fremont had. We started with a residential subdivision. St. Patrick's Catholic Church is the anchor. As each piece of this land has been developed, we have annexed it into the city, with the exception of a portion of Diers Parkway from 16th Street to 23rd that, at the time, the city administrator from Fremont...we had to enter into an agreement where all of that would be brought in as commercial. Historically, like I said, we've annexed land as we've developed it in Fremont. We are the largest mixed-use developer in Fremont at this time. Several years ago the city attempted to annex a large portion of land in Fremont, a bit was about 1,000 acres. And it didn't go real well because at the time, when everyone learned that if the land was annexed into the city, the ag valuation would go away and then it would be...the rate would go up. And many, many farmers at the time and land developers voiced concern because it wouldn't be profitable to farm it anymore and there seemed to be this misunderstanding that if you annex land that it would promote increased...or development at a rapid, more rapid pace. And so at that time, they canceled the mass annexation plan, and we're thrilled that we have a new administration in Fremont and we have a government that we are all trying to work together to help to grow Fremont. And we've made enormous progress on that front. The land that we are developing is not an SID, it is not a PUD. Anytime that we had tried to bring those possible scenarios forward, Fremont wasn't ready for that. They were...but things have changed, but again the land that we're developing is not TIFed, it's not an SID, it's not a PUD. We are simply developing...we have two residential developments and we have a commercial development, again, on the north side of Rawhide Creek. And as each lot has sold, or each development has come in, again we have annexed that and brought it into the city. My...I'm neutral on this because we're a little gun-shy when you talk about annexing land and taxes, particularly when this land began as farmland and we're doing our best to develop it at a pace that works. Typically now, if you annex land into the city, it has to be urban or suburban in character and there needs to be a determinative (inaudible) in characters is our understanding. If LB772 goes in, our understanding is that, that you will have the ability to annex us involuntarily, or we could voluntarily annex ourselves. We would then pay

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a city levy but the guarantee would be that the assessor would be required...determine the bill that shall...would be required to allow us to apply for evaluation every year to keep that in ag before we develop it in. I'm probably getting close to my five; I'm watching these lights. So our question is, how much leeway will the assessor have because it's...for a developer that we just don't think that the land should be taxed higher until it's developed. It might be different in some of the larger metro areas but in a small community like Fremont, I think again there's an argument that annexation might spur growth, but I don't think that that is an entirely fair one because we have been aggressively trying to develop this land. We have brought 102 residential lots, we have commercial lots, and we feel like we're contributing significantly to the growth of Fremont. We're already one of the largest taxpayers and...but we've also encouraged significant fees in infrastructure in Fremont already: major thoroughfares, parkways, half of 16th Street, the main portion of Diers Parkway from 16th Street to 23rd, and so we feel like we've done a significant part already to help Fremont grow and we did it very methodically and transparently and with integrity. And so we're just asking for a little bit of clarification. Again, our understanding is that, if we voluntarily annex us in or if they involuntarily annex us in, that we will be able to apply each year for valuation but we're concerned, you know, what leeway the assessor has. I'm sorry, I went over five minutes but...okay. [LB772]

SENATOR SMITH: Very good. Thank you for your testimony. [LB772]

MAGGIE DIERS YOST: Any questions? [LB772]

SENATOR SMITH: Senator Groene. [LB772]

SENATOR GROENE: Thank you... [LB772]

MAGGIE DIERS YOST: You're welcome. [LB772]

SENATOR GROENE: ...for being a developer in free enterprise. Are any of these parcels in a blighted and substandard area? [LB772]

MAGGIE DIERS YOST: They are not. [LB772]

SENATOR GROENE: Even the orange? [LB772]

MAGGIE DIERS YOST: Our parcels are not down on the south side. They are... [LB772]

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SENATOR GROENE: On the map, are any of those four parcels...I would assume the orange one is. [LB772]

MAGGIE DIERS YOST: The orange one is not. [LB772]

SENATOR GROENE: Surrounded by it probably. [LB772]

MAGGIE DIERS YOST: I'm sorry, can you...that it...that the area... [LB772]

SENATOR GROENE: Is it a blighted and substandard area? [LB772]

MAGGIE DIERS YOST: No, I think that... [LB772]

SENATOR GROENE: It's adjacent to it, though. [LB772]

MAGGIE DIERS YOST: But again, I'm not exactly sure of some of the other areas. [LB772]

SENATOR GROENE: And which area is your, which area is yours, the blue one? [LB772]

MAGGIE DIERS YOST: We have blue and we have the green. [LB772]

SENATOR GROENE: So a development company owns it now, not a family farm. [LB772]

MAGGIE DIERS YOST: I am here on behalf of Deer Pointe Corporation as well the Charles H. Diers, LLC. [LB772]

SENATOR GROENE: So it's not a family farm. You had the development company purchase the land and it's been developing it. [LB772]

MAGGIE DIERS YOST: No, not entirely. It all started out in the Charles H. Diers, LLC and as we develop it... [LB772]

SENATOR GROENE: Which was a family farm? [LB772]

MAGGIE DIERS YOST: Yes. [LB772]

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SENATOR GROENE: All right, all right. [LB772]

MAGGIE DIERS YOST: And the family farm house is still sitting on the property. [LB772]

SENATOR GROENE: Did you support the TIF project, the Costco? [LB772]

MAGGIE DIERS YOST: I don't have an opinion on that. [LB772]

SENATOR GROENE: Oh, so you didn't go to city council and say, we... [LB772]

MAGGIE DIERS YOST: Trust me, we are all following everything that is happening in Fremont and we're all promoting economic development and growth, but I'm not going to take a position on that. [LB772]

SENATOR GROENE: All right. My point I was going to make is anybody who supported it must understand that everybody else then is going to have to pay higher property taxes to support the school and the city, and I would think they would be willing to do that if they support TIF. It's all part of the package, isn't it? [LB772]

MAGGIE DIERS YOST: I think that's an unfair question to ask us... [LB772]

SENATOR GROENE: That was just a comment. [LB772]

MAGGIE DIERS YOST: ...as a developer of farmland north of there that's residential and commercial. [LB772]

SENATOR GROENE: But as it...anyway, as a community member, yeah. Thank you. [LB772]

MAGGIE DIERS YOST: Um-hum. [LB772]

SENATOR SMITH: Senator Brasch. [LB772]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mrs. Diers Yost. Is any of the land still part of a family operation other than being called an LLC? Does somebody live on the home place? [LB772]

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MAGGIE DIERS YOST: There are two nuns that live in the house and, as we say, they're praying for us every day. (Laughter) We have a farm...we have someone that farms the land for us. I am not out in a tractor in the morning, but we have somebody that farms and we are currently farming...it varies, but alfalfa, corn, beans. [LB772]

SENATOR BRASCH: Very, very good. Was there anything you didn't get to say because the light was red? [LB772]

MAGGIE DIERS YOST: No. [LB772]

SENATOR BRASCH: And I'm going to give you extra time to answer that simply because I think my husband is your distant cousin, Henry Diers of Cuming County. (Laughter) [LB772]

MAGGIE DIERS YOST: Oh my gosh. Well, thank you. [LB772]

SENATOR BRASCH: But if you need a couple more minutes. [LB772]

MAGGIE DIERS YOST: Well, and I guess, and I didn't mean to...in no way intend to be rude on it... [LB772]

SENATOR GROENE: No, I understand; I'm just trying to get answers. [LB772]

MAGGIE DIERS YOST: ...but I think when the annexation came up several years ago, this was before Costco ever even came about. And the discussion came up, and not by, I presume not just in Dodge County or in Fremont, but there does seem to be this feeling that well, we'll just annex them and if they, you know...put the cattle prod to them and it will move it along faster and, historically, we're thrilled with the growth that's happened and there is more coming. There's no question about it and we will be part of the answer to that but we will not be the entire answer to the housing study. But if all of the land is annexed and we do not retain the ag valuation and we are then forced to pay the residential and the commercial tax rate, you can't farm it, you can't develop it fast enough. And so, I think that sends a clear message to people who are trying to grow the community that... [LB772]

SENATOR BRASCH: But you are neutral on this bill simply because you don't have confidence in the ag... [LB772]

MAGGIE DIERS YOST: We just want a clarification, yes. [LB772]

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SENATOR BRASCH: Yes, okay. [LB772]

MAGGIE DIERS YOST: I probably should have come up on the "for" side, but we just want clarification. [LB772]

SENATOR BRASCH: You still have reservations about the taxation. [LB772]

MAGGIE DIERS YOST: Yes. [LB772]

SENATOR BRASCH: Okay. [LB772]

MAGGIE DIERS YOST: Well, it's primarily...yes, it's primarily and the question of, well you know, what leeway will the assessor have. We understand that we would be required once a year to come in and apply for the valuation but, other than that, you know, are they required to? What does "shall" mean on that front? But so far everything that we have done has worked so well that we're trying to keep that going. [LB772]

SENATOR BRASCH: Well, you have excellent testimony and he has no other cousins, so. Just clear that up there now. (Laughter) But thank you and we'll take that into consideration. [LB772]

MAGGIE DIERS YOST: Thank you. [LB772]

SENATOR SMITH: Senator Schumacher. [LB772]

SENATOR SCHUMACHER: Thank you, Senator Smith, and thank you for your testimony today. [LB772]

MAGGIE DIERS YOST: You're welcome. [LB772]

SENATOR SCHUMACHER: In the committee, one of the things that we can't do is answer legal questions. For example, years and years ago when TIF was authorized, it was supposed to be for blighted and substandard areas and I think everybody said, well, the cornfield will never be blighted and substandard, it's a cornfield. And a nice area in west Omaha will never be blighted and substandard because it's a nice area in west Omaha with roads and everything around it. So we can't really say, you know, that you probably have to talk to your attorney about that, but I did have a question. [LB772]



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MAGGIE DIERS YOST: Yes. [LB772]

SENATOR SCHUMACHER: I don't think I probably heard you right. You've been doing private development without TIF? (Laughter) [LB772]

MAGGIE DIERS YOST: Yes. [LB772]

SENATOR SCHUMACHER: Well, have you gotten any LB840 money to give you an incentive to want to make money? [LB772]

MAGGIE DIERS YOST: We brought...it's interesting that you say that. We have explored it, but to date we...and we have looked into what areas could possibly be TIF. We will go on record happily to say we've never TIFed on residential and we've told the school superintendent that on our particular property. But to date, we have developed in the very old-fashioned traditional way of having a site plan, listening to the needs of the community, developing those residential areas, having a plan that is...that promotes growth for Fremont. We're trying to work on a community conference center that will go in the corner. We've got...I mean, it's...everything that we're trying to do is to help to move Fremont forward and we've done that, like I said, in the very traditional way so far. [LB772]

SENATOR SCHUMACHER: And you haven't gotten any department of Economic Assistance (sic--Development)... [LB772]

MAGGIE DIERS YOST: Not yet. [LB772]

SENATOR SCHUMACHER: ...grants, incentives, to want to get bigger? Have you created new jobs? [LB772]

MAGGIE DIERS YOST: We have...I would definitely say we have created new jobs. One of my favorite facts is that of the...in our residential developments, we've brought in the 102 lots and several...we've opened three new subdivisions in the past three and a half years: Brooks Hollow, Brooks Hollow First Addition, and Deer Pointe Fourth Addition. And over half of the people coming in to buy those lots are coming in from out of town and moving to Fremont, and we're...I think that's a great. One of my other...I'll keep going. One of my other favorite statistics is we have multiple generations of families coming in, and into the same residential subdivisions, and so we just want to keep...being able to keep do this. So if the assessor will value it as ag, the farmland that's here and the houses and the restaurants and the churches that are going in over here, then we'd like to just keep doing it that way if possible. [LB772]

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SENATOR SCHUMACHER: And you've done this without government assistance. [LB772]

MAGGIE DIERS YOST: Yes. [LB772]

SENATOR SCHUMACHER: Congratulations. [LB772]

MAGGIE DIERS YOST: Thank you. [LB772]

SENATOR GROENE: And thank you. [LB772]

SENATOR SMITH: I see no further questions. Thank you for your testimony. [LB772]

MAGGIE DIERS YOST: Thank you. [LB772]

SENATOR SMITH: Additional individuals wishing to testify in a neutral capacity on LB772. Welcome. [LB772]

TOM PLACZEK: Hello, Senator Smith, and other members of the Revenue Committee. My name is Tom Placzek, T-o-m P-l-a-c-z-e-k. I am the Platte County Assessor and I represent the Nebraska Association of County Assessors. When I came here today I actually didn't even think I was going to come and testify, so I'm just really in neutral. I maybe can...maybe answer a few questions. I've been trying to wrap my head around this as to how the fact that a property is annexed, all of a sudden changes its value. That's not something that I would do. I think there's an idea out here that's all of a sudden, its highest and best use changed. It's like, did it? Still farmed, what changed? It may not be developed for another 15, 20 years. The fact of annexation does not change it's highest and best use. I would still do it as farm ground. So I'm not sure that I understand this great angst over this. I'm not sure it changes anything for us. And in talking to most assessors I...typically what I do is when these bills come out and there's some things I have questions on or for or against, I send out a letter to all assessors saying, give me your comments on all these bills and anything that's brought up. This never came up once. I'm just trying to understand what this is all about, what it's going to change or not change, or anything, so. There was a couple of--might have been a year ago, might have been two years ago--there was a bill submitted that if a piece of ground--and I'm trying to make sure I've got this right--was platted, but nothing else actually changed, just was platted, that we basically would treat it as if it was farm ground, which is what we do. It didn't do anything. Now if it's improved with streets and improved with sewer lines and all that kind of stuff, that changes it somewhat, but if they still farm...try to imagine this. You've got a block and still streets all around but they're farming in-between these strips where you'd probably had...no changes, no sales, nothing has happened that

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changes it, we could still do the land as farm ground. I actually believe that was your bill, Senator Harr. And I also find it interesting, like I said, I really didn't plan on coming here but I find it interesting that this really came into a discussion on TIF, which must be one of the most loved and hated pieces of legislation that has ever come to the state of Nebraska. I am no fan of TIF. I think it's been greatly abused by a lot of committees. Fortunately, the city of Columbus hasn't gone down that road too much, but the fact that a town of Gothenburg has 20, 30 TIF projects is amazing to me. The town of Wayne has 30 projects. How is this even possible? There's not that much blighted and substandard property in the whole community to come up with that, but that's a discussion for another day. So, I don't know if you have any questions. I just thought...I'm trying to understand this, LB772. I'm not sure that it changes anything that was already in place anyway, so. [LB772]

SENATOR SMITH: Thank you, Mr. Placzek. Senator Groene, and then Senator Schumacher. [LB772]

SENATOR GROENE: Are you familiar with this...it would be up to the assessor of Dodge County in Fremont, right, to do this? The city would have nothing to do with the valuation. [LB772]

TOM PLACZEK: Right, the city has no control over valuation. [LB772]

SENATOR GROENE: Do you know the assessor from Dodge County? [LB772]

TOM PLACZEK: Yes, I do. [LB772]

SENATOR GROENE: Do you think they would...if it was annexed that she would put...or he would put a higher valuation on it? [LB772]

TOM PLACZEK: I don't believe Debbie would do that. Having worked with her for a couple of years now, she's relatively new. She'd probably consult all the other assessors, say, how do you do this? This is something a little different to me and, if she called me, I would say, Debbie, what changed? Did anything change in this other than now they pay a city levy versus maybe a township levy? So their tax would go up because of that, but I'm not sure that their valuation should change because of it, and that's what I would advise her. [LB772]

SENATOR GROENE: If this community's valuation--tax rate--is very high, that would be the biggest increase in taxes. [LB772]

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TOM PLACZEK: Correct. Correct. But if there's no other...let's say, the only way it would change is if other like land would sell at, say higher rates, then you would use that as your comparables. But I'm not sure how it would change otherwise, just that...because the levy is higher that's the only change that I would see. [LB772]

SENATOR GROENE: So your opinion is this legislation isn't necessary. [LB772]

TOM PLACZEK: I don't believe it's necessary at all. [LB772]

SENATOR GROENE: Thank you. [LB772]

SENATOR SMITH: Senator Schumacher. [LB772]

SENATOR SCHUMACHER: Thank you, Senator Smith, and thank you, Tom, for appearing today. Just so I can get a grasp of how this is working. North of Lake Babcock, there's a development that comes to mind that I think probably 15 acres, give or take, but basically an alfalfa field. But years and years ago they platted it. [LB772]

TOM PLACZEK: Correct. [LB772]

SENATOR SCHUMACHER: And there's nothing there now, no streets or anything else. [LB772]

TOM PLACZEK: Correct. [LB772]

SENATOR SCHUMACHER: And I think Senator Harr's bill from a few years ago may have affected that. How was that one assessed though, do you know? [LB772]

TOM PLACZEK: It's assessed as farm ground. [LB772]

SENATOR SCHUMACHER: As farm ground. [LB772]

TOM PLACZEK: Yep. [LB772]

SENATOR SCHUMACHER: They don't pay a booster amount because they're platted. [LB772]

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TOM PLACZEK: Nope. What I do is I actually...we have a card for each lot because it is platted, but I find out what the land would be valued at as farm ground, you know, if it's 1A-1 irrigated ground or whatever, figure that out for the whole part that is platted and then I just divide the number of lots or per square foot and assess it that way. [LB772]

SENATOR SCHUMACHER: Is that a result of Senator Harr's bill or was that just something that happened? [LB772]

TOM PLACZEK: That's something I actually did because it was common sense, but Senator Harr's bill certainly made sure that if anybody is doing it otherwise, this is being the way to do it. [LB772]

SENATOR SCHUMACHER: Thank you. [LB772]

TOM PLACZEK: You're welcome. [LB772]

SENATOR SMITH: Senator Friesen. [LB772]

SENATOR FRIESEN: Thank you, Chairman Smith. With what you've described, why do we have greenbelt status? [LB772]

TOM PLACZEK: Well, I think the greenbelt is to protect farmers. For instance, let's just use the city of Omaha, or Sarpy County for instance, they kind of grow in patches. It isn't like you have a piece of ground and that's developed, then the very next one develops, and then the very next one. No, it might be one over here, and one over here, and one over here in the middle, and so they develop a greenbelt so that these people in here that are still farming, they're still doing what they want to do, they are not affected by developments here. [LB772]

SENATOR FRIESEN: You just told me that the assessor would take care of that and they would value it as ag land. [LB772]

TOM PLACZEK: Right. Right. Now, in...it's, what you would do, is you would value it as what the value of that property is. And if it's ag land, it's at 75 percent of market value. So you wouldn't do it at \$200,000 an acre or \$50,000 an acre or something like that. [LB772]

SENATOR FRIESEN: But the way I understand it, though, we're exempting Douglas and Lancaster Counties from this so they could. In Douglas County there is land that is being farmed

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that is annexed and they do not get greenbelt status because it is annexed, and they're still farming it. [LB772]

TOM PLACZEK: Well, now...okay. I'll be honest with you, Senator, you may be right on that because I'm not 100 percent on that and I don't reside obviously in those three counties, so usually when it says above \$150,000, I say, okay, I'll let those guys deal with it and I don't have to deal with it. So you may be right. I'm sorry. [LB772]

SENATOR SMITH: Senator Groene. [LB772]

SENATOR GROENE: So what you're saying on the greenbelt, if somebody comes in and buys the farm ground next to a city and pays \$70,000 an acre, it's still farm ground, he bought the farm. Because it was farm ground and was bought for \$70,000 an acre, it affects all the farm ground around there, because that would be comparable sales. And that is what greenbelt protects from, is it not? [LB772]

TOM PLACZEK: Well, true, but what I'm saying is, on an ag land basis, number one, one sale does not make a market. [LB772]

SENATOR GROENE: But you just said it was checkerboard or... [LB772]

TOM PLACZEK: Well, yeah, and you've got maybe five...you know, you've got a number of sales. Now that's something probably a little bit...that's what greenbelt is meant to protect, is those people in-between. Now, I don't have to deal with that in Platte County. I just don't have that sort of situation there. [LB772]

SENATOR GROENE: So somebody paid \$70,000 an acre, is the farm...planning to develop it but it's still a farm. [LB772]

TOM PLACZEK: Yeah, someday. [LB772]

SENATOR GROENE: And \$80,000 here and those were comparable sales. [LB772]

TOM PLACZEK: Right. [LB772]

SENATOR GROENE: And then the guy in-between because those are comparable farm sales, it protects him. [LB772]

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TOM PLACZEK: Right, greenbelt does. [LB772]

SENATOR GROENE: Because after developing, then it becomes commercial. [LB772]

TOM PLACZEK: The greenbelt does protect that. [LB772]

SENATOR GROENE: But when it was originally purchased, it was farm ground. That's what I thought greenbelt did. [LB772]

TOM PLACZEK: Right. Yeah, that's what greenbelt does do, you're correct, so...yep. [LB772]

SENATOR SMITH: I see no further questions, thank you for your testimony. [LB772]

TOM PLACZEK: You bet. [LB772]

SENATOR SMITH: Others wishing to testify in a neutral capacity. Seeing none, Senator Walz, you're invited back to close on LB772. [LB772]

SENATOR WALZ: Thank you, Senator Smith. First of all, I just want to thank the testifiers for coming today. I especially want to thank Maggie Diers for coming and our city of Fremont. I do want to say that, you know, as long as I've lived in Fremont, I can honestly say that everything they've done, it hasn't been a fast growing community. But everything that they've done has been very thoughtful and I'm very proud of the thoughtful process and processes that they take along the way, so. I just wanted to mention that. Also this kind of got off...I kind of feel that it kind of got off on a conversation about TIF and, you know, the chicken plant and we've already gone through plenty of council meetings regarding those things, so I just want to bring it back to LB772. You know, that I'm happy to work with the committee on any questions or concerns that you have. Property taxes is a concern of mine, it's a concern of, you know, many farmers, and I brought this bill because I felt that it would protect landowners as well as allow our cities to grow. I think that this bill does both of those things. So with that, I'm done and I thank you. [LB772]

SENATOR SMITH: Senator Friesen. [LB772]

SENATOR FRIESEN: Thank you, Chairman Smith. Senator Walz, I mean, I like your bill. I agree with you. I'm...question for me is, why would we exempt Douglas and counties because they have the same situation. There are farmers there, I met with some of them recently on a

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different issue but they talked about they were annexed in, they lost their greenbelt status, now they had to pay the higher property taxes because they were annexed and yet they were still farming it, had farmed it for years. So I guess would you be agreeable to taking out that exemption. [LB772]

SENATOR WALZ: I don't have an answer to that. I mean, I don't have an answer to that. [LB772]

SENATOR FRIESEN: I mean, that's my question, I guess why would we exempt some from this. I know what you're trying to do and I agree with it totally. It provides for a measured, easy growth where you don't have to jump around. I get it, but we're exempting some counties so it must matter at some places and it doesn't matter in others? [LB772]

SENATOR WALZ: It obviously does. I don't know the reasons for that. [LB772]

SENATOR FRIESEN: Okay. Thank you. [LB772]

SENATOR SMITH: Senator Schumacher. [LB772]

SENATOR SCHUMACHER: Thank you, Senator Smith, and thank you for your testimony today. If...and I understand that there aren't, and if there are, it's very few, if there is other areas besides the four colored blotches on the map here that are farmland, or still a field of some kind that is being used for agricultural purposes, would it be your intent to back those out and change those back to agricultural purposes? [LB772]

SENATOR WALZ: If they are? [LB772]

SENATOR SCHUMACHER: Right, if there's a... [LB772]

SENATOR WALZ: Yes, if they become annexed within the city, is that what you're talking about? [LB772]

SENATOR SCHUMACHER: Let's say they're already in the city. They were annexed in the park. There's a ten acre... [LB772]

SENATOR WALZ: So grandfather them in, is that what you mean? [LB772]



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SENATOR SCHUMACHER: Yeah, I mean, go back right now if there's a ten-acre tract that's raising squash in the middle of town and it's the case in some towns... [LB772]

SENATOR WALZ: Yes, and we don't have any. [LB772]

SENATOR SCHUMACHER: You don't have any. Well, this will apply to outside of Fremont and so you got the ten acre squash field and now this law goes into effect. And they had been paying the full city assessment, full city tax because that was the law. Is it your intent then that this be retroactive, that they can come back in and say, revalue my squash field as ag land now? [LB772]

SENATOR WALZ: Yes, yeah. [LB772]

SENATOR SCHUMACHER: So in regard to what Senator Friesen asked, if there's areas around the fringe of Omaha who are now paying the full bore of Omaha tax and we pass this and say it applies to Omaha too, then Omaha... [LB772]

SENATOR WALZ: If it applied to Omaha too, but it doesn't. [LB772]

SENATOR SCHUMACHER: Right, right, but I'm trying to figure out here whether or not that would be one reason that, since Omaha and Lincoln would be most affected by that kind of move and would lose a lot of valuation really quick, that that's why maybe somebody excluded it from your bill. [LB772]

SENATOR WALZ: Correct. [LB772]

SENATOR SCHUMACHER: Thank you. [LB772]

SENATOR WALZ: Thank you. [LB772]

SENATOR SMITH: Senator Groene. [LB772]

SENATOR GROENE: But if they decide...there are people--I really appreciate their testimony in that...their free market attitude. But why not have a high valuation because when some contractor comes in and buys that 80 from the Diers, instead it goes to the city, and says I'm going to put housing in for the work because at Costco we TIF it, why not have a high valuation so at least the school gets something because of the base...it's the base valuation and then the TIF is the

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added value. At least if you have a high value to start, the school and the county get something instead of the city taking it all. [LB772]

SENATOR WALZ: Um-hum. Well, I guess in this case, I...my concern was the property, the landowner. I mean if somebody wants to continue to farm for ten years and the city annexes that property, I...my purpose for bringing the bill was to put a tax of... [LB772]

SENATOR GROENE: I understand. [LB772]

SENATOR WALZ: Okay. [LB772]

SENATOR GROENE: I'm just...I don't trust city administrators and economic development people. My attitude is they want to annex it so they can TIF it and bring a contractor in who will TIF it and build houses for the people at Costco. Because it makes no difference anymore if it's blighted or substandard. They can put blight...anything if you don't have moral character to do that. [LB772]

SENATOR WALZ: Well, and then in this case, like I said when I started out, you know, I think that Fremont has a lot of moral character. I think they're very thoughtful in their process. [LB772]

SENATOR GROENE: I didn't say that; I said someone who (inaudible). [LB772]

SENATOR WALZ: I understand that, but I'm just saying. [LB772]

SENATOR GROENE: And now you will bring more bills because this committee is a lot of fun, isn't it? [LB772]

SENATOR WALZ: Oh, it's (inaudible). (Laughter) [LB772]

SENATOR SMITH: Additional questions from the committee? Senator Schumacher. [LB772]

SENATOR SCHUMACHER: Thank you, Senator Smith. So you want to be on this committee next year, right? (Laughter) [LB772]

SENATOR WALZ: I want to sit on that side. [LB772]

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SENATOR SMITH: All right. Thank you, Senator Walz, for closing on LB772, and that closes the hearing on LB772. [LB772]

SENATOR WALZ: Thank you so much. [LB772]

SENATOR SMITH: We now transition to LB885 to be introduced by Senator Burke Harr. [LB885]

SENATOR HARR: Thank you, Chairman Smith, and members...fellow members of the Revenue Committee. I am here on LB885. This is another bill similar to yesterday that was brought to me by NACO. LB885 is intended to provide notice to property owners when someone else protests the value of their property and perhaps start the policy discussion of who should be allowed to protest the value of a property. In a typical valuation cycle, a property owner receives notice of the valuation of his or her property and has an opportunity to protest the valuation to the County Board of Equalization or, in Douglas County, a referee. The County Board of Equalization determines whether the value should be adjusted and the parties can appeal to the Tax Equalization and Revenue Commission or, as we learned earlier this week, TERC. This year in one southwestern county a taxpayer filed a protest on all of the CREP acres in the county, not just property he owned, but on every parcel. Except through the grapevine, the property owners had no idea that the value of their property could be subject to an adjustment by the County Board of Equalization, because there's no statutory requirement for the property owner to receive notice or have an opportunity to defend the value of their property when someone else files a protest. This example isn't the first time a nonowner has protested, but it is perhaps the most significant. LB885 would require a county clerk to send copies of the protest form, a form 422, and attachments to the property owner when someone else has protested the valuation of their property. When the County Board of Equalization makes a decision, the clerk would also be required to send a copy to the taxpayer. Because the timing of protests and hearings can be very tight, the bill did not include a deadline for clerks to mail the protest form. The county assessor's recommendation and the County Board of Equalization's decision are recorded on the form, so it could all be done in one mailing. This issue might sound similar to another situation this past summer. The Sarpy County Board petitioned the TERC to force Douglas County to raise its median property valuations to 96 percent of market value to match Sarpy County's voluntary valuation to 96 percent. The TERC concluded that it had neither the jurisdiction nor the authority to force the change. While there are similarities in the policy of who can protest valuation, LB885 deals with protests only to the County Board of Equalizations. I believe there is a letter that we all have from Matt Schaefer in which he testified against the bill, or he wanted to be against the bill. He came and we had a nice conversation with Mr. Dix, and Mr. Schaefer, and myself, and I have an amendment. I haven't had it drafted yet but, because of the deadlines that we have now, he had to file the letter before 5:00 last night. But we have worked out an

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amendment that satisfies Mr. Schaefer's concern. With that, I would answer any questions you may or may not have on this Friday afternoon. [LB885]

SENATOR SMITH: Thank you, Senator Harr for introducing LB885. Do we have questions from the committee? Senator Friesen. [LB885]

SENATOR FRIESEN: Thank you, Chairman Smith. Senator Harr, why would somebody protest someone else's property valuation? Why do we let them? [LB885]

SENATOR HARR: Spite. That's a great question. Well, there's a reason. First of all, you know, somebody might say, hey, my property taxes are high, you know, and that son of a gun over there, Groene, isn't paying his fair share. I know his valued property is worth more than what it's valued at. I'm going to protest Senator Groene's property values. That's one, and that's probably what we're talking about. The reason why we allow it though, is, there's something called triple net leases out there and a triple net lease what happens is, I rent a piece of property from generally REIT, but large operations, not always, but usually, or it's...that's probably the best situation. And what happens is that landowner may be in Florida and I'm renting the property, I may be responsible for paying the property taxes. And so I will say, hey, I want to protest it on behalf of that REIT because I'm the one that's actually paying it, not the REIT. So that's why we do allow it. [LB885]

SENATOR FRIESEN: But couldn't we also just say that the owner would have to do it and they could contact the owner and make them do it. I mean, if I want to...if I think his property is too low compared to mine, I will go and protest mine saying it's too high. I don't want his raised necessarily. I want mine lowered. [LB885]

SENATOR HARR: Yeah. Well, and that's right, but the problem with it is, is there's no enforcement mechanism so I rent it from a REIT, that REIT has no...there's no incentive for them to say, yeah, you go ahead, Burke, you can do it, and in the meantime I'm stuck with that higher valuation whether that's fair or not fair. And so that's why we allow it. [LB885]

SENATOR FRIESEN: Okay. Thank you. [LB885]

SENATOR SMITH: Senator Groene. [LB885]

SENATOR GROENE: Did you check with TERC, there's actually people that come in and make a complaint that their neighbor valuation is too low? [LB885]

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SENATOR HARR: Well, that was the example I gave originally. Yes, someone has done that, yeah, to the board. [LB885]

SENATOR GROENE: Some have done that. [LB885]

SENATOR HARR: Yeah. [LB885]

SENATOR GROENE: Now, I would think if I seen my neighbor get his valuation jumped to \$100,000 and I'm on the list next year to get my valuation evaluated, I would protest my neighbor's because I know that's the base that they're going to use on mine next year. I can understand that. Wouldn't you do that? Because most people when they go and have their valuation and protest, they check neighbors to see what the valuation is. If you were wise, you would check ahead of time and say, John Doe got his raised, I'm next on the hit list, I'm going to protest his even though he doesn't because it's going to affect my valuation. I can legitimately see why we allow people to do this. [LB885]

SENATOR HARR: And that is why because, as Meghan Trainor likes to say, it's all about the bass. [LB885]

SENATOR SMITH: Senator Brasch. [LB885]

SENATOR BRASCH: Thank you, Chairman Smith. And you said this does not happen very often? [LB885]

SENATOR HARR: No, but enough that it's an issue, right? Could you imagine you get your card in the mail that says, hey, you owe X and you think, well, that's a little high but probably not worth my time to go down and protest it. And then all of a sudden your final notice comes and it's X times 20 percent, 50 percent. You're probably not going to be very happy. [LB885]

SENATOR BRASCH: But is this an unfunded mandate for the county to have to...these notices are generated from the county, now they'll have to do two notices, a double set or is it just, there are so few...how do they... [LB885]

SENATOR HARR: That's a good question. So, first of all, I started by saying that this was brought on behalf of NACO. I think they see a need for it out there and obviously, NACO is Nebraska Association of County Officials, and there will be some coming after me. I believe Mr. Esch from Douglas County is here and he will be able to discuss how they do it and that they are doing most of it already. Sure, mandates are always a problem. [LB885]

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SENATOR BRASCH: I've heard it on the floor, so just wanted to make sure we hear it here before it goes to the floor. [LB885]

SENATOR HARR: There are many who don't think that mandates should exist and I don't know if I agree with that, but. [LB885]

SENATOR BRASCH: Unfunded. [LB885]

SENATOR HARR: Yeah. [LB885]

SENATOR BRASCH: All right. I have no other questions. Thank you. [LB885]

SENATOR SMITH: I see no further questions. Thank you, Senator Harr, for opening on LB885. [LB885]

SENATOR HARR: Thank you. [LB885]

SENATOR SMITH: We now move to proponents, those wishing to testify in support of LB885. Welcome, Mr. Dix. [LB885]

LARRY DIX: Good afternoon, Senator Smith, members of the Revenue Committee. My name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of Nebraska Association of County Officials appearing today in support of Senator Harr's bill. NACO did ask Senator Harr to bring this bill and he did give an example of what happened in a southwest county. We also have some examples, and I want to get to Senator Brasch's question on both fronts. We did...we have been aware that over the years...many years I've been doing this, we hear of this occasionally and I would say it's minimally. Okay? But we do hear when someone comes in and protests somebody else's property. And if you think through the process of it, and Senator Brasch, since you asked the question I'll use that as an example, and then I want to get back to Senator Friesen's question also. If I were to be a county board member, and Senator Schumacher said, I want to protest Senator Brasch's land, and so he fills out the protest, submits it to the county. The county board looks at it and Senator Schumacher makes a great case and says, yeah, I think Senator Brasch's land should be increased based on my land. The county board would take that action. The next notification you would have would be when you got notification that your valuation went up. Your only choice at that point of time is to pay to go to TERC. You don't have an opportunity to show up at the day of the county board hearing. We've had this happen over the years periodically and when we had the situation out west we thought, okay, now it's probably time we do need to. It's a taxpayer fairness issue really, to make sure that the taxpayer knows if somebody

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else is protesting their property. At least they're aware of it. Maybe they already know it, but that's what we're saying. We know some of the county clerks are going to say, okay, I've got to send more notification, more notification. Part of what when Senator Harr talked about the amendment that Mr. Schaefer brought forward, that addresses a lot of that. That allows them to notify the county that they are protesting on behalf, and that they have a document that says, I'm authorized to protest on behalf. So Senator Friesen, when you were talking about who would do this or why would somebody do this, a lot of land management companies have really a lot of authority to...somebody owns it, that owner may not live in Nebraska, but that land management company has a lot of authority with that owner and the owner says, yeah, I think we ought to protest it. The owner doesn't ever come back, the land management company comes forward, fills out the protest. Many times we have county attorneys...or not county attorneys, we have attorneys that fill out protests for people. I can give you examples of where we have some elderly folks who may be a stepchild is filling out the protest. And that would sort of trigger that also. So we think with that amendment, that would take care of that because they are authorized to protest on behalf of someone else. So we agree, we think it's a good amendment. We think with that amendment, then that does begin to address. I think you will have a letter from Lancaster County that started to talk about attachments and things like that. We're not asking to send all of the attachments to the owner. We just want to notify the owner that somebody protested that property. And so we do not believe it will be an, quote, unfunded mandate, just because of the small numbers. I think one of the letters, and I can't remember if it was Douglas or Lancaster County, but they stated out of how many thousands of protests how many they had and it was minimal. So while yes, we appreciate your concern on the unfunded mandates, we do believe this one is...the number is small enough that consequentially there's no real cost to that. So that's really the history of it. It's been going on for years, and...but it's just been one here, been one there, but now we think in this day and age of property tax, it's a little bit different out there with people the way we're hearing protests and people appearing in front of county boards, so we thought this probably makes sense at this point in time. So with that, I would open it up to answer any questions anybody may have. [LB885]

SENATOR SMITH: Thank you, Mr. Dix. Questions? I see none, thank you for your testimony. [LB885]

LARRY DIX: Thank you. [LB885]

SENATOR SMITH: (Exhibits 1 and 2) Next person testifying in support of LB885. Seeing no additional proponents, we now move to opponents, those wishing to testify in opposition to LB885. Seeing none, we do have a couple of letters for the record that were submitted in opposition. One, from John Dickerson representing the Nebraska Association of Commercial Property Owners, and I believe that is the letter that was referenced by Senator Harr earlier that was submitted by Matt Schaefer, so. Then we also have a letter of opposition that was submitted

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from Dan Nolte representing Lancaster County Clerk. We now move to those wishing to testify in a neutral capacity. Welcome. [LB885]

DANIEL ESCH: (Exhibit 3) Hello. Good afternoon. My name is Dan Esch, first name is spelled D-a-n, last name is spelled E-s-c-h. I'm the Douglas County Clerk. Really the only reason why I'm testifying in neutral capacity is there's just one portion of the bill, as introduced, that I would like the committee to reconsider. But the overall spirit of the bill, a property owner should be notified if there's a protest submitted on their property. I mean, I think it's right that they should know that that happened. The only issue, if you will, that I have is the bill, as introduced, would ask us to...now, it sounds like Larry, there may be something in the works that's...I want to address this but, as introduced, it would require the county clerk to mail out the protest form and all the attachments to the property owner. I would just ask that maybe the county would only be required to notify the property owners--so maybe a one pager or something like that--and then we would...they could contact us and from there we could provide them the supporting documentation if they'd like to see it. The reason being, a lot of these, there's a lot of commercial properties, apartment complexes, industrial properties in Douglas County. It's generally not the property owner themselves that's filing the protest. It's usually their attorney or some sort of a designated representative and there's usually a lot of documentation that's submitted. I didn't...you know, we don't without going through each protest I couldn't tell you, you know we don't keep stats on how many pages are submitted, but it is generally those larger properties it's not uncommon for it to be at least 100 pages. And so just for postage and saving money on the paper costs if we would be allowed to just simply notify the property owner that there's been a protest, then from there they could contact us. And the other part that I...I think I forgot, I mentioned in my letter but I haven't mentioned in my testimony is most of the time in Douglas County, it's pretty rare when the property owner is not aware of somebody else submitting a protest on them. So last year we had 6,539 protests, 2,230 of those were submitted by an authorized agent, if you will, attorney or designated representative. And out of all those, I was only made aware of one individual who did not know that someone had filed a property valuation protest on their property. Now in this individual's case, she had filed a protest as well so we contacted her to say, you know, which one do you want us to use and she was like, well, I want the one I submitted, and you know. So it worked out for her, but anyway I understand the concern brought forth and I'm definitely supportive of the bill overall. I would just ask to reconsider the one portion of that that requires the clerk to mail out copies of all the documentation. But again, I would certainly work with an individual. I mean, if someone...if we notified someone that says that we would like additional...or the copies of what was submitted, I certainly wouldn't say, oh, well, I'm only required to send you notice. I mean, you know, that's not how most of the clerk's operate, so. Well, I appreciate you letting me talk to you all today, and thanks, Senator Harr. You took a minute to talk to me yesterday as well and that's all I have for you and I'll take any questions you might have. [LB885]



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SENATOR SMITH: Thank you, Mr. Esch. Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Thank you, Senator Smith, and thank you, Mr. Esch, for your testimony today. If there was a case where somebody filed 100 pages of...on somebody else's property and you just had to send out the postcard or whatever saying, hey, guess what, somebody else has filed a protest on your property. And the property owner came in and said, I'd like copies of that 100 pages, would you charge him for copies? [LB885]

DANIEL ESCH: I don't know yet. So here's how we do for after a protest has been submitted. So say it's a property owner that, hey, I lost my copy of what I submitted, can I get another copy. If they'll let us e-mail it to them...now this is just Douglas County. I don't know about the other counties, but if we can e-mail it to them as attachments, we don't charge them. But if they want paper copies, it's 50 cents a page up until...we cap it at \$10 total for residential property, \$20 total for a commercial property, so it's 50 cents a page until it hits \$10. So if, I guess, if you've submitted 19 pages, charge \$9.50 for hard copies, but once we get to 20, it's just capped at \$10, but as long as I'm...how we've been operating the last couple of years, is as long as we're allowed to provide to you electronically we won't charge you, but we will charge for hard copies. But in this case where someone was not aware that they, you know, that someone even had filed a protest, I guess I don't know yet. I mean, I would like my answer to be no, but if it is...if it happens to be where someone provided 300...I mean, it's not...don't get me wrong, it's not common there's 300 pages, but I mean there was a couple last year there were and so, if it was a situation of that, I guess I would hope they would let me send it to them electronically. (Laugh) [LB885]

SENATOR SCHUMACHER: So you have no authority to go back to the person who filed to make his neighbor happy and say, hey, I had to print up 300 pages, I'm going to bill you for it. [LB885]

DANIEL ESCH: Well, I... [LB885]

SENATOR SCHUMACHER: The burden, the loser if there is a fee, the fee is on the owner who loves his neighbor. [LB885]

DANIEL ESCH: I hadn't thought of what you just suggested but I guess I don't know if I have the authority to do that. Sorry, I can't really answer your question. I apologize. [LB885]

SENATOR SCHUMACHER: Okay. Thank you. [LB885]

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SENATOR SMITH: I see no remaining questions. Thank you, Mr. Esch, for your testimony. [LB885]

DANIEL ESCH: Thank you. [LB885]

SENATOR SMITH: Others wishing to testify in a neutral capacity on LB885. Seeing none, Senator Harr, you're invited to close on LB885. [LB885]

SENATOR HARR: Thank you, Mr. Chairman. Again, I want to thank NACO for bringing this bill in front of you to introduce it. This is the last NACO bill I'm introducing, which means probably the last time NACO will testify in favor of one of my bills. (Laughter) With that, I would close. [LB885]

SENATOR SMITH: Very good. I see no remaining questions, thank you, Senator Harr. [LB885]

SENATOR HARR: Thank you. [LB885]

SENATOR SMITH: That concludes a hearing on LB885. We now transition to our next bill, LB905, to be introduced by Senator Kuehn. It relates to changing the burden of proof for certain protests of real property valuations. Welcome, Senator Kuehn. [LB885 LB905]

SENATOR KUEHN: (Exhibits 1-5) Thank you, Chairman Smith, and members of the Revenue Committee. Four years in the Legislature and this is my first time in Revenue, so a new experience here. [LB905]

SENATOR SMITH: Sorry, it took so long to get you here. [LB905]

SENATOR KUEHN: I know. Maybe you are and maybe you aren't. We'll see at the end of the hearing. (Laugh) I'm John Kuehn. I'm the State Senator for District 38, J-o-h-n K-u-e-h-n, and I represent seven counties in south-central Nebraska. Today, I bring for consideration by the committee, LB905. Put simply, LB905 states that any hearing of the County Board of Equalization or their referee, if appointed, the burden of proof is on the county assessor to show that his or her assessed value is equitable and in accordance with the law. This is not a new concept to be presented to this committee. Last year Senator Lindstrom introduced LB385 to this committee, which clarified the burden of proof for appeals before the TERC Board be with the County Board of Equalization. This is also not a unique concept with regard to other states. In Missouri, for example--and I have a copy, for everyone on the committee, of Missouri's Revised Statute, 138.060.1--there shall be no presumption that the assessor's valuation is correct, that the

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assessor shall have the burden to prove the assessor's valuation does not exceed the true market value of the subject property. For many taxpayers, understanding how their total tax bill is calculated can be confusing. When property owners receive the assessed value of their property increase notice from the county assessor, and note that in some cases their valuation has been increased substantially, they're understandably concerned. In most cases, as a matter of practice, the valuation increase means a de facto tax increase in their property tax bills. When property owners feel the value placed upon their property for the purposes of taxation is in excess of fair market value, as you know, they can file an official protest with the county clerk using Form 422A. They must then appear before the County Board of Equalization or their assigned agent to demonstrate why their valuation is not accurate. On paper, this seems like a relatively straightforward process. Sorry, that professor in me likes to hand out some illustrations, so what I am providing you, if you've never seen it, is a couple of handouts. One, this is the information guide from the Department of Revenue that a taxpayer would go to on-line if they wanted to see how to go about a valuation protest. It's lengthy, it is like many government documents, and it is not necessarily readily apparent or straightforward to the average taxpayer. In addition, I have a copy of a letter. This is a case of a form letter from my home county, Kearney County, which demonstrates and says, in underlined, the burden of proof of the valuation of incorrect lies with the property owner. So I want you to see what a landowner would receive when they receive their notification that their valuation has increased. So there's always the question, when people bring a bill, as to what is the origin of the legislation. And this is truly a piece of legislation that originated from my constituents, specifically a number of my neighbors and including my brother, whose story I will relate to you in a minute, who unfortunately couldn't be here due to a death in his wife's family and a funeral today. But when I run into constituents, pretty much everywhere, the co-op, church, pretty much every community event, property taxes is almost always a topic of discussion. And one of those topics that continually comes up is the process for valuation assessment and, in many cases, the process is for protesting their valuation. I want to give you just a couple of quick examples. A number of constituents have contacted me, told me their story and, as a matter of policy, I don't share constituent stories unless I have their express permission. But I do want to give a couple that...just some examples of what I'm talking about. I fully recognize county assessors have a very difficult job. They are doing the best that they can within the confines of the law, working with the state property tax administrator and those laws, as well as large groups of diverse property. However, there are some cases that almost defy logic when you see valuation increases, and the responsibility then becomes the taxpayer's to go appeal that valuation increase. So I'm just going to give you two just quick examples that I have firsthand knowledge of that I think illustrate a broader concern among a number of taxpayers in the state of Nebraska. My brother and his wife purchased a pivot corner from my parents, right across from the family farm, where they first built a machine shop and eventually built a home. Last year, they received notice that their property valuation, from one year to the next, was going to be increased by \$175,000 in a one-year increase. Upon inquiry with the county assessor, it was part of a mass appraisal that was done of all acreages in Kearney County that, across the board,

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raised the valuation of those acreages by 42 percent, the justification being that acreages around Kearney, which is depending on where you're at in the county, but from where my brother is located is 28 miles away, not via any highway, so you have country roads. Property was hot, so that justified the increase in \$175,000, which placed his property valuation at \$575,000. Now here's the interesting part about the valuation. My brother's house is literally across the road from our family feed yard, so they knowingly constructed their home across from the family feed yard that has all of the perks that come with living across the road from where you work every day, as well as all the perks of living next to a family feed yard. I don't think I have to emphasize or lay out to anyone on the committee what the presence of a home, no matter how nice or how new, directly across the road from a feed yard, means to its overall value. He successfully navigated the protest and the valuation process and reduced a significant amount of that valuation increase, but the question then became why, when the valuation mass appraisal done, why does the taxpayer have to go in on such a commonsense issue and have the burden of proof for navigating the process. As he spoke with the assessor and the assessor understood that there were extreme extenuating factors, still had to go through a process which required a County Board of Equalization meeting. His appointment ended up being several hours late than what was scheduled, a lot to be done for an individual. And these happen all the time. I, myself, had a circumstance several years ago. Where I live is on 320 acres of contiguous property that is located in the middle of four sections of land which only has one road going through. So the section lines, unlike many properties, don't have a county road. It just so happens that the two quarters straddle section lines and my farmyard is on one-half of the section line, if you were to map it out, and on the other half. It has been that way since the farmyard was established in 1938. As part of a mass appraisal, my farmyard was split into two separate residential properties with a separate residential valuation on either side of the section line. What was interesting is, if you look at the property, the well is on one side, and the electrical service is on the other. So literally the property is not severable into two separate residential properties. None of that had changed. It was all readily available. You can see it from the road if you drive by where my electric service is and where my well, yet there was a process of having to go through, meet with the assessor, go to the County Board of Equalization, demonstrate that this was not an unseverable property, have a back and forth with an appraiser about whether or not it could constitute two severable issues. And in the end it was reversed but, again, it was a lot of time, a lot of confusion, and a lot of energy spent on what was really a commonsense issue in the appraisal process. These are stories that I hear, over and over, from constituents when valuation increases come up. And what we have to recognize as policymakers, is that protesting a property valuation is a time-consuming process. I have constituents who tell me they have to take time off of work. Even though sometimes valuation protest hearings are in the evening, they may have to find childcare. And quite frankly--Senator Harr brought it up earlier in his own testimony--some people just look at their valuation increase and say, it's not worth the bother, I'm not going to do it, and they let it slide. And then after several years of valuation increases, they go before the Board of Equalization and the first question is, we've never protested this before, why now. So

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there certainly is a burden that we are placing upon taxpayers when we ask them to provide the burden of proof for their valuation increase. The standards for this process are also unclear. There are not clear guidelines. There's often a handout that an assessor will give, but there's frequently not standards as what constitutes the burden of proof. And if you are a homeowner, if you are a property owner and do not have legal counsel, you don't have access to an appraiser or real estate agent, trying to navigate county GIS Web sites to find comparables, is time consuming, it's technical, and it's often unclear. And what is even more frustrating--and I have a letter from a constituent that I would like you to read--taxpayers are often...then do hours and hours of work and they're only given a few minutes, sometimes 15 minutes, in front of a referee or a County Board of Equalization to make a claim that is going to have a significant impact on their family budget. And this particular constituent, Jane Sheldon from Kearney, talks about her experience, where she spent hours and hours prepping and providing the burden of proof and when she met with the referee, he couldn't make his computer work, he had no idea what he was supposed to do, and the bulk of their time was spent in a personal conversation and not even advocating for, what amounted to her family, a significant impact on their family budget. Furthermore, for many the protest process is quite intimidating. I have had constituents who have told me that when they went in to meet with the assessor to talk about the evaluation process and protest process, that they were told you probably don't want to do this because if you do, there's a pretty good chance we're going to increase your valuation. And so they're dissuaded and discouraged from the process. Several individuals who talked to me about this bill--and I asked them to come testify--actually said to me, they didn't feel comfortable publicly commenting on the process because they feared retaliation by a County Board of Equalization or their county assessor, going forward. I realize that is a rare occurrence but the reality we have to recognize is that, whether that threat is veiled, is real, or is simply perceived, members of the taxpaying public feel this way about engaging in a process that is supposed to protect them. And that's an indication of a fundamental problem. You, I believe, received a letter, or I was told you received a letter from the Adams County Assessor, Jackie Russell, and in her letter I want to draw your attention to one particular line where she refers to the Board of Equalization who I would venture to say has the least amount of knowledge on the subject matter in the case. So if a county assessor feels that the people hearing the protest are not necessarily as informed, think about how a taxpayer feels when they go in front of a County Board of Equalization. They don't know what evidence is enough to prove their case and this has a significant impact on their bottom line. This represents, in many cases, a very real increase in your taxes, and with any government situation that is a government taking, whether that's an eminent domain process, a condemnation process, we clearly establish if the burden for the proof to justify that taking is on the government. When we set a valuation on a piece of property, we are establishing the basis for a taxation or a taking. And while it is relatively philosophical, I truly believe that it is the responsibility of the government to demonstrate that taking, not the taxpayer. To give you a couple examples of some counties where this is a significant issue, I want to give you some numbers regarding Buffalo County, of which I serve the southwest portion of Buffalo County. Last year, Buffalo County

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heard 1,961 valuation protests and that is down from a previous all-time high in 2016 of 2,543 protests. That is a significant amount of investment in time by taxpayers to defend their properties. And these were not frivolous protests. At the end of the protest hearings from 2017, \$66.92 million of assessed property value was decreased out of a total increase of \$283.79 million. So 23.5 percent of the valuation increase, sent out to taxpayers in 2017 in Buffalo County, was reversed upon protest hearings. These were not frivolous and the question is begged, how many taxpayers have their land over...or property overvalued but simply did not feel comfortable, did not have the time to go through the protest process, or didn't know whether or not the burden of proof could be met with their particular case. Statewide, valuation adjustments in the last year in terms of overall state property, following protests all across the state, equated to over a half of a billion dollars. So if you look at some kind of average number--\$1.80, etcetera--for a levy, if you wanted to really be simplistically, that's about ten million dollars in tax asking that was reversed upon protest. This is not an insignificant amount and it was one that has a real impact on taxpayers and how we approach this process. Taxpayers should never be left wondering why their valuation increased, and I think it is insane that we ask them to bear the burden of disproving a positive claim made by a government body. I have encouraged all of my county officials to proactively communicate with taxpayers in detail about the mechanisms behind their valuation increases. I would argue it's a matter of county practice, but the idea of just sending a postcard saying this is your valuation and this is what it has increased, with zero explanation, in and of itself, leaves taxpayers feeling defensive and uncertain. Every valuation increase made by the county assessor should be made with the clear understanding that it is their responsibility to defend the increase, not just simply a mass or a shotgun approach, not unlike retail stores who say, we'll give you 10 percent off your entire purchase today if you file the mail-in rebate. It's based on the principle assuming there's going to be a proportion of those consumers who don't get around to sending in the rebate. And it appears, in some cases, that the mass assessment approach is treating taxpayers just in the same way. We're going to go across the board with everybody and if you have the wherewithal, if you have the time, if you have the motivation to protest, we'll adjust it accordingly. Clear, consistent, and objective standards of evidence should be made available to all taxpayers who wish to protest their valuation in the process. And again, I clearly believe that the burden of proof lies with the government and not with citizens and taxpayers. With that, I also have another letter which was submitted to me for record from a constituent here in...a resident of Lincoln regarding their experience with the process in the eastern part of the state, as well. So with that, I welcome any questions from the committee about this topic. [LB905]

SENATOR SMITH: Questions from the committee for Senator...Senator Harr. [LB905]

SENATOR HARR: Thank you. Thank you, Senator Kuehn, for coming. It's apparent that you are passionate about this and are well-versed in it. In reading the bill I really see two portions of this bill. One is switching the burden of proof from the taxpayer to the county. And we can have a

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philosophical conversation about that, but the second part is also, you state what that burden is on the county. And in the bill, you refer to it as "equitable and in accordance with the law." How do I prove that the valuation is equitable and in accordance with the law? [LB905]

SENATOR KUEHN: That is, that's ultimately the challenge, I think, that assessors deal with, with current existing law. So the reason for that verbiage is that as the standards, whether that is statutory or regulatory, is established by the Department of Revenue, and the state property tax administrator changes the guidelines, or even court opinions in terms of equitable and the law, that is the job of the county assessor. [LB905]

SENATOR HARR: Okay. So let me take it a step back. Where did you pull that "equitable and in accordance with the law" language from? [LB905]

SENATOR KUEHN: I believe it is a direct reference in consultation with Bill Drafters to ensure that is...as statutes change regarding valuation process or constitutional changes, that it would mirror and go along with those. [LB905]

SENATOR HARR: So how does a judge know whether...usually burden of proof is clear and convincing beyond a reasonable doubt. I don't know how a judge or one would know what is equitable in accordance with the law. And so I'd be interested to see where you pull that language up because I don't know, burden of proof is the duty of a party to produce evidence. And so they have to know what is expected of them and I wouldn't know what that means, and maybe we need to...or if you could spend some more time, if we do vote this out on the floor so that when the courts ultimately review this and they look at legislative intent, will know what that means because looking at the plain language, I don't know what that means. [LB905]

SENATOR KUEHN: That's fair and I'm quite open to the words in the thing to make it easier for legal interpretation. [LB905]

SENATOR HARR: And then going back to the first part as far as shifting burdens and who has that. Are you aware of any other areas in the law where the taxpayer, the burden is not on the taxpayer but rather is on the taxing entity to prove or disprove the case. [LB905]

SENATOR KUEHN: I guess I'm not sure I can think of any other area of tax law where the individual has the...where the tax rate and valuation of the total tax bill is set by a government entity at which there is an appeals process. So I don't see...I can't think of an example where that would parallel. [LB905]

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SENATOR HARR: Let me give you an example then because I have had the great fortune of having a tax audit and, at that time, if you've ever been involved in one, it's the taxpayer that has the burden to challenge. If the government comes back and says, hey, you owe this much, it's on the taxpayer to prove you're wrong and it's not on the state to prove Burke Harr owes this much. [LB905]

SENATOR KUEHN: I would respectfully disagree that's that not a comparative analysis because you, the federal government doesn't take your W2s and your financial statements and say, this is your income tax bill and then expect you to defend their decision. You have filed an income tax form and if you have filed...you as the individual taxpayer have determined, or your preparer, and you have signed that form, so you have established what you believe or what you say is your taxable income, you're the one who has initiated that process. You're simply defending what you have already asserted to the government. So it's not...I don't think that's an equitable or a comparable example for burden of proof in an audit of income taxes. [LB905]

SENATOR HARR: Well, except when there's a disagreement as to value or when there's a disagreement as to how much is...whether it's based on what I believe my proper income is, or whether I believe it's my proper value of the property. When there's a disagreement between two parties and one of those is the taxing authority, in every other situation--mine is perhaps Missouri--I don't know of anywhere it's incumbent upon the taxing authority to prove, right or wrong. It's usually upon the taxpayer who is challenging what the taxing entity is saying. And so I don't know of any others besides Missouri, I was just wondering if you did. [LB905]

SENATOR KUEHN: We found a reference to Indiana but...and a court opinion that references the statute, but I wasn't able to find specifically that statute, but we'll continue to look and see. Indiana has...there's a court case which looks at Indiana having a 5 percent increase threshold for the burden of proof as well. [LB905]

SENATOR HARR: And I think one of the reasons why we don't put it upon the state to prove is what do I have to lose if I'm a taxpayer and I say, you know what, you're wrong. I don't have to do anything more than file and now our county officials, which are already overburdened, now have to go and where you may have had 2,000 appeals before, I would imagine there would be more, right? And now they have to do that work, they have to go find all this. And it becomes very expensive very quickly upon the taxpayers who don't object to their valuation because they think it is right. [LB905]

SENATOR KUEHN: And again, I guess I respectfully disagree that that's the outcome. I hear, quite frankly, from more taxpayers that they don't protest the valuation as you said yourself, they don't protest the valuation unless it's really obscenely out of whack by virtue of the time that it



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takes. You know, now certainly in some of the situations you had before, you may have professional representatives or representatives of a property owner who are paid and get billable hours to do this type of work, but as far as what I hear from constituents more often than not is, I don't have time or the ability, during this two weeks of the equalization hearings, to take off from work to go sit through and have three or four hours in my day to be able to do it; it's not worth it. So, and again, the possibility that a valuation could be increased is also a deterrent. So I think there's a hypothetical fear that somehow there would be a flood. I think if you look at the massive increase in the number of protests that have happened over the last several years, as well as the number of valuations which are adjusted down, I think the data does not support the claim that people do this frivolously. There are other cases, absolutely, and there's always going to be an exception and abuse. But I fail to see any indication, at this point, that the existing process encourages individuals to do something which is still a time consuming, complicated process. [LB905]

SENATOR HARR: And nor do I disagree with you that the current system encourages frivolous. My fear is if we switch the burden and then create this burden of equitable, and whatever it is, that it would encourage or incentivize because it's not just the two or three hours that you have to go in front of that board, it's the time before that where you build your case, where you gather the evidence and you figure out what is it that board wants, where they're looking now. Maybe you hire Senator Schumacher to do it for you, if you can afford it, if you have enough land... [LB905]

SENATOR SCHUMACHER: Irrigated land. [LB905]

SENATOR HARR: ...enough irrigated land, (laughter) which in this part of the country is the best, or state. But I just worry that we are now, by switching that burden, I understand your concerns and I don't have an answer, right, and I don't know. And your concerns are valid, but I'm not sure if what you're looking at would necessarily solve it or would it actually increase because now, whereas, you have one county attorney handling this, or deputy county attorney, you might have five or six. [LB905]

SENATOR KUEHN: I would respond in two ways: one, if there is that concern, put a threshold. Senator Lindstrom's bill last year had a 5 percent threshold. Put a 10 percent valuation increase threshold. That would certainly eliminate those who have a minor; the other response, I guess in terms of the concern over frivolous, is a lot of this can simply be eliminated by assessors not doing mass appraisals and not going back to individual properties and looking and saying, does this make sense. You know, there are a number of counties in my district where the assessor goes through and does an initial mass appraisal, but then goes back through or has office staff look at the individual property and say, does that make sense, this mass appraisal. The assessors, having

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the ability--and, you know, potentially there's a statutory fix where the appraiser or the assessor has the ability, when they meet with the constituent before the protest is even filed, to explain the valuation--if the assessor did not have all the information, they did not know there was an extenuating circumstance that wasn't in the property record, the assessor then having the ability to say, oops, we made an error, it's a reasonable error, let's adjust the valuation. There's a lot of steps in-between that, that can ameliorate the concern of frivolous burdens on county boards of equalization. [LB905]

SENATOR HARR: Thank you. [LB905]

SENATOR KUEHN: Yep. [LB905]

SENATOR SMITH: Senator Schumacher, then Senator Groene. [LB905]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you, Senator Kuehn for bringing this bill. It highlights some very valid points, but if this theory that it's the burden of the assessor or the burden of the Department of Revenue to prove the assessment rather than to assert the assessment and the taxpayer prove it's wrong, has probably, if that's the philosophy, wider ramifications than just property taxes. I think the Revenue Department, for example, now somewhere if you're running a restaurant, they have a way to figure out how many pounds of hamburger or steak, whatever that you purchased for your restaurant, and then look at your sales tax submission to the department and say, you know, that many pounds of hamburger should have produced a whole more revenue than what you're reporting and they assess. And restaurants and bars do get assessments. Hey, you owe us \$10,000 more in sales tax because your numbers don't jive out. And it's the restaurant or the bar's responsibility to contest this, quite frankly maybe unfairly. A lot of the bars, restaurants just roll over and say, you know, just because we make big hamburgers, I guess we're going to have to pay extra tax, and some of them really took the hamburgers home. But so, this is...and I think similar rules may apply to income tax as what Senator Harr pointed out. So if we're going, as a committee, take this philosophical approach that the burden is on the taxing entity, how do we distinguish and say it's on the county taxing entity without also doing the same at the state level? [LB905]

SENATOR KUEHN: You're not going to get any philosophical opposition from me, so my answer would be, okay, to be blunt. I realize that has broader ramifications and I don't mean to be flip about it, but I think truly we do have to think philosophically and everyone is going to come at it from a different perspective on when the government does a taking, what the role and the responsibility is of the taxpayer versus that which is requesting entity. And there is a wide variety of philosophical perspectives on that. I do think that philosophical consistency is something we should achieve, but property taxes, in and of themselves, in part because of the

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nature in which they are done locally, does warrant a unique consideration and certainly concerns a laboratory for that kind of philosophical approach. I don't think it's dramatically inconsistent with other existing policy across government to put the burden of proof on the government as opposed to an individual citizen. [LB905]

SENATOR SCHUMACHER: Thank you. [LB905]

SENATOR SMITH: Senator Groene. [LB905]

SENATOR GROENE: Thank you, Mr. President...Chairman. [LB905]

SENATOR SMITH: Chair. [LB905]

SENATOR GROENE: I wasn't supposed to tell anybody your plans. (Laughter) Sorry. So won't this just create a mass letter...a form letter that they send out? We did a blanket survey in Kearney County and according to statutes and regulations set up by the Revenue Department, it's accurate. Won't...and then the board says, which is our county commissioners said, well, that sounds reasonable, the tax stays. The taxpayer is still going to have to prove them wrong. They're still going to have to do research and say I'm across from a cattle yard and I checked some other valuations in other counties that are across from a cattle yard, otherwise the taxpayer is just going to sit there and say, well, yeah, the county assessor said they did it correctly through revenue regulations, they did a mass appraisal, and boom, it's done. I'm just playing a little... [LB905]

SENATOR KUEHN: No, two responses to that. One, I do think that a burden of proof requirement provides pause. If I know I have to defend a statement, I'm much more cautious about what I say than if I know there is no defense required. So, I think the same applies with an assessment if assessors, and ultimately county boards, are going to know they have to defend the assessment. I think the practice of just mass appraisals without individual look backs will certainly be a problem because then it becomes an accountability issue, which is my second point in response to your question, is assessors, county boards, are elected officials and responsive to their constituents as well. And I think that assuring that that level of responsibility and accountability to their constituents is, and should be, their first and foremost obligation. It's not the...they're to function as stewards of the county and representatives of their constituents, and so I would find, from an ethical perspective, that that kind of approach would not be consistent with good government and I'm guessing voters would very quickly recognize that practice. [LB905]

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SENATOR GROENE: Thank you. [LB905]

SENATOR SMITH: I see no additional questions...oh, Senator Brasch, go ahead. [LB905]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Senator Kuehn, for introducing this bill. Some interesting questions have been raised by the committee and your testimony, and when Senator Harr talked about his audit, I started to walk down memory lane. And up until 1990, I had been with the Revenue Department and there were nine divisions, 200 employees total. One division is the audit division. There were 25 auditors basically, 15 to 25--in that number--and I would help design and write these information guides. And it was very clear what the methodology was, based on federal law, state law, shoulder-to-shoulder meetings, where I think this would serve as a good check and balances and tools for the assessors of 93 counties. And I don't know how many miles of geography--I should know that by now--but I would think this would be more helpful in zeroing in on valuations where the end product would be fewer protests yet and a fair effect. Did you visit with other assessors and others, and what was their consensus? [LB905]

SENATOR KUEHN: I did and it was a lot of strained conversations, I will say. And in part, because I think our county assessors are stuck...I hate to use a cliché, but they really are between a rock and a hard place. They're trying to meet the fair and equitable rule across counties which in many cases are very diverse in terms of not only...you know, we often refer to ag land, but the same circumstances happen with residential and other properties, so. I mean, we're just trying to talk about fair and equitable in assessing two properties where you're talking about comparable homes and comparable acreages. One, that as we know is five miles off of the highway and not so great roads that has a very different market value if it were to be sold than the same acreage and the same house right up next to a U.S. highway, which is a common occurrence for a residential property throughout our counties. They have a very difficult job. And what I have found in conversations is because they have constituents coming to them complaining about their valuations, and they feel pressured by county boards to limit the number of protests because it takes their time, they feel pressure from the state property tax assessment division, they feel pressure by constituents. I don't know, they're so far down in the weeds, I don't know that they always have an opportunity to step back and assess the process from above and really look at what ultimately would be a better policy and approach. So the knee-jerk kind of reaction was, you think we're not doing our job and that is not my response at all. My response is, there's clearly a problem. If you look at not just the number of protests that have increased over the last several years, but the amount of valuation which is reversed after protests. So there clearly is a large number of taxpayers who are investing considerable resources and time in this process and something needs to change. And for some counties and county assessors, they have very few protests. Most of those protests are resolved before they're ever filed, they're discrepancies. Others, you see a lot of frustrated taxpayers and a large number of protests. And I'm not sure the

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move to...and I know the larger counties do it for a very specific reason for the county board, but I think the move to using referees and sometimes individuals who are simply hired, and appointments, and kind of a mass process of moving through taxpayers who are taking their time on a very important fundamental financial issue for them, I don't know if that's necessarily the best service to a taxpayer. So I...it would be my hope in introducing this that it leads to a broader understanding from assessors that there is discontent and there are ways we can do things better, whether that is communicating in greater detail about why valuations increased other than just the postcard, whether that is having the flexibility to change a valuation when they meet with a taxpayer and realize that they overlooked or there were extenuating circumstances that a board is simply going to reverse otherwise. I think there's a lot of mechanisms in there that is part of a further dialogue. [LB905]

SENATOR BRASCH: Very good. I have no other questions. Thank you. [LB905]

SENATOR SMITH: I see no remaining questions, thank you, Senator Kuehn. [LB905]

SENATOR KUEHN: Thank you. [LB905]

SENATOR SMITH: (Exhibits 6-8) We now move to proponents of LB905, proponents of LB905. We do have letters that were submitted for the record in support of LB905. We have one from John Dickerson representing Nebraska Association of Commercial Property Owners; from Galen Frenzen from the Nebraska Cattlemen; and from Dan Wesely from the...representing the Nebraska Corn Growers. Those were introduced for the record in support of LB905. Opponents, those wishing to testify in opposition to LB905. Welcome. [LB905]

TOM PLACZEK: Hello again. I know you're shocked to see me here in opposition to this bill. I'm not sure that Senator Kuehn has a real audit. Sorry. Tom Placzek, T-o-m P-l-a-c-z-e-k, Platte County assessor representing Nebraska Association of County Assessors. I apologize. I'm not sure why or...I think there's a misunderstanding of what we do as assessors. This has been brought before us before...before you. I believe I've testified against similar bills. What I don't think a lot of people understand is the amount of scrutiny that we go under as assessors. We work with the Department of Revenue, their property assessment division, quite closely. They have their liaisons check on us several times during the year, check our process, our procedures. We have to send in all of our information to the department. It is scrutinized. We answer several surveys, give them lots of information before they put together their annual reports and opinions. And then that report and opinion brochure is then given to the TERC and they go over it. So this has been vetted to a great degree that we are actually following statute, that we're within our 92 to 100 percent or 69 to 75 percent burdens. They check us on our sales. Are we excluding too many sales? In other words, to get out of cherry-picking sales. In other words to get into that

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ratio area. A good assessor would just basically assume the sale is right and correct and arms length until further investigation proves otherwise. So that's number one. To get through these two steps, we have to obviously follow accepted mass appraisal standards. And then that we have to defend those to the department if there's any disagreement. I don't think that we should be changing our standards on a protest. In other words, we're doing everything on a mass basis, but when it's protested, we have to...we're being asked then to do this on a fee basis, and when it goes to TERC also on a fee basis, and I don't think that's right. Now one thing Senator Kuehn said was correct was if we have a number of cases where a protest come into our office and I personally go out and see those properties. I spend the time to go out there and check them out. Now, frequently we find instances, and this is probably why there's been a number of changes is that there are conditions and information about that property that was not readily available to us. We did not know. So, we do make corrections on those properties. Then also, as I mentioned, how many people we talk to before the protest, that after we explained the process, what we did, why we did it, why all these sales support our case, this is what you're valued at, this is what your neighbor is valued at, and they walk away and they say, you know what, I still don't like property taxes, but boom, I understand where you're coming from. Most protests are against property taxes. They're not about valuation. At least that's been my experience. As I don't know if it was Senator Harr or Senator Schumacher, I think this has the potential to increase protests and TERC cases exponentially, because then anybody and everyone can protest. They don't even have to put a case together. We have to prove it first. Now, they'll still have to spend some time, they're still going to have to take off work to go to the protest. We may still have to go to TERC on it and spend lots of time on that and, at some point, they're going to have to do something to defend what they've got. But this assumes that we don't know what we're doing, is the way I'm looking at it, and we're the ones that work on this all the time, day in and day out. And if this increases like I think it will, this will be a property tax increase bill. If you read any of the TERC cases--and I read them all--there's a common threat. The taxpayer does not use comparables correctly, lacks knowledge of the market and are often protesting taxes, not valuation. Many, many times, the taxpayer does not present evidence that compares similar properties. The current standard we have has served the vast majority of the taxpayers very well for decades. Why change it now? This bill appears to be an attempt to fix a problem that may be occurring in a few counties at the great expense of the vast majority of counties that are doing their job well. I also know that there are several letters that have been sent to the committee and I hope you give them good consideration. I think they explain some points that I didn't bring up right now. That's all I have. [LB905]

SENATOR SMITH: Thank you, Mr. Placzek. Questions? Senator Brasch, and then Senator Harr. [LB905]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. Placzek, for coming (inaudible). I have difficulty in understanding why you believe it will increase protests when

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you're stating a high confidence in the accuracy that takes place and, therefore in my mind, it would only create assurances and credibility with those who would believe they'd be protesting. And so, that would all be done upfront and therefore the protesting would not be happening. That's what's running through my head. Tell me why I'm wrong. [LB905]

TOM PLACZEK: Well, I believe that you shift the burden from the taxpayer to the assessor, the taxpayer in many cases won't even have to...I think it would be frivolously worrying about a number of cases where they don't even have to basically prove their case upfront. They can just protest right away and, for instance, we have a lot of protesters they'll come in, they're protesting taxes, not even valuation. Okay? And if they knew that that's all they had to do is just throw a protest out there, that's going to take time. I have to then go out there and do battle, so to speak, on each and every one of those and I don't think it would take very long for people to say that, hey, you know what? Throw it out there. In fact I've been to TERC cases where the taxpayer said...the TERC commission asked them, why did you even bring this case? Well, it worked once a long time ago so I thought I'd just throw it out there and see if it would work again. Didn't even have a case. Everything that had been fought before had been taken care of. And I, just in my part, I've been through enough protests, enough TERC cases that were frivolous, that I just know that there's going to be an increase. I just...I see it, I just know it. And if there's an increase, at least for Platte County, now we generally average about 175 a year, which is about 2 percent usually of the number of new assessments, notice of change of valuation letters that go out. If that increases to much over that, say 250, we're going to hire somebody because I can't physically go out there. The problem with that is--and I think Senator Kuehn even adjusts this--is now I'm hiring a referee or another appraiser...he doesn't do mass appraisal, not even familiar with it. Typical fee appraiser has no idea what mass appraisal is about. There's still appraisal but, you know, I've always maintained that in most cases, and I'm not saying I'm really good or anything, I'm just saying that I could go out and do a residential appraisal but I know most residential appraisers couldn't do what I do. They couldn't do mass appraisal and there's a big difference between the two. [LB905]

SENATOR BRASCH: And I do thank you for your work and I know that it's a difficult and tedious task. However, I would like to think that the frivolous cases are not majority. Are they? What percentage are frivolous? [LB905]

TOM PLACZEK: That I don't know. There's...let's just put that it's a lot more than you think it is. [LB905]

SENATOR BRASCH: Is it more? Okay. [LB905]

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TOM PLACZEK: Yeah, it's a lot more. I'm not going to say it's over 50 percent but there's...it isn't 5 percent either. It's significant, and... [LB905]

SENATOR BRASCH: It's in the double-digit. [LB905]

TOM PLACZEK: Oh, yeah. Oh, yeah. [LB905]

SENATOR BRASCH: And then the accuracy, you're saying, of your assessors is 100 percent? [LB905]

TOM PLACZEK: No, no, no. [LB905]

SENATOR BRASCH: Or we wouldn't have a TERC board, right? [LB905]

TOM PLACZEK: Yeah, I'm not saying we're perfect, because we're not, and I understand that. And we're always dealing from an area of as much information as we possibly can get, but we don't get into properties usually until a protest. We get into new properties. I don't get into that 75-year-old house that's been totally redone. Now what we do if a sale occurs, we send them a letter. We had it at eighty, it sold for one-twenty. Well, I'll bet there's been some remodeling done. We make an effort to try and get that information, find out what's going on. Talk to realtors, talk to, you know, contractors, you know, all kinds of stuff just to find out what's going on. We spend a lot of work trying to get this right, but do we get it right 100 percent of the time? Absolutely not. I'd be lying to you if I said we did. [LB905]

SENATOR BRASCH: Thank you for your clarification and willingness to speak on this. I have no other questions. [LB905]

TOM PLACZEK: Thank you, okay. [LB905]

SENATOR SMITH: Senator Harr, and then Senator Friesen. [LB905]

SENATOR HARR: Thank you. Thanks, Mr. Placzek. So can you, maybe...I don't know enough. Can you explain to me what mass appraisal is, how it differs from say, this residential? [LB905]

TOM PLACZEK: Okay. [LB905]

SENATOR HARR: And then why you think it is the best way to do it. [LB905]



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TOM PLACZEK: Well, mass appraisal is, by definition, a...you're putting a valuation on a number of properties in a similar area...similar properties in like neighborhoods, and we're treating them all basically the same way. So then, the only difference is that apply...let's say they're all average houses, average quality ranch houses, built '50 to '65, 1950 to 1965, generally pretty similar properties. When you value them, you come up with a model from the sales as to what the depreciation should be for an average-condition house. Then you have...you find out what the depreciation is for something that's obviously had maybe more maintenance given to it and that sort of thing, and you make a depreciation schedule. So then you go along and you have cost tables and you...and so then the differences between the properties is only, literally, the difference in size or a double car garage versus a single, or basement finished versus not. Those sorts of things. So they're treated somewhat mechanically and there's no difference. You get into a fee appraisal, he goes to that one house, he'll look for any other houses that are kind of similar, no matter what location they are in the town. I'm using Columbus for an example, but I would think even in Omaha or anywhere they'll just scatter all over. Well, we set ours up by neighborhoods because they're all similar and homogeneous to some degree, and he will just pick and choose whatever ones best fit his subject that he thinks. Now he hasn't been in, probably, any of those other houses and, in most cases, he's going to use our data as far as size and that kind of information. And he uses sales the same as we are but he's using whatever he may want. The other thing that is interesting to me about that on fee appraisals is, if there is a purchase agreement, the appraiser knows that purchase agreement amount before he does his appraisal. I can hit that target a hundred percent of the time if I know what it sold for. And that's, USPAP Laws. That's for...that's, they have to be notified of it. So, and I'm not saying appraisers are bad or anything, I'm just saying it's really two different ways of doing it. [LB905]

SENATOR HARR: And generally when you do a fee appraisal, does that appraiser see the inside of the house? [LB905]

TOM PLACZEK: Yes. [LB905]

SENATOR HARR: Okay, and in mass appraisal you do not. [LB905]

TOM PLACZEK: Generally not. Generally not. We try to get in as many as we possibly can through inspections, but it isn't like the old days. I started in '75 doing this and I got into almost...we got into almost every house in Platte County. You could never do that today. [LB905]

SENATOR HARR: So you don't get a search warrant to go into every home...? [LB905]

TOM PLACZEK: No, sir. [LB905]

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SENATOR HARR: All right. Thank you. [LB905]

SENATOR SMITH: Senator Friesen. [LB905]

SENATOR FRIESEN: Thank you, Chairman Smith. so when I...I guess when I envision a protest, I did years ago...protested a value and I learned more about the process than I received in change in value. But I look at the process and I think, you guys have the information. If I would come to you and say, you know, hey, I strongly believe my value...it's overvalued and you sit down and say, well, okay, we use this, this, and this, and that's how we set your value. I didn't have to go get that data. You have it. I'm getting it from you if I want to protest it currently. I have to go look it up. So to me it doesn't change a whole lot other than it makes you do a little bit more work but if you've got your data and you did it right, I mean you're going to prove to me then that you did your job and I've got nothing to argue about. I'm going to have to bring you something and I'll try to, but if you've done your job correctly, you'll show me the array of sales and like values in properties, and is that too much of a burden of proof to put on... [LB905]

TOM PLACZEK: But why change it at all? [LB905]

SENATOR FRIESEN: Well, now...but now on me, I have to take time off. I didn't ask for it to be revalued. I have to go on your Web site and look up all these properties. You know your system already of how you did it, so I'm trying to disprove your system. You could just say if I come in to protest if you're defending it, you put forth the process you used and explain it to me, it would be a lot more difficult for me to oppose that. Now when I'm going out and picking properties, you're still going to have to look up how you did it and we're going to have to argue about whether or not we used like properties and all this stuff. So I'm...you know, I don't see the burden put on you guys. You have the ability and the knowledge and everything else, the data on your side already on how you arrived at that, and it's just going to be proving to me that you did it correctly and you used like properties. [LB905]

TOM PLACZEK: What I think this will...in some ways I don't disagree with you, Senator Friesen. On the county level, just to protest itself, probably doesn't change the ultimate results that much. TERC cases it changes everything. At TERC everything changes. When the burden of proof is on us, then we have to prove everything that we've done and whereas, right now the taxpayer has to show that the board, and we as assessors, didn't do our job. And for instance, I just had recently two cases where at TERC we never put on our side of the story because of the burden of proof, and the taxpayer did not even prove their case. One was arguing about something that wasn't even like it's property. And so we didn't have to go and put on the case because we knew what they were doing wasn't right. And we had the same thing on a

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commercial piece of property. And it changes the approach on how you put together your case. It changes a lot of things. It...you may not see that, but it does change it. [LB905]

SENATOR FRIESEN: Do you think one of the things and when I looked into it a little bit and the small fee that's charged to protest, I can just see in the urban residential areas especially, you get your protest in the mail and you're angry and you quickly protest, you pay your fifteen bucks or whatever it is, and by the time those six months have gone away until you can go in there and express your anger, you've forgotten about it and you forget about it and walk away. So would raising the fee that you charge to do a protest, would that stop more of the frivolous protests? [LB905]

TOM PLACZEK: Are you talking about protests or TERC? [LB905]

SENATOR FRIESEN: Protests. [LB905]

TOM PLACZEK: Because we don't charge any... [LB905]

SENATOR FRIESEN: For TERC...the TERC process. [LB905]

TOM PLACZEK: TERC. I believe that would be a very positive change. There's been...I'll bet 40 percent of my TERC cases, the taxpayer doesn't show up. And you cannot believe the number of hours that the deputy county attorney puts in on TERC cases to get this put together and do it right, and drive down to Lincoln for a case. And then nobody shows up. And it's frustrating, very frustrating, and it's time consuming and I believe...I know there's a bill out there to increase it. I think it's a very good bill. I think it's staggered for different sized properties. It's not going to prevent that million dollar...multimillion dollar company from protesting, but at least something. And it would really, I think, cut back. Most of the frivolous ones in my opinion on TERC cases are the very low, low-end properties, probably under \$150,000 properties. So I think that bill would...that's coming up for hearing. [LB905]

SENATOR FRIESEN: Thank you. [LB905]

TOM PLACZEK: You're very welcome. [LB905]

SENATOR SMITH: Senator Schumacher. [LB905]

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SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you again, Tom, for your testimony. Right now, as I understand it, at both the county board level and the TERC level, the burden is on the taxpayer. [LB905]

TOM PLACZEK: Correct. [LB905]

SENATOR SCHUMACHER: Now, let's say I get my little card from you and my value is up and I think, this is ridiculous. I've got my house right next to a cattle yard and just because I like the smell of money, doesn't mean anybody else does. (Laughter) And this is wrong. I mean, and I...person (inaudible), he will say, you know, oh, I agree. You know, we were a little high with it. Do you have a policy for going to the county board saying, I'll make that adjustment? [LB905]

TOM PLACZEK: What I could do is, once it's been protested, I can recommend a change and then the board can approve it...approve that change. I can't just change it. Once it's been protested, it's done. Once we have... [LB905]

SENATOR SCHUMACHER: But I'm not protesting it. I come to you ahead of time and say, oh, come on. [LB905]

TOM PLACZEK: Oh, before protest? [LB905]

SENATOR SCHUMACHER: Before I protest, come on, Tom. [LB905]

TOM PLACZEK: Yeah, I would come out there and take a look at it and say, you know what, Paul, I...you know what, you're right. I don't know how this got through but we've got to make a change here. And I've done that on many occasions. [LB905]

SENATOR SCHUMACHER: Okay. Now Senator Harr and I are about to be unemployed here in about 50 days. We're hard up for legal business, and we want to figure out how we can cash in on this tremendous experience we've had. So, this law goes through and we set up the Burke and Paul law firm to help taxing. [LB905]

SENATOR HARR: Paul and Burke. [LB905]

SENATOR SCHUMACHER: Paul and Burke? [LB905]

SENATOR HARR: Paul and Burke. [LB905]

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SENATOR SCHUMACHER: Yeah, we can trade off. One month it's--just get two sets of letterhead--and we set this up and we let it be known that we've got a...backing this up is a young certified appraiser who does appraisals and we tell our clients, we think we can get you off on some of your taxes. And we go to you and we say, okay, we've got a list of 100 people who are our clients and, you know, we think you're out of line by 10 percent on every one of them. And, you know, if you don't make an adjustment, we're going to file protests on all of them. And if you still don't make the adjustment, we're going to send our young appraiser to work and we're going to have at least a prima facie case that there's something wrong with this appraisal. Now, if we make this change, the burden is on you then to build a case for each of our 100 clients. It's ready to go to the county board because we don't have to do anything. [LB905]

TOM PLACZEK: Right. [LB905]

SENATOR SCHUMACHER: And so you got to do something and if you don't do something, you know we have our hotshot young appraiser ready to come in at you before the county board. So, we've got some bargaining power upfront. You aren't in a situation to do 100 appraisals and prepare a hundred cases and you don't know for sure which one our young appraiser is ready to come at you with, so you got to do them all. So, we're going to put you in a position of having to hire somebody to put up with us and work with us or at least be very, very, very reasonable in our plea bargaining before we file the protests. Is that a fair statement? [LB905]

TOM PLACZEK: Yeah. [LB905]

SENATOR SCHUMACHER: Thank you. [LB905]

SENATOR FRIESEN: Thank you, Senator Schumacher. Any other questions from the committee? Seeing none, thank you for your testimony. [LB905]

TOM PLACZEK: Thank you very much. [LB905]

SENATOR FRIESEN: Welcome, Mr. Dix. [LB905]

LARRY DIX: Senator Friesen and members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x, executive director of Nebraska Association of County Officials, appearing today in opposition to this bill. First of all, I do want to thank Senator Kuehn for bringing this. It always is a good opportunity for us at NACO to think through that process, but a couple of times I know Senator Kuehn had referred to his constituents and I don't want anybody to lose the fact that his constituents are our constituents. I represent elected county officials. Those are all the same

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constituents, and so we want to help those folks through that process. And so, Senator Kuehn, thank you and thank you to your staff who I called and shared some information with. They were excellent, just so that you know that. I want to come at this...you heard a lot from the county assessor's point of view. We've got some county board members that are particularly concerned about this and they are concerned about this if that burden of proof changes. It's a little bit of a game changer in the cost of doing county government. And let me give you a few reasons why. We do believe there will be more protests. We do believe then that more people will take it to TERC. On the other side, the Appropriations Committee has to do their job and cut state budgets which they're going through right now, and one of the things that's happening is a limitation on travel by TERC. Now granted, there's a number of cases that go to TERC that are from the Lincoln and Omaha area. But if this increase goes through in the number of cases that happens to happen in the Panhandle counties, now you're talking about significant, some significant impacts to budgets for those counties when they're driving to Lincoln to have TERC cases. I think you heard from the assessor. There's a number of times, and I read those TERC cases too. I'd be happy, I think all of you should probably subscribe and read them also. You'd be surprised at how many times nobody shows up on the other side. That does mean the county is going to be there. They are going to show up. So when Sioux County, who has a very limited amount of budget, is going to drive to Lincoln for a TERC case, if you don't think that's going to cause a property tax increase, you're wrong. I'm just telling you. I've been doing this for way too many years. In those counties it is going to happen. One of the things that Senator Kuehn brought up, dead right on. After you have somebody go through and update a mass appraisal or they have a company come in and do a whole section of a county, you're going to see more protests. It's happened, and I would tell you, Senator Brasch, you talked about your experience, I would tell you, it's happened in my experience since 1977. It happens. That's what part of that mass appraisal process is. So we recognize that and thank goodness, in Senator Kuehn's instance, it sounds like the process worked exactly how it should. Taxpayer came in, provided information, had her discussion with the assessor or the county board, valuation was reduced. Sounds to me like that process worked the way it should. If we ever think that there's going to be at or take fewer time, or the taxpayer is not going to have to come in to the assessor's office just because that the burden of proof, the taxpayer is still going to have to be invested somehow in that process. They're the owner of it. They are going to have to initiate something. They're going to have to spend some time in front of the assessor and probably the county board. And, you know, one of the questions that Senator Kuehn's office asked us--and he didn't make mention to it but maybe he has it in his closing--was, what does NACO do about County Board of Equalization process. Every other year we provide an educational meeting. All county boards, county assessors, county clerks are invited to attend that meeting. Sometimes we're frustrated that there are not as many people there as we would like. I know Senator Kuehn made reference, in the letter from Adams County, that the statement the assessor made about the county board, I would tell you there's a number of assessors that believe county boards should have mandatory education in that area. And, in fact, we had an assessor that asked us to introduce a bill of that

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nature. All throughout the process, throughout Senator Kuehn's testimony, throughout assessor Placzek's testimony, it's all a matter of their communication and educating the taxpayer. Senator Friesen absolutely opened the door and said, when I went through the protest process I learned more than I ever thought I would know about it. I hear that from taxpayers all the time. Taxpayers should never be afraid to approach their elected county officials. That's what they're there for and they are there to help them through that process. But it's not an easy process. It isn't easy. My time is up. I'd be happy to answer any questions anybody has. [LB905]

SENATOR SMITH: (Exhibits 9-13) Thank you, Mr. Dix. Questions from the committee? I see none, thank you. Next opponent of LB905. We do have letters for the record that were submitted in opposition to LB905 from: Marilyn Hladky from Seward, Seward County Assessor; Diane Battiato, Douglas County Assessor and Register of Deeds; Todd Wiltgen, Lancaster County Board of Commissioners; Doug Kagan, Nebraska Taxpayers for Freedom; and Jackie Russell, Adams County Assessor. Those were submitted, for the record, in opposition to LB905. We now move to neutral testimony on LB905, neutral. Welcome back, Mr. Esch. [LB905]

DANIEL ESCH: Thanks. Thank you. Good afternoon, again. Dan Esch, D-a-n, and then E-s-c-h. Just want to clarify I'm testifying just as myself. I didn't talk to Diane Battiato about this, didn't talk to Senator Kuehn, just kind of thoughts I've had during the conversation, I just wanted to bring up. You know, the...I guess I'm just wondering what does this mean then for the referees. Are they...so, I'll use a frivolous example. [LB905]

SENATOR SMITH: Ms. Delka, lights. Thank you. [LB905]

DANIEL ESCH: I'll use a frivolous example. What if a protester says, my property is worth \$100 and it's clearly not, and the referee gets a protest, and the assessor's office...in their mind doesn't meet the burden of proof. So what are they supposed to recommend to the Board of Equalization? \$100 or...you know, I just don't know what this means for them. The other thing is, I'm not so sure this is...it couldn't eventually not be...or let me rephrase that, sorry. This could help the assessors in a way that, if they're just supposed to submit paperwork as to how we arrive at the value, that's all they do, is the ref supposed to...okay, they met that burden of proof, therefore we're going to uphold their valuation. I mean, this could work against the taxpayer. Right now, as the bill is written, the tax...and this is not...this bill does not take away this part of the statute, the taxpayer still has to sign a statement and provide a reason for why they're protesting. All this bill does is add that the assessor's office has the burden of proof. And I guess all I'm saying is if the assessor's office...if the burden of proof is simply supplying paperwork that meets the definition of equitable and within the law, does a referee then, do they have the ability to say, well, you know they met the standard but I don't agree with how they arrived at that valuation or, to me, I just wondered if the statute means all the assessor has to do is provide

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information and that's it. That law is...that value is upheld. So those are just my thoughts. I don't want to take up too much more of your time, just some things that came to my mind while I was listening. And again, I apologize, I haven't talked to Senator Kuehn, or NACO, or even my own counterparts at Douglas County, just some thoughts I've had while I was listening to testimony. So, thank you. [LB905]

SENATOR SMITH: Thank you, Mr. Esch. So, I don't see Senator Harr raising his hand here, so I'm going to ask a question. So did you hear the exchange that Senator Harr had with Senator Kuehn about the burden of proof? [LB905]

DANIEL ESCH: I did. [LB905]

SENATOR SMITH: Is that basically what you're talking...talking... [LB905]

DANIEL ESCH: Similarly, yeah. But just, yeah, what is expected then of the Board of Equalization, the referees, if burden of proof is not met on behalf of the assessor or if it is, is that the end of the story? Then that value stands just because they submit documentation? Explain how they arrive at their value. [LB905]

SENATOR SMITH: Very good. Questions from the committee? I see none, thank you. [LB905]

DANIEL ESCH: Thank you. [LB905]

SENATOR SMITH: Others wishing to testify in a neutral capacity on LB905? Seeing none, Senator Kuehn, we welcome you back to close on LB905. [LB905]

SENATOR KUEHN: Thank you. Appreciate your time on a Friday afternoon, so I will be brief. I don't have anything new to add other than I know the assessors are watching, in part because when I've testified on other bills and then on the floor, my county assessor has texted me in real time, saying she saw what I was doing. So I know there's a lot of interest among the assessors and so I want to speak as much to the public and to the assessors as to the committee in my closing and that is, I think Mr. Dix very clearly articulated a very important idea and that is we share a constituency. The assessors, the county board, they are elected officials that have a constituency that provide a public service and, in all steps along this process, it is important to be mindful of our taxpayers and our citizens. And as has been echoed prior, and as I suggested in my opening, many of these issues can be alleviated with simple, good communication. And so again, I fail to see the automatic assumption that protests will increase. If anything, current numbers of protests, especially those who may simply be protesting taxes or do not understand



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the process, simply effective communication other than a postcard at the time of valuation increases made, can make taxpayers feel much more comfortable with the decision that is made. Putting a statement available on the county Web site that says, here's our mass appraisal, here's the compared as we used, the taxpayers can readily go to on their own time and identify how that valuation increase was arrived at, improves the communication, and reduces the likelihood for valuation protests. That interaction between the assessor and the ability of the assessor to look, doesn't have to access to a home but to look at a map and say, yeah, you're right, this does have extenuating circumstances based on the satellite imagery that's available, let's do this adjustment. There are steps all along on the way in this process that improves the communication, the trust and the confidence between the taxpayer and between the elected officials. I think that is, first and foremost, the objective all of us, at whatever level of government we serve, should have at the forefront of our mind. So with that, happy to entertain any additional questions that you may have. [LB905]

SENATOR SMITH: Senator Schumacher. [LB905]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you, Senator Kuehn. In your opening, I think I wrote down a direct quote. [LB905]

SENATOR KUEHN: Okay. [LB905]

SENATOR SCHUMACHER: You said, the professor in me. Senator Kuehn, are you aspiring to succeed to the title of "professor?" [LB905]

SENATOR KUEHN: Not in the Nebraska Legislature, but I do officially have the title as a tenured full professor of biology so I do legitimately have that title, but I would never assume to even aspire to your level of greatness within the One Hundred Fifth Nebraska Unicameral Legislature. (Laughter) [LB905]

SENATOR SCHUMACHER: Good to know that. Thank you. [LB905]

SENATOR SMITH: Senator Schumacher, as numbers are in sports, I think that title will be retired after this. (Laughter) Other questions from the committee? I see none, thank you, Senator Kuehn, for your closing on LB905. [LB905]

SENATOR KUEHN: Thank you. [LB905]

SENATOR SMITH: And that concludes the hearing for today. [LB905]