[LB732 LB733 LB913 LB1026 LR220CA LR230CA]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 13, 2008, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1026, LR230CA, LB732, LB733, LR220CA, and LB913. Senators present: Ray Janssen, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Carroll Burling; Abbie Cornett; Chris Langemeier; Don Preister; Ron Raikes; and Tom White. Senators absent: None.

SENATOR JANSSEN: Good afternoon, ladies and gentlemen. Welcome to your Committee on Revenue. For the record, my name is Ray Janssen. I happen to be lucky enough to chair this committee this year. The committee members that are here with us today, to my far left is Senator Don Preister, from Omaha; and next to him is Senator Carroll Burling, from Hastings; next to him, Senator Abbie Cornett; next to her is Senator...to my immediate left is Senator "Cap" Dierks. The rest of the crew will be here in a little bit. Our pages are Sarah and Tim. I believe we still have the same ones. The committee clerk is to my far right, Erma James. Counsel is George Kilpatrick, and he will be here shortly, I'm sure--I hope. I would ask you to please turn your cell phones off and your pagers while you're in the hearing room. They are very disruptive. The other day one kind of tinkled away, but the gentleman whose cell phone went off immediately left the room, so we don't want to see anyone get hurt charging out of here, turning off their cell phones. So make sure they're off. The sign-in sheets are...for the testifiers are on the tables by each door in the back, and you need to complete those; have to be done by everyone wishing to testify. If you are testifying on more than one bill, you will need to submit a form for each bill. Please print and complete the form prior to your coming up and testifying. When you come up to testify, hand your testifying sheet to the committee clerk, on my right. There are also clipboards in the back of the room to sign in if you do not wish to testify, but would like to indicate your support or opposition to that particular bill. These sheets will be included in the official record also, to let your boss know that you were here. We will follow the agenda as posted on the door. The introducer or the representative will present the bill, followed by the proponents, and then the opponents, and then any neutral capacity. Only the introducer will have the opportunity to make any closing remarks, if they so wish to. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and the staff. And if you have only an original, we'll be more than happy to make you copies. Give the handouts to the page to circulate to the committee. With that, we are hearing one, two, three, four, five, six bills today. They are LB1026, LR230CA, LB732, LB733, LR220CA, and LB913. And Senator Rogert has the first bill today, and Senator Rogert, welcome to the Revenue Committee, to tell us all about LB1026. [LB1026]

SENATOR ROGERT: Thank you. Good afternoon, Chairman Janssen, members of the Revenue Committee. My name is Kent Rogert and I represent the 16th Legislative

District. Today I'm here to introduce LB1026. LB1026 will extend the property tax exemption provided to public housing agencies and their wholly owned affiliates, as set forth in Section 71-1590, to all affiliates of a housing agency that own property that is subject to income restrictions for qualifying tenants based on guidelines, regulations, laws, or rules established by the United States Department of Housing and Urban Development, or any successor thereto, HUD, and subject to separate HUD regulatory agreement and declaration of restrictive covenants which impose tenant and rent restrictions. The extension of such an exemption to a housing authority or its affiliates is consistent with the purposes of the Nebraska Housing Agency Act, as set forth in the Revised Statute, 71-1570. In revising the Nebraska Housing Agency Act in 1999, the Legislature gave housing authorities the ability to develop affordable and low-income housing using a myriad of resources including, but not limited to, mixed finance housing and other public/private partnerships. In certain instances a public housing agency may develop affordable, low-income, or public housing by using funds provided by HUD. These funds provided by HUD are often leveraged by using other public and/or private income sources such as tax credits. Any time a public housing agency or its affiliates uses funds granted to them or received by them from HUD, the public housing agency and/or the affiliate is required to certify that such property be operated as low income and be subject to the tenant income and rent restrictions, regardless of whether or not that property is owned by a public housing agency and any affiliate of its agency. The restrictions are embodied in a declaration of restrictive covenants which is recorded against the property in favor of HUD. Accordingly, what you have is low-income housing developed pursuant to the Nebraska Housing Agency Act that is essentially owned by a private entity which is affiliated with the housing authority. This declaration of restrictive covenants has a term of 40 years and constitutes an enforceable obligation, separate and distinct from the land use regulatory agreement mandated by IRC-42 for low-income housing credits. In that regard, it would be consistent with the intentions of the Nebraska Housing Agency Act to allow these privately owned public housing units to be granted a tax exemption that the housing units that are owned by the housing authorities and wholly controlled affiliates are granted. That was quite a mouthful, and I will direct any major technical questions to the folks that come behind me. But I will entertain anything that I can, at this point. [LB1026]

SENATOR JANSSEN: Thank you, Senator. Are there any questions? I don't see any, Senator Rogert. [LB1026]

SENATOR ROGERT: And I will waive closing this afternoon. I have a couple of other things going on. [LB1026]

SENATOR JANSSEN: All right. Thank you. We'll take proponents first, those in favor of LB1026. [LB1026]

STANLEY TIMM: (Exhibit 1) Good afternoon, Chairman and members of the committee.

It's a pleasure to appear before you today. My name is Stanley Timm. I'm currently the executive director of the Omaha Housing Authority. You're being handed what I'm going to introduce today in terms of my testimony, and so I'll go through that briefly, and then if you have any questions, I'd certainly be happy to take anything that you have. This matter arose when Omaha Housing Authority and HUD were in federal litigation, and we needed to settle a civil rights housing lawsuit. The settlement was actually arrived at in 1994, with the stipulation of one-for-one replacement of public housing that had been demolished. The courts set the completion date in the settlement for December 31, 2000, and in the process HUD set aside a pool of federal funds to pay the cost of replacement. At that time HUD provided the housing authorities with development funds for public housing, and so what they did, they took several years' worth of allocations and simply pooled that together and said, you will need to replace these units on a one-for-one basis with this money. In 1999 HUD and OHA determined that the completion date would not be met in a timely manner, and they returned to court for a time extension, and the federal court granted an extension to October 31 of 2005. In 2003 HUD and the OHA realized that the funds set aside had diminished in their purchasing power, as property values went up and so on, that they would need to purchase, or building costs went up at the same time over this nine-year period, and creative financing had to be pursued that would permit leveraging of the remaining funds. This was accomplished through the use of housing tax credits for new construction and renovation, and also the purchase of existing tax-credit general partnership; in other words, the private sector had gotten the tax credits, renovated these units, and so they were affordable under the tax credit program. But OHA was successful in purchasing a number of these properties. The general partnership, they still had the restrictions of the limited partnerships and the housing tax credits. Through these methods of financing, several hundred units were assembled as public housing units by the October 31, 2005, deadline. The federal court subsequently dismissed the case against OHA and HUD. The issue faced today is that these partnerships are required, under state law, to pay real estate taxes on normally assessed values, using standardized methods. All other public housing properties are tax exempt. Since these referenced properties are subject to the same income restrictions as other public housing units, and the requirement that the public housing agency house the poorest of the poor, these units will not cash flow on a sustainable basis. These units are required to be public housing units for 40 years under the Declaration of Trust filed by HUD, and it's the same Declaration of Trust as what is on all other public housing units across the state. Today we request that you consider passing this legislation to address this inequity. On the second page I've tried to lay out in quantitative terms what this all means. The development names, Omaha Crown II, Omaha Crown I, are mostly units, single-family units in the southern part of Omaha. There's also, I believe, about eight units in North Omaha. And the monthly gross market rent for these units, as you can see, in Omaha Crown II, for instance, was $640 prior to these units becoming public housing. For the 12 units that's annual gross rent, $92,160. The public housing monthly net rent drops it down to $432 a month, or a total for the 12 units of $62,305, and the real estate taxes in 2007 amounted to $13,587 on the 12 units, or 21.8 percent. The net rents after the real estate taxes--you subtract the $13,587 from the $62,305--is $48,718. So our net monthly rent on these homes, and these are all three-bedroom homes, $338 a month. And you can see, that's the best of the four I have listed here. The others are in the $150 to $170 range. So I think this is the basis for why we're asking for this exemption, and again, you can see that many of these...there's detailed sheets behind that summary sheet, and you can see where there's actually units that have negative rents; in other words, the people living in them have such low incomes that when you consider their utility allowances, which HUD requires us to consider when we're housing these folks, when we consider the utility allowance, the housing authority is actually paying them on a monthly basis to pay their utilities. And so we call them zero renters or negative renters. We have a few of those units that are like that, and they are averaged into the total. Now in addition to these four developments, we also have four multifamily developments that are in the same category. Two of these are downtown properties, one is in North Omaha, Ernie Chambers Court, and the other one is on South 13th Street, which is the Bayview Apartments, and there's 12 units there. Typically, those units probably have as low or lower rents than what these are, and so it gets to be a real situation when you're trying to make your real estate tax payments the first of April and the first of August, and the rents just aren't there to cover them. One thing I would like to point out is, a couple of these properties we acquired and they have TIF on them, the original private developer received TIF from the city of Omaha. We would not expect to not pay taxes on those properties; in other words, until the TIF time runs out, we understand we would need to pay taxes to cover that TIF, so that's not an issue here to be decided. What we need is, over a 40-year period of time, as these properties get older, that they be considered in the same vein as other public housing properties, and hopefully, be tax exempt. With that, I'd be happy to take any questions that you have. [LB1026]

SENATOR JANSSEN: Any questions? Senator White. [LB1026]

SENATOR WHITE: Mr. Timm, I have three questions, I think, at this point. First of all, the partnerships invested into these housing units, did they know at the time they made those investments what the tax status of the properties would be? [LB1026]

STANLEY TIMM: Yes, the partnerships relate to the tax credits. [LB1026]

SENATOR WHITE: Right, and so they knew they... [LB1026]

STANLEY TIMM: And so... [LB1026]

SENATOR WHITE: ...were buying something that would be subject to property tax, correct? [LB1026]

STANLEY TIMM: Yes, as in the rest of the state. [LB1026]

SENATOR WHITE: But now they'd like to retrade that deal. [LB1026]

STANLEY TIMM: This would not affect those partnerships. Those partnerships receive their benefits from the depreciation and the tax credits they're awarded each year. [LB1026]

SENATOR WHITE: Those are the limited partners in the partnership. The partnership owns the property, does it not? [LB1026]

STANLEY TIMM: The general partnership and HUD have title to the property. The limited partners would not be affected by this. [LB1026]

SENATOR WHITE: Well, the general partners knew what they were getting when they bought it, though, correct? [LB1026]

STANLEY TIMM: The general partner is actually an affiliate of the Omaha Housing Authority. So... [LB1026]

SENATOR WHITE: Did you know what you were getting when you did the deal? [LB1026]

STANLEY TIMM: Yes. [LB1026]

SENATOR WHITE: Okay. The second thing is, didn't we have a bill last year that talked about instead valuing these kind of properties at a lower rate, based on their restricted income ability? Do you...or have you looked at that possibility? Rather than exempting them from property taxes, would you be amenable to a direction that perhaps the tax assessor must value them at a value based on the fact that they will only earn a lower amount of income? I think we saw something like that last year. You wouldn't know that, but... [LB1026]

STANLEY TIMM: We certainly...well, we're certainly not going to turn down any help that we can get on this issue. Yes, we have been to the county assessor with the idea that these rents are very low or negative, and we still have the same issue. We're still being assessed. You can see what the '07 amounts were. The '08 amounts have not been reduced from that. [LB1026]

SENATOR WHITE: The assessor did not consider that a special circumstance, entitling it to have a lower property value; is that correct? [LB1026]

STANLEY TIMM: Not...at least not below what you see here, and as you can see, these are a very high percent of the gross rents. [LB1026]

SENATOR WHITE: How much money is at issue here? How much will the city/county school districts...what is the total levy amount on properties, say, in Douglas County, that those taxing authorities would give up? [LB1026]

STANLEY TIMM: These four properties that you see represented here are in the range of $150,000, and the other four would be probably very similar, between $100,000 and $150,000. So you're looking at probably somewhere between $250,000 and $300,000. [LB1026]

SENATOR WHITE: Thank you. [LB1026]

SENATOR JANSSEN: Any other questions? Seeing none...Ron, did you have question? Okay. Thank you. [LB1026]

STANLEY TIMM: Thank you very much. [LB1026]

SENATOR JANSSEN: Yep. Any other proponents? Anyone else wishing to speak in favor of LB1026? Seeing none, now do we have any opponents? Anyone, opponent? Okay. [LB1026]

WALT RADCLIFFE: Mr. Chairman and members of the Revenue Committee, my name is Walter Radcliffe, R-a-d-c-l-i-f-f-e. I'm testifying before you today as a registered lobbyist on behalf of the Nebraska State Home Builders Association in opposition to LB1026. In doing so, I would like to principally just talk about the tax policy involved, which I am somewhat familiar, and not talk about what I'm...something not very familiar with at all, which is just the low-income housing market vis-a-vis the housing authorities. I'll profess my ignorance on that. Here's what the home builders were concerned about. I'll talk about one thing from a policy standpoint, and then one thing as it relates specifically to some language in the bill. And in doing so, I think we have to draw a distinction between public housing and low-income housing. There are people who build low-income housing and sell it in the marketplace. They are part of the home builders. Public housing is obviously done by a public entity. The question from a policy standpoint that the committee has today is, do you want to treat a piece of property that is owned by a public housing authority differently, simply because it's owned by that public housing authority, not just because it's low-income housing? And take that a step further to page 3, line 3, where it says, the affiliate holds an interest in any capacity. In other words, there is no percentage requirement, there can, you know...it can be a 1 percent, it can be a very small percentage capacity, and because of that small ownership interest, there are no property taxes that would have to be paid. That probably is more of a stumbling block, quite frankly, than is the policy decision between publicly owned public housing properties and low income. So really, two questions that

I'd submit you have to answer: One is that broader public policy question, and then if you say yes, we believe, as a matter of public policy, that we should allow tax abatement or whatever you want to call it, for that property, then the question is, to what extent? In that, to what extent, from the standpoint of ownership? Does it have to be totally owned by the public entity? And if not, as the bill here would suggest, that public entity could, in any type of capacity, could have an interest in it, and that becomes a stumbling block, and the reason being, of course, home builders really don't like--and that's going to be evidenced by some other testimony today--don't like property coming off the tax rolls, because, I mean, it increases the taxes on the rest. So I'll try to answer any questions that the committee might have. [LB1026]

SENATOR JANSSEN: Any questions? [LB1026]

SENATOR WHITE: I'd like to ask one, Walt, and maybe you can't answer this. But if I understand the way a lot of these were set up, is the public housing authority acted as a general partner, sold out limited partnerships which had tax credits that were available to the people who invested in them, and they streamed those through them. They retain control of the property and usually a reversionary right; in other words, when the tax credits are exhausted, they pop back into the general partnership. So if, for example, the general partnership, the housing authority, makes these suddenly income-producing properties, can they sell 95 percent on a secondary market and basically sell them as a money-making venture, keep 5 percent of the housing market, and then basically refrost their cake? [LB1026]

WALT RADCLIFFE: I was pretty much with you up till the refrosting. But the gentleman who testified before me...the limited partners, they don't benefit from this. I do understand what you're saying, is if...the authority is the general partner. Then... [LB1026]

SENATOR WHITE: Well, they may if they have the reversionary right, and... [LB1026]

WALT RADCLIFFE: Then the answer would be they could refrost their cake. [LB1026]

SENATOR WHITE: ...they can make improvements. Well, yeah, if for example you have the money, and their deal is you have to reinvest any profits to maintain the property,... [LB1026]

WALT RADCLIFFE: Yes. [LB1026]

SENATOR WHITE: ...so it's in better shape at the end of 40 years, they could get it that way. [LB1026]

WALT RADCLIFFE: Yes. [LB1026]

SENATOR WHITE: Okay. Thank you. [LB1026]

WALT RADCLIFFE: Thank you for answering your question. (Laughter) [LB1026]

SENATOR JANSSEN: Any other questions? Walt, I have one. Now in a lot of small towns they have their low-income housing areas set in small towns. Now I'm ignorant on this also, and a lot of other things. But who builds those? Now is that a HUD project? [LB1026]

WALT RADCLIFFE: There are private developers who build "low-income" housing. That's why I'm distinguishing between properties that qualify for low-income housing and properties that qualify as public housing. They are two different things, and what you would have in many small towns would be...I think what you're thinking of, Senator, would be the "low-income" housing. [LB1026]

SENATOR JANSSEN: Yes. [LB1026]

WALT RADCLIFFE: Yes, and that's not built or owned by a public entity. [LB1026]

SENATOR JANSSEN: That is built and owned by whom? [LB1026]

WALT RADCLIFFE: By a builder, by a contractor, by the same type of person who would build any kind of a development, only they particularly specialize in low-income housing. For example, I mean, I use a name. Fred Hoppe is a builder here in Lincoln. Fred does a lot of low-income housing. I just told you all I know about what he does. But... [LB1026]

SENATOR WHITE: So let me ask a question that may answer a question. [LB1026]

SENATOR JANSSEN: Yeah, yeah, you bet. [LB1026]

SENATOR WHITE: All right. Fred Hoppe is a for-profit entity. He sets up a transaction where he sets up a general partnership. He is the general partner. He then says, we're going to qualify under federal tax guidelines... [LB1026]

WALT RADCLIFFE: Um-hum. [LB1026]

SENATOR WHITE: ...so that if you invest in this partnership, I'll stream through my general partnership to you, Ray, personally, a bunch of federal tax benefits that make it an attractive deal. If the entity itself makes money--okay, in other words, there's more rent than is outgo--he would have to not only pay property taxes, in any event, but he'd also have to pay income taxes. One of the things that is problematic here is, a public housing authority doesn't pay income tax, state income tax, now, nor would it pay property tax, where a private investor like Mr. Hoppe will pay both,... [LB1026]

WALT RADCLIFFE: And then, Senator,... [LB1026]

SENATOR WHITE: ...and serve the same market. [LB1026]

WALT RADCLIFFE: And allow me to take your analogy just one step further. If--I hate to pick on Fred--(laugh), if any investor such as the Senator describes then went to a housing authority and gave them a very small incremental interest in that, that would eliminate... [LB1026]

SENATOR WHITE: Under the language as is... [LB1026]

WALT RADCLIFFE: ...under the language here the property taxes. [LB1026]

SENATOR WHITE: So in other words, Fred says look, I'll give you 5 percent, realizing that he's just taken 95 percent of his investment off the property tax rolls, as drafted. I mean, it's an issue. [LB1026]

WALT RADCLIFFE: But I'm not...now I've got...I want to add, I'm not suggesting that this is something that the public housing authorities are trying to do. I mean, I'm just saying that...I think their intentions are what they said they were and are legitimate intentions. That's why I said your first public policy question has to be, do you want to give them that kind of a tax break? If you do, then look at some of these other things that could occur that I think are unintended consequences from their standpoint, and try to address those. [LB1026]

SENATOR JANSSEN: Well, I do know, though, that in small towns--and I'm sure large cities, also--it does provide some very good housing at a very low rate for people in need. [LB1026]

WALT RADCLIFFE: And I think you would still be able to do that. It's just that you're giving...you are giving a public sector entity a break here that you aren't giving to someone else who is fulfilling a very similar need. [LB1026]

SENATOR JANSSEN: Okay. Any other questions? Thank you, Mr. Radcliffe. [LB1026]

WALT RADCLIFFE: Thank you. Thank you, sir. [LB1026]

SENATOR JANSSEN: Any other opponents? [LB1026]

JOHN WATSON: My name is John Watson. I own a property management company here in Lincoln, and I'm here today to speak to this bill. I would urge you as senators to review this very, very carefully. As Walt had indicated, I also am concerned about expansion of the property tax exemption that the language allows here, particularly if a lot of the property is held in private hands. I don't think that's...that just fundamentally isn't right. We...the bill reads that if they have...an affiliate holds an interest in any capacity, so if a housing authority owns this in any capacity or any portion, then it would be exempt. I think the other language that you have to look at here is qualifying tenants. And I'm not an expert on what qualifying tenants are, but from my perspective here in Lincoln, I've been told our housing authority is the second most wealthy housing authority in the nation, so we're blessed, we're fortunate that they can provide some needs, and I'm all for providing low-income housing needs. I served on our People's City Mission board. We built some low-income housing for homeless people, others lately. I'm all for low-income housing. But one of the problems that I've encountered in Lincoln, and I think it's covered by the statute that's in this bill, is that our housing authority has built a number of properties that are new complexes. They're very nice complexes. They were very expensive to build, much more expensive than recent complexes that I've been involved in, and all kinds of tax increment financing and tax money are used to build them. And then the property is not on the tax roll, and that's okay, as long as these are for low-income. But they are also for moderate income, and moderate income people can make $40,000 to $50,000 a year in Lincoln and live in these places, and they usually charge less rent than what other complexes charge that have to make it on the private side. So here we are competing with these quasi-governmental entities, trying to develop housing for people in our community, and also fill up other apartments. We managed for about 80 different owners. There's an abundance of apartments in Lincoln, and yet I can show you a place out at 37th and Yankee Hill today that are being built right now by the housing authority. And you know, I think, number one, the changes in this statute should not be changed, and I would urge you as senators to look strongly at cleaning up the language in what is exempt. I think low-income housing should be exempt for the housing authorities, but certainly not anything that's rented to moderate income. They like to mix these populations. I can understand that. But I think they ought to pay real estate taxes on apartments that are rented to moderate-income people. Our complexes that we have built in the last few years, that are very comparable to the housing authority's--in fact, some of theirs are nicer, I think--we pay about $940 a unit per year of real estate taxes. And now we see complex after complex--it's the third one probably built in the last ten years in south Lincoln--being built by these people, and here we are, trying to fill up units and, you know, we're wondering, gosh, can we keep building and prospering in Lincoln at all with having to compete with our own quasi-governmental entities. So I would urge you to think about amending the original statute and sharpening the pencil on what is exempt, and that would take someone who can explain that law better than I can. But I think the language in here is "qualifying tenants," "eligible income" and "qualifying tenants." And I think, you know, where we have people that could afford other opportunities in housing on their own, then there ought to be taxes paid on that portion. And believe me, they do keep close records on these, so they know how many units are rented to these other people. So I would really ask that...and you know, Lincoln has been in here, I know, with bills--and you probably know this on the Revenue Committee--looking for ways to fund a convention center, to do other things. We have huge infrastructure needs in Lincoln, and every time we expand these exemptions, the rest of the taxpayers are paying more. And I just hope that you'll give that some careful review and consideration, and even go one step further and clean up the statute the way it ought to run. Thank you very much. [LB1026]

SENATOR JANSSEN: Any questions? Seeing none, thank you, John. Any other opponents? Opponents? Anyone in a neutral capacity? [LB1026]

LARRY RUTH: Chairman Janssen and members of the committee, my name is Larry Ruth, R-u-t-h, representing the Eastern Nebraska Development Council, which is an organization in Omaha made up of metropolitan Omaha builders, developers, bond interests. My original position that was given to me was to oppose the bill, and I talked with proponents this morning, and they've given me some additional information which I think may be helpful, and I believe they may be coming back up in some form to give you some additional information, too. Our original position was dictated by bond counsel, who had concerns about the drafting. And after getting the additional information from the proponents, I'd like to run that by bond counsel again, just to make sure we don't have a mistaken impression as to what the bill is attempting to do. My hope is that we won't be opposing this bill, but perhaps additional information would be appropriate, because I think we're...the opposition and myself have all been working under the same understanding of the bill, which may not be quite exactly right. Thank you. [LB1026]

SENATOR JANSSEN: Okay. Any questions? Seeing none, thank you, Larry. Next person in the neutral? [LB1026]

GEORGE ACHOLA: Good afternoon, senators. My name is George Achola. I'm appearing as a neutral, but I must disclose to you that my position is essentially that I am a legal counsel. [LB1026]

SENATOR JANSSEN: George, would you spell your last name? [LB1026]

GEORGE ACHOLA: It's A-c-h-o-l-a. [LB1026]

SENATOR JANSSEN: Okay. [LB1026]

GEORGE ACHOLA: I am the legal counsel for the Omaha Housing Authority, and my intention to appear as a neutral is I think that there's been some inaccuracies and some things that I think I need to clear up, in terms of this bill. I think...all this bill is doing, or the intention of this bill is to close a loophole that currently exists, because as it is right now, in 1999, when the Legislature amended the housing agency act, they gave tax exemption to public housing authorities and wholly controlled affiliates of public housing agencies. So, so long as those properties were operated for persons who were qualifying tenants, stated forth in the act. And the problem that you had in that bill, as well, is you also gave public housing authorities the right--and that was one of the primary purposes under the bill in 1999--to develop and use other vehicles for financing, primarily mixed financing which the public housing authority would take other monies and put in a pot and develop affordable housing. Now if the public housing agency under the current state of the law did that with a wholly controlled affiliate, essentially what that means is that an affiliate where the public housing agency set up the organization, set up the affiliate, that property would be tax exempt. But as you're aware, under this Section 42 of the Internal Revenue Code, what we have done is when you set up these limited partnerships, and the reason that you've got that "any capacity" language in the bill, is because when you set up these limited partnerships, the general partner by law essentially only owns 1 percent of that property, okay? So that's why you have that "any capacity." Now the biggest thing that I want you to focus on is the caveat in that bill that talks about...and if I have it correctly, is it talks about the HUD aspect of it. Essentially, all we're saying here is, what you have here is public housing. It's no different than the public housing that currently is in place that is tax exempt. The only caveat is, is you have public housing subject to public housing restrictions, as demanded by the Department of Housing and Urban Development when they put their money into that pot. And what they do when they give you money is, they require that you put in a Declaration of Restrictive Covenants, basically indicating that you are going to operate that property as public housing, and that's why you have in this bill the limiting qualifications...qualifier, if I can get to the provision that I'm looking for...and it talks about "and which property is subject to income restrictions for qualifying tenants." And "qualifying tenants" is something that is set forth in statute. That definition is set forth in the statutory bill...in the statute as it currently exists, "and established by the United States Department of Housing and Urban Development or any successor thereto." That provision of the bill is what drastically narrows the scope of this exemption, okay? It's essentially giving us the same exemption that we currently hold for all our public housing authorities. I think as a baseline factor what we all need to understand is that these properties that we're talking about are being operated as public housing. The only reason the public housing authority does not own them outright is because of the financing structure of these properties, and because of the financing structures of these properties, we had to set up these limited partnerships. We for liability and other purposes, we determined that we did not want to do it as a wholly controlled affiliate, so we set up, as the statute allows...the statutes broke affiliates down into two categories--controlled affiliates, which is essentially a wholly owned affiliate, or noncontrolled affiliates, which is essentially defined in the statute as an affiliate in which we have an interest in. And our affiliates...essentially our interest is, we have one of our board members, one of the housing authority board members is on the board of their affiliate. So it's not a wholly owned affiliate, but it is an affiliate nonetheless, so you know, if I can summarize, I guess what I'm trying to summarize is, I think the home builders--and I think when we spoke to the other home builder, I think we corrected that misconception, that this is a broad exemption for any housing that we own in any capacity--no. This is strictly limited just to public housing that is subject to the Declaration of Restrictive Covenants by the department of housing development. So we're not talking about property that we just develop that is not public housing, okay. So I guess what I'm trying to make the committee aware of is, when you look at the purposes of the act when they amended it in 1999, what we're requesting here is wholly consistent with the purposes of the act in 1999, when you gave housing authorities the right to go out and use these unique financing vehicles, which prior to 1999 we were not authorized to have. Prior to 1999 we essentially relied on the Department of Housing and Urban Development for all our money to develop property, and sometime in 19--, the late nineties, Congress amended the federal housing act to allow us, to allow housing authorities to use unique financing vehicles, and Senator Pam Brown followed suit in 1999, in amending the Nebraska Housing Agency Act to give housing authorities the same ability to develop housing outside of relying solely on funds provided by the Department of Housing and Urban Development. So generally, as Mr. Timm indicated, the way these deals work is, we get money from the Department of Housing and Urban Development. Sometimes it's not enough to go out and do a deal to build the type of property we want solely. So essentially what we have to do is we have to go out and take that money and go to the Nebraska Investment Financing Authority, NIFA, and leverage that money using tax credits. And when we do that, we set up an ownership structure outside of the public housing agency, which we were allowed to do under the 1999 act, and essentially develop public housing using that noncontrolled affiliate. So essentially all we're doing in looking at this bill is bringing noncontrolled affiliates into the fold with wholly owned affiliates that operate public housing. And I think what I would ask the committee to focus on is that narrowing language, when you look at "and which property is subject to income restrictions." Okay, that to me is the key. The most important aspect of the bill is the qualifier "and which property is subject to income restrictions for qualifying tenants," based on HUD regulations. Essentially they're public housing, so they're no different than the public housing that currently exists today. The only difference is the entity that owns that public housing. [LB1026]

SENATOR JANSSEN: Any questions? Tom. [LB1026]

SENATOR WHITE: Nice to see you, Mr. Achola. [LB1026]

GEORGE ACHOLA: Good to see you, Mr. White. How are you? [LB1026]

SENATOR WHITE: Good. Let's go through something, and we'll kind of run through how this worked. [LB1026]

GEORGE ACHOLA: Okay. [LB1026]

SENATOR WHITE: In 1999, the federal government set up a new system, which the state then allowed you to participate in, which allowed a private investor to join with the housing authority as limited partnerships in the creation of these properties, correct? [LB1026]

GEORGE ACHOLA: Correct. [LB1026]

SENATOR WHITE: And as a limited partner, should I want to invest, I would look at them and I would say, okay, I'll put in this money and you'll stream back these benefits, cash returned from the rent along with federal tax credits that also affected state income tax that I would pay, correct? [LB1026]

GEORGE ACHOLA: I would disagree, at least in the context of the properties that we have, because of the Section 42 aspect of it. There really is next to no cash returns from the rent, because these properties are subject to income restrictions at two levels. They're subject to income restrictions because of the Internal Revenue Code, Section 42, okay? So all that a limited partner is getting is the ability to have the tax write-off. They're not getting any return on the investment in terms of cash or income. All they're in there for in the long term is the 15-year qualifying period, where they write off the taxes because they've invested in these properties. This is not a situation where they're making income, so they get the tax... [LB1026]

SENATOR WHITE: They get a return of capital, though. Every partnership I've seen that you guys have done, the guy gets his capital back and he gets federal tax credits. [LB1026]

GEORGE ACHOLA: I would defer to Mr. Timm, but I don't think so. I think essentially they're in...it's not a true investment deal. All it is, it's a tax write-off structure. There is no return on capital, per se. I mean, all it is, it's set up where for a 15-year time frame, that limited partner can write off, you know, income tax, and I don't think there's a return on capital so to speak, (inaudible) traditional... [LB1026]

SENATOR WHITE: You sell the tax credits. I respect that, but every transaction I have seen has been structured where you have a stream of income and/or at the end of the qualifying period, you get the property back. [LB1026]

GEORGE ACHOLA: At the end of the qualifying period, there is a right of reversion, where the limited partner... [LB1026]

SENATOR WHITE: Gets the property. [LB1026]

GEORGE ACHOLA: ...can...has the right or the option to purchase the property, usually for a dollar or some nominal fee, so at that point he owns it outright at the end of 15 years. But for these properties, you still have that additional, what would it be, 25 years, that it has to remain as public housing because of HUD's Declaration of Trust, which supersedes...which sits on top of that. So you basically have got another 25-year time frame where we're still under income restrictions because of the Declaration of Trust that HUD has filed on the property. [LB1026]

SENATOR WHITE: So if I'm that limited partnership in let's say 2000 or 2001, you had this investment available, I looked at it, I analyzed it, I put my money in, and I knew what my return was going to be, and...the credits I'd get back. But now, even though you were able to sell it at that time, I knew the entity, the property, would have to pay property taxes, at that time. [LB1026]

GEORGE ACHOLA: You knew, but I guess what I'm asking you to take a look at, that might be a situation whereas in most...a regular tax credit deal, that's the case. But what I'm asking you to look at is a public policy perspective, okay? [LB1026]

SENATOR WHITE: I understand what you want us to look at, but I'm asking a question, George,... [LB1026]

GEORGE ACHOLA: Okay. [LB1026]

SENATOR WHITE: ...if I'm the investor, at that time I knew the partnership I'm investing in would be paying property taxes, because it wouldn't qualify under then-existing Nebraska law for property tax investment. And HUD would only...or the Omaha Housing would only own 1 percent, for example, of that entity. [LB1026]

GEORGE ACHOLA: Omaha Housing Authority would own 1 percent, okay? And when we run the performer, which generally you do run the property tax on there, but now you're talking about a traditional tax credit deal. What complicates these things further is, you've got the HUD piece on top of it, in that... [LB1026]

SENATOR WHITE: But you've built many, many, many units under a system over eight years, nine years, and sold them, but now you'd like to change the tax component that you've built and sold those under. [LB1026]

GEORGE ACHOLA: Well, you know, I guess that's what we're asking for, but I think if you look at the statute and the intent of the Nebraska Housing Agency Act, these are public housing units. What complicates this is just that extra layer, the HUD layer, in that these are not traditional Section 42, your traditional Section 42 tax credit deals. What complicates this, is the fact that you've got this HUD layer on it, which basically requires that these be operated as public housing. And as most of you know, public housing generally serves the poorest of the poor, and you're not going to be getting the type of income that you would get under a strictly Section 42 program, because as Mr. Timm indicated, you have zero, negative renters in some of these properties. Under a traditional Section 42 plan, that would essentially never occur, that you would have anybody paying negative or zero rent under a traditional Section 42, a straight Section 42 tax credit program. What complicates this is that HUD piece of it, where we are required under... [LB1026]

SENATOR WHITE: You've said that. I understand that, but what I don't understand--a couple of things. One is moderate-income family people can occupy these? [LB1026]

GEORGE ACHOLA: No. [LB1026]

SENATOR WHITE: People up to $40,000, $50,000; is that inaccurate? [LB1026]

GEORGE ACHOLA: That is inaccurate, because it... [LB1026]

SENATOR WHITE: What's the maximum income for a family of four, roughly? [LB1026]

GEORGE ACHOLA: For a family of four, I don't have that figure with me, but for a family of...(to someone in the audience) do you recall? I don't have that figure in front of me, but it's based on HUD guidelines. And you know, you talk about the max, okay? And I think...I don't know what the max is, but to be realistic, we're talking Omaha, Nebraska, and based on what I know about what we run, we never, in very few circumstances, get anywhere near to the max, because for some reason, based probably on the demographics of Omaha, we essentially serve the poorest of the poor, and we're not in the same situation as maybe Lincoln is, because as you know, Lincoln has a limited amount of public housing. I don't even know how much public housing Lincoln has. Lincoln is primarily a Section 8 program. We are a public housing agency, so what ends up happening is we essentially end up serving the poorest of the poor, and even...you know, so we...I guess that's how I can answer that. I think for a single individual I want to say...I'm guessing, so don't hold me to this, but for a single individual, using the maximum, and I guess I've got to be honest with you, using the maximum income for a single individual, I want to say it's in the neighborhood of $32,000. [LB1026]

SENATOR WHITE: A single individual can live in one of these and make $32,000 a year? [LB1026]

GEORGE ACHOLA: Can. [LB1026]

SENATOR WHITE: Okay. The other thing, then, I just would like to focus on and make sure everybody is clear here, normal public housing is financed with public dollars, and when the transaction is done, it's owned by the public. That is not at all this animal.

[LB1026]

GEORGE ACHOLA: It is this animal, in the context of, you gave us that ability to do it this way, under the tax credit. At the end of the day,... [LB1026]

SENATOR WHITE: And you took it,... [LB1026]

GEORGE ACHOLA: Let me finish. [LB1026]

SENATOR WHITE: ...knowing you'd have to pay property tax. [LB1026]

GEORGE ACHOLA: Yeah. You gave us the ability to have this animal and to structure these deals this way in the 1999 act. At the end of the day, who ends up owning this is the affiliate, the general partner, who is the affiliate of the housing authority. [LB1026]

SENATOR WHITE: One percent. [LB1026]

GEORGE ACHOLA: No, at the end of the 15-year time frame, they own it wholly. [LB1026]

SENATOR WHITE: And at that point in time, then, it could go back off the tax rolls, because it's owned by public authority. Isn't it being used for a public purpose? [LB1026]

GEORGE ACHOLA: No, it wouldn't, because again, it's still owned at that point by a noncontrolled affiliate. [LB1026]

SENATOR WHITE: So...but well, but you just said that's 1 percent. The public housing authority would own 1 percent. [LB1026]

GEORGE ACHOLA: No, no. Public housing authorities. I'm going to hand you this. [LB1026]

SENATOR WHITE: Just...a page... [LB1026]

SENATOR JANSSEN: No, a page will get it for you. You stay there. [LB1026]

GEORGE ACHOLA: (Exhibit 2) Okay. What I've got here is the ownership structure of a typical Section 42 transaction, and this is what I got from the Nebraska Investment Finance Authority. [LB1026]

SENATOR WHITE: Thank you. [LB1026]

GEORGE ACHOLA: Thank you. Now what has been handed to you is under the Nebraska Investment Finance Authority. This is a traditional ownership structure of a tax credit project. Now I'll take one of our projects. For example, let's take one of the ones Mr. Timm talked about, Crown I and II. Crown I... [LB1026]

SENATOR WHITE: Mr. Achola, you've already answered questions. You don't have a right to continue to testify. [LB1026]

GEORGE ACHOLA: Oh, I'm sorry. I was just trying...okay. [LB1026]

SENATOR WHITE: Let me ask you a question. At the end of this 15-year period, who owns the property? [LB1026]

GEORGE ACHOLA: The general partner. [LB1026]

SENATOR WHITE: And that's across all your properties? [LB1026]

GEORGE ACHOLA: That's correct. [LB1026]

SENATOR WHITE: Okay. So what you could say is, ask us, once the general partner takes full title, no longer has limited partners in it, that at that point ask us to pass a statute taking them off the property tax rolls, because they're now normal public housing, rather than while you're still streaming income to the limited partners. [LB1026]

GEORGE ACHOLA: There is no income going to the limited partners under this deal. [LB1026]

SENATOR WHITE: Okay. Well,... [LB1026]

GEORGE ACHOLA: Only thing, they get the tax credit write-off. There is no traditional income from the properties themselves going to the LP. He gets the tax credit write-off. That's what he gets. He gets...these projects are designed in such a way that they are designed to essentially barely cash flow. They're not designed to be cash-making entities. The way that they're designed, the way that the developer makes their money, they make it up front on a developer fee, up front. That's where, you know,...that's where the money is made. [LB1026]

SENATOR WHITE: So that part of the frosting has been eaten. You'd just like to now change it. [LB1026]

GEORGE ACHOLA: I guess I'm not trying to change anything. I guess I'm just trying to make it more consistent with what we have on the books now. This was just...we just set up an entity that we controlled wholly, and it would still be a wholly owned agency of...a wholly owned affiliate of the housing authority. We would be off the tax rolls. [LB1026]

SENATOR WHITE: But you couldn't do the federal deals with that, could you? [LB1026]

GEORGE ACHOLA: Yeah, we could. [LB1026]

SENATOR WHITE: You could have? [LB1026]

GEORGE ACHOLA: We could have. [LB1026]

SENATOR WHITE: Then why didn't you? [LB1026]

GEORGE ACHOLA: At that time counsel advised us for liability reasons and other deal-structure reasons, that it was probably best to structure these deals in this manner, because when you have a wholly controlled affiliate, that brings other liability issues and you may expose the funds or other assets or resources that your public housing agency may have, because essentially you have an alter ego of the housing authority. Now if you structure a separate noncontrolled affiliate, as you know as being a lawyer, you know you're piercing the corporate veil type of thing, you have a separate entity at this point who owns property, but it is an affiliate of yours. So if there is a lawsuit or there is some other issue that is concerned... [LB1026]

SENATOR WHITE: So you wanted it to private and separate from the public liability, but now you want it to be public? You wanted both. [LB1026]

GEORGE ACHOLA: It is public, in the context there is federal HUD dollars in that property, and those federal HUD dollars mandate that it be operated as public housing. [LB1026]

SENATOR WHITE: Thank you. [LB1026]

SENATOR JANSSEN: Okay. Any other questions? Seeing none, thank you for being here. Anyone else neutral? I don't see anyone else, and I believe Senator Rogert waived closing. That ends the hearing on LB1026. Senator Pedersen is here with a constitutional amendment 230. Senator Pedersen. Senator Pedersen, welcome to the Revenue Committee. [LB1026]

SENATOR PEDERSEN: When you get control of this class, I'll talk. (Laughter) [LR230CA]

SENATOR JANSSEN: I always talk all the time anyway. (Laughter) [LR230CA]

SENATOR PEDERSEN: Thank you, Senator Janssen and members of the Revenue Committee. For the record, I am Senator Dwite Pedersen. I'm here today to introduce to you LR230CA. This is a proposal for a constitutional amendment that would provide that the increased value of any residence actually occupied by a person 65 years of age or older, whose gross household income does not exceed $40,000 that results from appreciation in value for reasons other than improvements beginning with the year the owner becomes 65 years of age, shall be exempt from taxation. The practical effect of the constitutional amendment would be to freeze property taxes at the level they are the year a person becomes 65, unless the increase in valuation is due to improvements on the property. It is limited to persons whose household income again is $40,000 or less. The idea for this legislation has been brought to me by one of my constituents and I found it very interesting. He is here today to testify in favor of the resolution. The intent is to provide property tax relief for citizens over the age of 65 who have limited incomes. Thank you for the opportunity to present the bill. If you have any questions for me, I will try and answer them for you but you'll probably get better answers from my constituent, Jerry Ravnsborg, who will be following me in support of the resolution. [LR230CA]

SENATOR JANSSEN: Thank you, Senator Pedersen. Any questions? By the way, I think you can give some pretty good answers when you have to. [LR230CA]

SENATOR PEDERSEN: I surely can. I am one of these. This would do me some good. [LR230CA]

SENATOR JANSSEN: Are you going to stick around to close, Dwite? [LR230CA]

SENATOR PEDERSEN: I will waive closing. I have another bill in Judiciary that I have to be back on right now. [LR230CA]

SENATOR JANSSEN: Okay. [LR230CA]

SENATOR PEDERSEN: Thank you. I will have my staff here, and what she doesn't pick up, our able-bodied friend, Erma, will bring to us. [LR230CA]

SENATOR JANSSEN: Take proponents first. [LR230CA]

JERRY RAVNSBORG: My name is Jerry Ravnsborg, R-a-v-n-s-b-o-r-g, and I'd like to address the senators today. As Dwite mentioned, Senator Pedersen mentioned, that I had asked him to sponsor a constitutional amendment to exempt 65 years and older folks from taxes because of the fact that their incomes basically become pretty flat. And I did a little research, I went out and googled the internet and found out that Nebraska is very conspicuously absent from that type of 65 and older tax relief. And so, I felt that for us to keep our people in Nebraska, our elderly people in Nebraska, I feel that it's important that they be able to have a relief on increase, not asking for taxes to be forgiven but just basically frozen, and be able to live in Nebraska without getting taxed out of their home. The only suggestion I would make based on the way the bill is written, is it may be at a later date inappropriate to say $40,000 simply because as appreciation or cost of living changes, it may be appropriate to put a cost of living increase in that dollar amount. And I'm not sure that $40,000 is the right answer but that's the way the bill has been proposed and would ask your input as to what your feelings is about the constitutional amendment. [LR230CA]

SENATOR JANSSEN: Any questions of Jerry? Don't see any, Jerry. Oh, wait a minute, I'm sorry. Cap. [LR230CA]

SENATOR DIERKS: Jerry, what happens to the value of the property after you're gone and someone else owns the house? [LR230CA]

JERRY RAVNSBORG: Well, I believe that it's, the way it's written it would be the homeowner of the property. In other words, if you sold your property, then it would start over again depending on the age of the person that purchased their property, I would say. [LR230CA]

SENATOR DIERKS: Okay. Thank you. [LR230CA]

SENATOR JANSSEN: I don't see any other questions, Jerry. Thank you. [LR230CA]

JERRY RAVNSBORG: Thank you, very much. [LR230CA]

SENATOR JANSSEN: Are there any other proponents? Opponents? Anyone in a neutral capacity? Okay. [LR230CA]

LYNN REX: Senator Janssen, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities, and we appear before you today, compassionate and sympathetic to those that are elderly and those that are on fixed income and the concerns that they have. And we would just implore you that even though we understand that this proposed constitutional amendment, especially on page 3, line 21, makes it clear that this is not self-executing but that should the senators decide to place this on the ballot and should it be adopted, we would obviously want to make sure that the Legislature reimburses local governments for the amount of money that's being lost. Because one of the reasons why we're looking at the property tax rates that we have, is over a period of years and certainly from 1975 on there's been such a huge number of exemptions, I am not saying those are not legitimate exemptions, but exemptions that the property tax base is narrowed dramatically. And so this is yet another shift to everybody else but certainly this is a class for which, and for whom I am sure we're all sympathetic. But just to make sure people understand that there is a consequence with that and unless Legislature is prepared to fund monies for local governments. I'd be happy to respond to any questions you might have. [LR230CA]

SENATOR JANSSEN: Any questions? [LR230CA]

LYNN REX: Thank you. [LR230CA]

SENATOR JANSSEN: Thank you. Any other persons in a neutral capacity? Seeing none. Senator Pedersen waived closing. That ends the hearing on LR230CA. Okay, that brings up Senator Kopplin with LB732. Senator Kopplin, welcome to the Revenue Committee. [LR230CA]

SENATOR KOPPLIN: If I can find my notes. [LB732]

SENATOR JANSSEN: That's all right. Take your time. We're not quick. [LB732]

SENATOR KOPPLIN: Okay. Good afternoon, Chairman Janssen, members of the Revenue Committee. My name is Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n. I represent Legislative District 3 which is primarily a residential district. The homes there range across a wide spectrum of the economic scale from high-end mini mansions to brand new starter homes to modest bungalows, from brand new developments to older long established neighborhoods. What the residents of all these different neighborhoods and developments have in common and what they talk about is property taxes. And when they talk about property tax, there is one other thing they share, the belief that their property taxes are too high. For example, low income retirees, the property taxes they pay amounts to 6.97, almost 7 percent of their income. For middle income retirees, it amounts to 5.92, almost 6 percent of their income. We've made some progress in property tax relief last year with LB367 setting aside $105 million last year and $115 million this year for tax relief. The Governor proposes to increase this year's amount to $190 million and while it might have been a start, most homeowners in my district do not tend to view this as a significant or lasting tax relief. For a low income retiree, the amount of relief amounts to about $1 per week. For low income married persons it's less than that. For middle income retirees, the reduction from LB367 amounts to about $2 a week or slightly more for a middle income married couple, not enough to affect their mortgage payments. And even this modest relief could disappear after this year if we don't have enough money in the reserve to fund it. I'm bringing two different proposals to the Revenue Committee which I believe will significantly reduce property taxes for the average residential property owner, relief that on average would be in the neighborhood of $500, which I consider significant. Although I should add that neither of my proposals takes into account valuation increases. Property tax decisions are made on the local level and hopefully, those decisions are based upon local input and information and reflect the local residents desire for services. I think there are really two basic ways to reduce the amount of property tax paid. Either have the tax paid in some other manner, that is find another revenue source, or reduce spending. I have a proposal for each.

First is the bill we're on right now, LB732. It is a tax and spending cut. To accomplish this would require treating residential property in a manner different from other real property. That, of course, would require a vote of the people on a constitutional amendment which will come up later. LB732 is intended to illustrate what I would like to accomplish and why the amendment will be necessary. The intent and wording of LB732 is relatively simple. The bill would exempt from property tax, the first $25,000 of valuation on residential property. You would apply only to residential property because that's where I believe the need for the relief is greatest and the resulting loss of tax revenue would be borne entirely by local political subdivisions, not the state of Nebraska. It is not a tax shift and I'm not proposing that the state make up for the loss of revenue and therefore, it would also be a spending cut. Local taxing districts would have to cut spending in order to operate with a smaller tax base and the loss of property tax revenue. I understand this is drastic. And will, if implemented, certainly lead to a loss of services. But I also believe that needs to be part of the discussion when we talk about property tax relief. Let's have the discussion on the state and certainly on the local level about what services are essential, what services are absolutely necessary, and what services we're willing to live without, if any. I believe property taxes are too high and we need to address the problem. We also need to look at spending and if we decide the services received are worth maintaining, how then do we pay for them. Thank you for your attention and consideration and I could answer your questions, perhaps. [LB732]

SENATOR JANSSEN: Questions? Ron. [LB732]

SENATOR RAIKES: Senator, I notice on the fiscal note it says, this would lead to a...would have led to $158 million increase in TEEOSA aid. [LB732]

SENATOR KOPPLIN: Yes, it says it would have led to that. I'm not so sure it would lead to that. I believe it might because your resources would be less. That would certainly be a shift. [LB732]

SENATOR RAIKES: But, if I heard what you said that we would...you wouldn't necessarily want to make up the lost revenue. There would have to be spending cuts to go along with it. [LB732]

SENATOR KOPPLIN: That is the impact of LB732. It is spending. [LB732]

SENATOR RAIKES: Except that, you wouldn't expect school districts to cut spending by $158 million? [LB732]

SENATOR KOPPLIN: Well, I believe the fiscal note says they would have to do that. I'm not sure I would agree with that but... [LB732]

SENATOR RAIKES: Okay. [LB732]

SENATOR KOPPLIN: And if I would be correct and it would be a loss of resources that would be made up, then this would become a tax shift. [LB732]

SENATOR RAIKES: Okay. Thank you. [LB732]

SENATOR JANSSEN: Any other questions? Don't see any. Thank you. I would imagine you'll stick around because you do have the next couple of bills. [LB732]

SENATOR KOPPLIN: I'll be bouncing back and forth because I've got a big item going in Natural Resources. [LB732]

SENATOR JANSSEN: All right. Are there any proponents? Proponents? Any opponents? Any...oh, you opponent, Larry? [LB732]

LARRY DIX: Opponent. [LB732]

SENATOR JANSSEN: Okay. [LB732]

LARRY DIX: Senator Janssen, members of the committee. For the record my name is Larry Dix, D-i-x, I'm executive director of the Nebraska Association of County Officials. Certainly, LB732 caught our interest and noting the amount of money that would be lost to local levels of government and in this instance, certainly it would not be made up and as you know, counties do not have anything such as TEEOSA and when we talk about drastic measures, I think this would be drastic. It would cause many cuts. There would just absolutely be a loss of services because we've got many counties that are close enough to the levy limit that certainly they could not make it up if they wanted to. The other interesting thing that we heard on this bill, and I understand when we're starting to talk about $25,000 residential property, as we move across the state and we get into some rural communities, in essence $25,000 would, for the most part, pretty well exempt all the residential property in a community. What that in effect would do, is if the counties and the cities and the other local levels of government had the ability to raise additional tax, it certainly would create a shift from residential to agricultural and commercial. That would be the only place, in our belief, we would be able to go to make up that type of a reduction and certainly we would never be able to make up that kind of money just through levying. So it's one of those we certainly appreciate the senator's ideas in trying to help out property tax. We're all in this and know that property taxes are certainly too high but this one is pretty drastic in what it would do to local levels of government. So with that, I'd be happy to answer any questions anybody may have. [LB732]

SENATOR JANSSEN: Questions? I don't see any, Larry. Thank you. [LB732]

LARRY DIX: Thank you. [LB732]

SENATOR JANSSEN: Next opponent? [LB732]

WALT RADCLIFFE: Mr. Chairman, members of the committee, my name is Walter Radcliffe, R-a-d-c-l-i-f-f-e, appearing before you today as a registered lobbyist on behalf of the Nebraska State Home Builders Association in opposition to LB732. Their concern stems more from political subdivisions that aren't up against the levy lid and where the taxes would then shift to. As Mr. Dix said it would be to commercial, ag, industrial. And that is a shift that they would not be supportive of plus the other interest and concern they have is, in areas where there really isn't any property other than residential, for instance, any SIDs this would create some substantial problems in funding for SIDs. So for those reasons primarily, we would oppose LB732. [LB732]

SENATOR JANSSEN: Questions? Don't see any, Walter. [LB732]

WALT RADCLIFFE: Thank you. [LB732]

SENATOR JANSSEN: Next opponent? [LB732]

JACK CHELOHA: Good afternoon, Mr. Chair, members of the Revenue Committee. My name is Jack Cheloha, C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. We wanted to be on record in opposition to LB732 for the reasons that you've heard from previous witnesses. I'll try to answer any questions. [LB732]

SENATOR JANSSEN: Any questions? You're off the hook. [LB732]

JACK CHELOHA: Thank you. [LB732]

SENATOR JANSSEN: Any other opponents? [LB732]

LYNN REX: Senator Janssen, members of the committee, my name is Lynn Rex representing the League of Nebraska Municipalities. Again as sympathetic as we are to the issues brought forward by Senator Kopplin, we do appreciate his efforts to try to address this important problem of property tax relief. We do oppose this measure and we do because of the amount of money that would be shifted to others. The issues facing our municipalities across the state, of the 531 municipalities across the state of Nebraska, at last count over 240 of them were up against the levy limit. They have no place to go. Of those, many of those cannot raise money within that time frame. So in other words, with respect to even the lid on restricted funds, they're up against the levy limit. They're not even allowed to raise the amount that you've already authorized for other municipalities of 2 and a half percent plus one on a super majority vote and most of those are of the smallest of communities. And as Larry Dix noted, that $25,000 in many areas does exempt a lot of residential housing. Those houses are getting fire service, rescue service, police and/or sheriff service but certainly law enforcement on some level, and streets and roads to the extent that there are funds to do that. So we are very sympathetic to the cause but don't believe that this is the way to approach it mainly because there's no funding mechanism to reimburse local governments. With that I'd be happy to respond to any questions. [LB732]

SENATOR JANSSEN: Any questions? Thank you, Lynn. [LB732]

LYNN REX: Thank you. [LB732]

SENATOR JANSSEN: Next opponent? [LB732]

TODD ENGLE: Hi. My name is Todd Engle, E-n-g-l-e. I'm here representing the Eastern Nebraska Development Council which is made up of builders, land developers, SID attorneys, and fiscal agents in Omaha. I work for Keel Capital Corporation which happens to be a fiscal agent or financial advisor for sanitary and improvement districts and I'm appearing in opposition. I'd like to go on record in terms of representing the SID community that this would cause us significant concern that by exempting that first $25,000 of value, you know, we may not be able to service existing indebtedness that exists out there that we'd promised debt holders we'd pay. In order to generate sufficient revenue we'd have to raise, you know, the tax levies on the other property within the district which in effect does two things. It shifts the burden again to the commercial properties and it simply raises the taxes on the nonexempt portion of the properties, of the residential properties within the district. So again while I also believe this is well intentioned, it's probably better taken up within the broader context of property tax relief or overhaul. Entertain any questions. [LB732]

SENATOR JANSSEN: Any questions? Seeing none, thank you, Todd, for being here today. [LB732]

TODD ENGLE: Thank you. [LB732]

SENATOR JANSSEN: Opponent? [LB732]

LARRY RUTH: Larry Ruth, R-u-t-h, representing Nebraska Association of Commercial Property Owners against the bill because of the shift to commercial property. Thank you. [LB732]

SENATOR JANSSEN: Any questions? Thank you, Larry. Are there any other opponents? Anyone in neutral capacity? Seeing none, Senator Kopplin to close. [LB732]

SENATOR KOPPLIN: My mentor, Senator Raikes, has left. (Laughter) He's notorious for having no proponents so I want him to know that I learned my lessons from him well. The testimony you've heard today is not unexpected on my part. With many of them, I agree. But if we cannot or we are unable to in any way talk about spending cuts, then the argument over property tax should be done. If we don't want to cut expenditures we're not going to cut property tax and that's the point I'm trying to make here. After hearing the testimony, I am sure you would think about killing this bill and I suggest that you can kill the bill but you can't kill the idea, and with that I will close on this bill. [LB732]

SENATOR JANSSEN: All right. And while you're in the chair, we will have you open on LB733. The hearing on LB732 is closed. Senator Kopplin to open on LB733. [LB732]

SENATOR KOPPLIN: Okay. My name is Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n, and I represent Legislative District 3. LB733 is a second proposal for tax, property tax relief. It is a tax cut and a shift. This bill provides a homestead exemption on the first $25,000 of valuation on residential property. The owner would have to apply for the exemption for the first year and then it would be granted automatically in subsequent years. The legislation is not intended to modify or replace the current homestead exemption. Since this proposal is a homestead exemption, the loss of property tax revenue on the local level would be replaced by state funds. The state of Nebraska would reimburse the local political subdivisions just as they do now for the current homestead exemption. The fiscal impact on the state would be substantial. The fiscal note estimates a cost of $234 million. Funding to meet the requirements of LB733 needs to come from other tax revenue sources or substantial cuts in state spending. I would propose to you that much time was spent over the summer with the tax study commission and much time was talked, spent talking about the use of the broadening of the sales tax to reduce property taxes. As I mentioned in the opening of LB732, I am serious about property tax relief. I haven't suggested a replacement revenue source in either bill because I think we need to have a broader discussion about the types of services, the level of services, and spending. Property taxes are high. No one denies that. These proposals would provide significant and lasting tax relief and I would answer your questions, if I could. [LB733]

SENATOR JANSSEN: Any questions? Cap. [LB733]

SENATOR DIERKS: Senator Kopplin, I think you said that you didn't have a replacement tax in mind is that... [LB733]

SENATOR KOPPLIN: I didn't propose one. Much time was talked, was spent talking about broadening sales tax. [LB733]

SENATOR DIERKS: So what suggestions do you have for...if you poke the balloon from this side, it's going to come out the other side, we're still going to have to... [LB733]

SENATOR KOPPLIN: One suggestion that I would throw out is that we have been talking this year about $190 million in tax relief and it's basically to all, and I'm suggesting that perhaps there's a need to consider residential only. [LB733]

SENATOR DIERKS: I didn't catch, what was the last... [LB733]

SENATOR KOPPLIN: I'm saying that we have $190 million proposed for this coming year. [LB733]

SENATOR DIERKS: Oh, I see. [LB733]

SENATOR KOPPLIN: And maybe some more after that, we don't know. But there's a possibility that monies exist there. [LB733]

SENATOR DIERKS: Okay. Thank you. [LB733]

SENATOR JANSSEN: Any other questions? Don't see any, Senator. Do we have any proponents for LB733? Any proponents? Seeing none. Any opponents? And no opponents? Anyone in the neutral capacity? One, okay. [LB733]

LYNN REX: Senator Janssen, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. We do appreciate the fact that this particular measure does have the reimbursement component built in for local governments. The numbers scares us of $234 million. We are concerned about whether or not all of that would be replaced. I mean, we trust that is his intent but we are very concerned about that. Many of you were around or knowledgeable of what happened when the Legislature passed LB518 in 1978 and that measure exempted livestock, farm equipment, and business inventory, and the intent then, was to fully reimburse local governments for those tax exemptions. In fact, what happened, is then Governor Exon, decided that amount was too expensive and he put a $70 million cap on it and on day one, local governments in the state of Nebraska lost in revenue $250 million. More than that actually, but that was the rough number that the UNL Business of Bureau Research indicated that was shifted on to residential homeowners essentially and other property taxpayers. Not to say that those exemptions were not important exemptions, but nevertheless, we are very concerned about these kinds of proposals because when you give an exemption of this magnitude, it does obviously translate to some types of issues in the local level. And again, as I reflected earlier, of those 531 municipalities we have over 240 of them right now up against their levy limit of 45 plus 5. They have nowhere to go to make up that difference. I'd be happy to respond to any questions that you might have. [LB733]

SENATOR JANSSEN: Any questions? Seeing none, thank you. [LB733]

LYNN REX: Thank you. [LB733]

SENATOR JANSSEN: Other opponents? Or excuse me, neutral? [LB733]

TODD ENGLE: My name is Todd Engle, E-n-g-l-e. I'm here representing the Eastern Nebraska Development Council. I work for Keel Capital Corporation in Omaha which is a financial advisor for sanitary and improvement districts. I would simply like to echo the same feeling that, our main concern here was that there is no assurance of reimbursement on the lost revenue and that our districts may not have the ability then to repay their existing indebtedness. Any questions? [LB733]

SENATOR JANSSEN: Questions? No, thank you. [LB733]

TODD ENGLE: Thank you. [LB733]

SENATOR JANSSEN: Anyone else in the neutral? Seeing none. Wait for Senator Kopplin to get back and close and possibly open on his next constitutional amendment. We'll stand at ease until Senator Kopplin gets back. Okay, here he comes. Senator Kopplin to close on LB733. [LB733]

SENATOR KOPPLIN: I would close simply by saying that I've tossed out some ideas to you today. I hope that they will raise some discussion in many peoples, not only the people that are responsible for levying the tax but also the people that use the services from those tax. And that would be it. [LB733]

SENATOR JANSSEN: Okay. Any other questions? Stay right where you're at Senator. And that ends the hearing on LB733 and Senator Kopplin is here to open on 220, the constitutional amendment. Senator Kopplin. [LB733]

SENATOR KOPPLIN: All right. I'm Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n. I represent Legislative District 3. This opening will be very brief. What it does is classify residential property as in a class of itself. And the reason that's there, an idea like LB732 could not happen without it being a separate class of property. Any ideas that we, in the future that we may want to discuss or deal with on residential property can only be done so, if it's as a class in itself, so that all residential property is treated equally. And that was the reason for my putting this constitutional amendment. If you have questions, I will answer them. [LR220CA]

SENATOR JANSSEN: Questions? I don't see any. [LR220CA]

SENATOR KOPPLIN: Thank you. [LR220CA]

SENATOR JANSSEN: Do you waive closing? [LR220CA]

SENATOR KOPPLIN: Yes. [LR220CA]

SENATOR JANSSEN: Okay. All right. All right we will take those people in favor of the constitutional amendment number 220. Anyone in favor? I see no one. Those opposed? I see none. Those in a neutral capacity? [LR220CA]

LYNN REX: Senator Janssen, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities and I'd like to just incorporate by reference my testimony on LB732, LB733, and indicate to you that again, we are concerned about what occurs in terms of the impacts of this on local governments, especially for cities that are already up against the levy that don't even have the capacity to raise additional revenue in the event that the Legislature would not reimburse local governments. With that, I'd be happy to respond to any questions that you might have. [LR220CA]

SENATOR JANSSEN: I see no hands up. [LR220CA]

LYNN REX: Thank you. [LR220CA]

SENATOR JANSSEN: Thank you. Anyone else in a neutral capacity? Neutral? Any other neutrals? Going once, twice, seeing none and Senator Kopplin waived closing. That ends the hearing on LR220CA. We'll stand at ease until Senator Wightman arrives. Senator Wightman, that was pretty quick, wasn't it. You bet it was. [LB913]

SENATOR WIGHTMAN: I had a short distance to travel. [LB913]

SENATOR JANSSEN: Senator Wightman is here. Tell us all about LB913. The floor is all yours, Senator. [LB913]

SENATOR WIGHTMAN: Chairman Janssen, member of the Revenue Committee. I'm here to introduce to you LB913 which is kind of an aftermath of LB502 last year. Although I voted for LB502, I wasn't particularly pleased with the result but it's a bill that would revise the inheritance, amend the inheritance tax law particularly 77-2005, of the Nebraska statutes dealing with inheritance tax, and that particular section deals with what we term class two relatives. If you'll remember last year, we amended LB, well the entire inheritance tax section 77, I think there were 2004, 2005 and 2006. 2005, as I say, deals specifically with class two relatives. That generally to refresh anybody's memory or to inform you, if you are not aware, would include uncles, aunts, nieces or nephews and people related as a lineal descendant of those people so it would include most cousins as well. What we did last year was increase the tax rate for persons in that category of beneficiaries from what was 6 percent, I think there was only $2,000, I know there was a $2,000 exemption. We did increase that exemption to $15,000 but we increased the rate from 6 percent for the first $60,000 and 9 percent after the first $60,000 to a flat 13 percent. So we treated them kind of not only as a distant relative, which they maybe are more distant, but as a poor relative as well and if you will remember we did that, that was done to try to make the legislation revenue neutral because the counties were very concerned and I know there's been some discussion of this as being a fund that is not budgeted. I don't want to use the language slush fund but that has been used in...and it is. It's to try to play catch up very often for the county commissioners and the county officials. At any rate, LB913 would amend that to a flat 10 percent and it just seems to me and to my clients out in Lexington, Nebraska, that this is an extremely steep increase in the rate when we're trying to reduce taxes over all. I know it's a fairly small group of people, not that we're not all nephews and nieces, and we are mostly, probably everyone here is a nephew or niece of somebody or an aunt or uncle of somebody and, but generally speaking, those people do not inherit property and so this is an attempt to create some equity. We created tools in last years legislation, LB502, to allow for stronger enforcement. If you will recall, we had a 14 percent interest rate previously in effect from and after one year. We changed that where there's a penalty of 5 percent a month for the first five months and as a result, this would create stronger enforcement. But at any rate, we want to, we would like to see that and there will be some people who will speak who do represent, at least one or two persons, who represent some of these classes that would be included under class two. I'm reminded of an old story that I used to hear on KRVN radio out in our country. KRVN radio is big and they had a western music show and at the end somebody would come up and say, be kind to a cowboy, they're almost human. (Laughter) And I think maybe we treated, we treated nephews and nieces and uncles and aunts as if they were almost human but not quite. So I would appreciate your consideration and urge you to pass LB913 to General File. I'd be glad to answer any questions you may have. [LB913]

SENATOR JANSSEN: Senator Dierks. [LB913]

SENATOR DIERKS: Senator Wightman. You know, when I was a kid, I used to ride a horse a lot and I always wanted to be bowlegged because I thought that was a sign of a cowboy. (Laughter) But later I found out that why I got bowlegged was because my knees were going bad so I put new knees in and now I'm straight legged again but I just wanted to remind you some cowboys grow old gracefully. (Laughter) [LB913]

SENATOR WIGHTMAN: Well, I intended that not to be serious, of course, but it does demonstrate maybe a little bit of what we did last year and how we treated nephews and nieces and we all fall in that category. Unfortunately, we may not all be in the category where we're going to inherit a substantial amount of money. But I do think that it would make a difference as to some people perhaps being able to keep a farm, there are farm families out there where they have no children, they're going to pass on down to a nephew or niece and 13 percent of a farm that might be $300,000 or $400,000 is a substantial tax. Thank you. [LB913]

SENATOR JANSSEN: Any other questions? Don. [LB913]

SENATOR PREISTER: Senator Wightman, I appreciate your bringing this. I had a number of people contact me on just that issue. This would go into effect back to January so it would take effect for the entire year, is that correct? [LB913]

SENATOR WIGHTMAN: Right and that was the effective date, Senator, of LB502 as well, January 1, so in effect it would relate back and that section would never take effect. And we're only changing the one section. We're leaving the class 3 beneficiaries exactly where they were before which is high also, but they are unrelated. I don't think it's going to have the same effect that it does on nephews and nieces where people would normally leave their property if they have no children. [LB913]

SENATOR PREISTER: Thank you. [LB913]

SENATOR WIGHTMAN: Sure. Thank you. [LB913]

SENATOR JANSSEN: Seeing no other questions, thank you, Senator. Are you going to stick around? [LB913]

SENATOR WIGHTMAN: I will for a while. [LB913]

SENATOR JANSSEN: Okay. All right. We'll take proponents. Those in favor of LB913. [LB913]

WADE NUTZMAN: (Exhibit 3) Senator Janssen, Revenue Committee members, I've presented written testimony to the pages so that will be available to you. My name is Wade Nutzman, W-a-d-e N-u-t-z-m-a-n. I'm making comments just for myself. I don't represent any group. I'm from Cass County, near Nehawka, Nebraska, and I wish to speak in favor of LB913. I feel that the Nebraska state inheritance tax imposes taxes unfairly on individuals who leave property to others who are not direct blood descendants. I have personal experience with this. I was raised on a farm in Nebraska. I own farm real estate in Nebraska. My aunt Mildred passed away in 1989. She had never married. She had no children. She decided before her death that she wanted her estate, including farm real estate, to go to her five nieces and nephews. I am one of those nephews. This property has been in the family since 1989. Yes, she could have left the property to her mother or her brothers or her aunt, or sister, my aunt, my other aunt. My aunt Janet lived in California. But she wanted to pass the land to the next generation in the family. Leaving it to her mother or siblings would not do that. And leaving an estate to the same or older generation often complicates the estate planning process for those recipients. We found out about the Nebraska state inheritance tax and its unfair levy after my aunt had died. I know that there are several others who have had this same surprise as well. My wife, Sue, and I have no children. Some in our family could face this same unfair tax when we're gone as well. More and more people in Nebraska and in the United States do not have children. This tax is a form of discrimination against families who choose to pass along their estate to the next generation. It is also very unfair to young heirs who inherit such property. I realize that if this tax were eliminated, other taxes would need to be enacted or raised to replace it. But I feel the Nebraska state inheritance tax should be eliminated or changed. Reducing the tax amount to 10 percent is a step in the right direction. I urge you to vote in favor of LB913. Thank you. [LB913]

SENATOR JANSSEN: Thank you, Mr. Nutzman. Are there any questions? Seeing none, thank you for being here today. [LB913]

WADE NUTZMAN: Thank you. [LB913]

SENATOR JANSSEN: Any other proponents? Those in favor of the bill? Proponents? I don't see any. Any opponents? [LB913]

DENNIS KIMBROUGH: (Exhibit 4) Good afternoon, Senator Janssen, committee members. I'm Dennis Kimbrough, D-e-n-n-i-s K-i-m-b-r-o-u-g-h. I'm here today representing NACO as a board member and I'm a Fillmore County supervisor. Some of the material that you have, that I'm handing out is from Fillmore County and I will relate to that in a little bit. I'm here in opposition to LB913 for several reasons but most directly it appears to us that it's going to be a direct property tax increase. I don't believe that is the intent of the Legislature or this committee. There's been questions of what we do with our inheritance tax. I've got some examples from Fillmore County of just what we did this past year. We have a relatively small inheritance tax fund. It runs approximately $500,000 to $600,000. Last year we took in $363,815. Out of that money we spent $187,000 on general fund expenditures. We spent approximately $35,000 in a legal battle. That, you could say, is a one-time expense but we're getting used to these one-time expenses jumping up every year so it's either that or something else. That leaves us with approximately $141,000 this year. You could say, well, then you have a slush fund. What's happened to us because of budget restraints, we have eliminated our emergency road, bridge fund is zero. We're trying to put that back together by salvaging some of these funds. At one time, I've been on the board six years, when I came on we were spending $350,000 in general fund out of inheritance. We determined we had to stop that because of the budgetary constraints and what we were doing with our emergency fund. So we are trimming it back every year. We're trying to get back in a little better financial position. So you can see, it's not a slush fund. It's a survival fund for us and I feel it is that way for many counties. On the handouts I have, these are figures that my Deputy County Attorney worked up and we took these, as you've heard the $15,000 and $40,000 just at random to give examples. One thing I been made aware of, it's very hard to establish what's in a class two because we don't know whose going to file or how many in the next year. We're dealing with LB502 which has come into law at the first of the year and we could say, we had hoped last year that that was revenue neutral. We do not know that and we won't know until the end of the year. We feel that we are going to have a loss of revenue from that. The examples we have are the $15,000 estate on the first one and you can see prior to January 1, the class one's would be taxed $50, class two's $780, class three's $1290. After January 1, class one, zero, class two, zero, class three is $900. A definite reduction. If LB913 is passed it stays exactly the same at a $15,000 estate. Then move over to a $40,000. We start to see some major changes. Prior to January 1, $300 on a class one, $2280 on a class two and $4875 on a class three. Where we are at today, after January 1, class one's will pay zero. Class two's will pay $3,250 and class three's $3900 on a $40,000 estate. Now my math may not be real good but if I'm a class two heir and I'm offered $40,000 for $3250, I'd love to have that deal every day. I don't think it's excessive and in six years on my county board, I have yet to have one individual tell me that their inheritance tax was too high. These are funds that are generated within our counties, the people are, in rural Nebraska anyway, are very supportive of their counties and really don't mind paying some inheritance tax. If LB913 passes, we're looking at class one's at zero, class two's at $2500, which goes from 13, as you've heard, to 10 percent, class three's stay the same. That's a 23 percent reduction, as you heard, in the class two's. That's tremendous. Our estimated revenue, just to give you an example of what we feel were change, we went back, and it's very hard to find the year for comparison, so we took '05 just randomly. Our class two estates and the heirs in '05 under current law, we would collect $300,000 in inheritance tax. If LB913 passes, we will drop to $230,000. We will lose $70,000 that will go directly on property tax. Now you could say, well, you could shift it to somewhere else. In six years, I haven't learned that there's anywhere else in county government. Property tax is it. We have no county sales tax. We have no income tax. We can't do anything else. I've been asked, are you at the levy lid? No, Fillmore County is not. We're approximately 40 mills. Well, you can go to 50 or whatever the legal limit is. We can but we have people in distress right now with property tax. We have not deemed that advisable, we will not do that. We fight every year to hold within 2 to 3 percent budget increases. We've been able to do that but we've done it by shifting funds, eliminating extras. A year ago we decided we had to cut back so we're going now, we've cut one-third of our gravel budget. That means instead of graveling a mile of road with 150 yards we now do it with 100. We're trying all kinds of things. We're closing some roads. If we have a disaster that would, say we would lose a bridge or two in a flood, we don't have an emergency fund that's going to allow us to build that and replace it. We're going to close some roads until we can build a fund and do that. And I think many counties are in the same situation. We do have some counties in Nebraska who are against the lid. I visited with one individual from a county that is. I said, what are you going to do this year? He said, it depends on what loss we have from LB502 and if LB913 is enacted, their comment is, we will eliminate services or we're going to fire people. They have nowhere to go. And I think we're not on our deathbed but we're getting in critical situation in many counties and I just don't see any way that we can allow the revenue of the counties to keep deteriorating. We'd like to share in property tax reduction. I own farmland. I'd love to have it reduced. In reality, there's no way that can happen. We try and expand our tax base. We're very fortunate to have a new ethanol plant. But it's a slow process, as you well know, that you don't get tax for quite a while on the funding on those and other businesses in like manner but we're growing. We're trying to. It doesn't happen overnight. We will see, as you all know, probably a fairly substantial valuation change this coming year. Does that mean we're going to have a lot of money? Our biggest concern there is that all of the tax entities that have a mill levy authority are going to come in at their maximum and they're not going to say, well, we won't take that, we'll take so many dollars and we won't utilize that. That's not reality. They will come in if they have a quarter mill levy and they'll take it. So we see our taxes drastically jumping even though we're going to have an increase in valuation. As I said before, we feel it's a direct property tax increase and we simply can't support that. Thank you. [LB913]

SENATOR JANSSEN: Any questions? Ron. [LB913]

SENATOR RAIKES: You said that with a valuation increase, I suppose related to farmland prices... [LB913]

DENNIS KIMBROUGH: Yes. Correct. [LB913]

SENATOR RAIKES: ...that there's just going to be a spending increase. [LB913]

DENNIS KIMBROUGH: To some extent. I think that, I don't know what our schools will do. I know that we have NRDs educational service units, we have various entities like that. Fair boards that have a taxing authority, certain percentage of a mill of whatever and in the past, they've exercised their full authority when we've had an increase. If we were paying them $100,000 or taxing for them and they came back and they had authority to get $110,000 they aren't going to come in and ask for $105,000. They're going to have their full authority. [LB913]

SENATOR RAIKES: So to some extent would it be true that if the county is strapped, as you said many are now, they would be less inclined to allow additional spending with additional valuation on the part of some of the subdivisions that they... [LB913]

DENNIS KIMBROUGH: We would love to have that authority. We do not. [LB913]

SENATOR RAIKES: Well, you certainly have the authority for the county itself. [LB913]

DENNIS KIMBROUGH: For the county itself. I think they will be very... [LB913]

SENATOR RAIKES: And then you've got the miscellaneous levies. [LB913]

DENNIS KIMBROUGH: Right. [LB913]

SENATOR RAIKES: And those you have authority over, right? [LB913]

DENNIS KIMBROUGH: Yes, and we have taken proactive on it like our fire districts, etcetera, like that. We have set caps on them already. We will allow them only so much. [LB913]

SENATOR RAIKES: Okay. So those are not entities that increase spending to correspond to valuation. [LB913]

DENNIS KIMBROUGH: Not really. It's the ones that are out of our control that we have problem with. Community colleges, educational service units, NRDs, many of them, rather than a dollar amount in our budget, they come in a mill levy which relates to a dollar. And we're basically a pass through agency. We don't have any say-so with those entities. And the schools, as far as that goes, we have no say-so. The school budget is presented, it goes in. We're not allowed to question that. [LB913]

SENATOR RAIKES: Although they have elected school board that does that. [LB913]

DENNIS KIMBROUGH: That's where it's supposed to happen. [LB913]

SENATOR RAIKES: Okay. One other thing. You said, people complain about property taxes but nobody complains about inheritance tax. [LB913]

DENNIS KIMBROUGH: I have not had one comment about inheritance tax. As you well know, property tax is a discussion everywhere. I've not had anyone ask me to see what we could do to reduce inheritance tax. What I find, Senator, is that with proper planning and well thought-out passing of an estate, the taxes are minimal. [LB913]

SENATOR RAIKES: So would that also apply to state estate tax? Nobody ever complained about that? [LB913]

DENNIS KIMBROUGH: Not to me. [LB913]

SENATOR RAIKES: Okay. Interesting, a year late, but interesting. Thank you. [LB913]

DENNIS KIMBROUGH: I'm sure, I'm sure you hear that but I don't because, you know, a state estate tax we have nothing to say about that. That's a state issue and I'm sure you're contacted about it but on a county level they don't. What we find in the county level, and it's almost discouraging being a county supervisor, we have very little control over what happens. You're almost like a pass through agency. You do your county budget which is basically your roads department and your county offices and that's it. And our responsibility to our county offices is really to fund their budgets when they're presented to us. Not to really scrutinize them. We're very fortunate that they, the county offices allow us to sit down and we do go through their budgets and we do ask them to make reductions and they do. But the law says, that we are to proceed...our job is to provide the funds to operate them, the way it's stated in statute as far as I've been aware of. I don't think I could go to my county clerk and say, you know, I want to see you cut 20 percent out of your budget. She would say, I can't do that and here are the figures to justify it, and I think that would stand from what I'm being told. Now if we have different powers than that, I'd love to know that. [LB913]

SENATOR RAIKES: Okay. We'll see what we can find out for you. [LB913]

DENNIS KIMBROUGH: Okay. [LB913]

SENATOR RAIKES: Thanks. [LB913]

SENATOR JANSSEN: Any other questions? Seeing none, thank you very much. [LB913]

DENNIS KIMBROUGH: Thank you. [LB913]

SENATOR JANSSEN: Any other opponents? Any opponents? [LB913]

MIKE BOYLE: Mr. Chairman, members of the Revenue Committee. My name is Mike Boyle, B-o-y-l-e, and I'm a member of the Douglas County Board of Commissioners and here to testify on behalf of that board. I also am an attorney in good standing, the last time I checked in Nebraska, and I wanted to give a couple of perspectives on this tax. About 18 months ago I had an estate that was for a woman who was 98 years old. She was a school teacher. Her husband had done quite a good job with investing. And her niece brought the estate to me to be probated. There were 38 heirs, 8 of them lived in Nebraska, the other 30 lived in the United States, except for one who lived in Europe. When I went about contacting the heirs to verify who they were, where they were, and do all that sort of thing, I had several of the heirs call me who asked me confidentially, they wanted to know, who is it that died. And when I told them, more than two, I think it was three or four, did not know the decedent. They didn't have a clue who it was that was leaving them money. And I didn't say anything, I just explained who it was, and made sure, tried to make sure that these people truly were heirs but they had no idea who this woman was. So, and they were grandnieces, and so forth, and I know that's not covered by this legislation. But I think it demonstrates what really happens in these kinds of situations. I do some probate. I don't do a lot of it but I do enough that I have some flavor for it and I have to say too, that not one person complained to me, even the Nebraskans, no one complained to me about the tax they had to pay. It is...the way they viewed it, is that this is someone else's money that they were taxed when they earned it. They were probably taxed some other way during their lifetime on interest and dividends, and then it comes to them as a windfall as an unearned benefit of being related to this person who in some cases, they didn't even know. So that really is in a nutshell what happens sometimes and I think if you talk to other lawyers who are doing probate, I think you'll find that to be true. There really are no people, as my friend Dennis said, I don't have any people even in the practice of the law who complain about paying the taxes. From the point of view as a Douglas County Commissioner, we are...we actually lowered our mill levy this year because the assessor, if you hadn't read about it, raised quite a few of the assessments on the valuations in Douglas County. We had about 11,000 protests so I can guarantee there were some people who didn't like the assessments. But, so we have some room to move on our...we're not at the limit like so many of our colleagues and friends in rural Nebraska are. I'm on the board of NACO too and I hear these stories when I talk to my friends about what's happening in other parts of the state. We're not in that trouble in Douglas County and I don't want you to...I think you know that, we're not in that, we don't have that difficulty. And a great deal of reluctance to raise taxes though at the same time because we too get complaints about the level of property being taxed. We usually get, we budget about $7.5 million a year off this tax and it's hard to extrapolate exactly what this means in lost revenue because we have about 900 to 950 cases a year and we would have to go into each file and look to see who falls into the categories. So I guess the safest thing to say is, that we would extrapolate the figures that are presented by NACO and others to try to arrive at a figure and I suppose it would be somewhere a loss of revenue to Douglas County around $900,000, some place in that ballpark. I wouldn't want to be held to it exactly but something close to that. And we don't use, we don't have a slush fund in Douglas County and I don't know of any other county and I know that it's probably viewed as that because it is money that comes in and we can't really predict it, and so it's kind of looked that way. But this money is used to pay our sheriff's deputies, it's used to buy them cruisers, it's used to remove snow of the, in the nonurban areas of Douglas County. It is put into our general fund and used that way. And in a nutshell this, any change to this, we were holding our breath when it happened last year but any further change that would cause us any loss of revenue, when you push that button in to put this into place, two more pop out, and they say, property taxes on them. So it really is a shift. So I would ask you, you know, not to vote this bill out of committee. That it is something that would be detrimental to all of the counties of the state and frankly, primarily, to our rural friends. That's who it really kills, it really hurts. So with that, I'll try to answer any questions you might have. [LB913]

SENATOR JANSSEN: Any questions? Ron. [LB913]

SENATOR RAIKES: Mike, so you never hear anybody talk about death taxes? [LB913]

MIKE BOYLE: Oh, I do, and usually it's...I do hear that but it's, to be very candid, it's usually my friends in the Republican party giving me a hard time. (Laughter) [LB913]

SENATOR RAIKES: That's where all that's coming from. (Laughter) [LB913]

MIKE BOYLE: That's where it's coming from. (Laughter) And some times they're on the County Board for that matter but this was a unanimous vote to oppose this legislation. [LB913]

SENATOR RAIKES: Well, if the 98 year old lady had been enlightened, she could have said, well, you know, rather than giving this money to these unappreciative heirs, I'm just going to give it all to the county government so they can use it on a nonbudgeted basis to do whatever they may please. And she could have done that, right? [LB913]

MIKE BOYLE: She could have but it is budgeted money. We budget $7500 as an estimate just like people do with sales tax and the state does with, you know, income tax. [LB913]

SENATOR RAIKES: So if not enough people die, the sheriff's deputy doesn't get paid? [LB913]

MIKE BOYLE: They will get paid but something else would get cut. Something would be cut. It's as I said at the outset, we're not that, we're not in that kind of tight budget constraints in Douglas County. We would...we set a budget that's realistic but we do have some room to move, so we're not in the kind of crisis that the other counties are. [LB913]

SENATOR RAIKES: How much does the receipt from that fluctuate year to year? [LB913]

MIKE BOYLE: Not a lot. I think it's probably been in the $5.5 million to $6 million range. A couple of years ago when Mrs. Buffett died, it was about a $9.5 million item. But the state also, I believe, did well on that, I'm not sure, but the county did. But probably the high was when Mrs. Buffett died and, but usually it's around $7 million now, $7.5 million. [LB913]

SENATOR RAIKES: Okay. Thank you. [LB913]

MIKE BOYLE: Thank you, Senator. [LB913]

SENATOR JANSSEN: Any other questions? I don't see any. [LB913]

MIKE BOYLE: Thank you very much. [LB913]

SENATOR JANSSEN: Thank you, Mike. Larry. [LB913]

LARRY DIX: (Exhibits 5 and 6) Senator Janssen, members of the committee. My name is Larry Dix, I'm executive director of the Nebraska Association of County Officials and I would like to enter into the record on behalf of Lancaster County a letter in opposition to the bill. And then I have this other handout, I might as well have you take right now and explain. It's actually the fiscal note and yesterday when I first jumped on line and looked at the fiscal note that was presented, I noticed there was an error in that and so what I asked the fiscal department is to look at that and revise that and you'll notice they just printed it today. They thought the hearing, I guess, was tomorrow and when I walked down just to ask because I noticed it wasn't up on line, you'll notice it has a Revision: 01 in the upper righthand corner and so my belief is, that's up on line now. But I just wanted to make note of that. Not that we're going to spend a lot of time on it. I just wanted to make sure it was an accurate representation of the information that we had. When I first...earlier this year I talked to Senator Wightman about this and Senator Wightman and I have had numerous conversations about this as we did last year on LB502. And certainly last year we believed we negotiated in good faith to try to keep that as revenue neutral as we possibly could, given the information that we had. Certainly this year, as you know, that took effect January 1 so to be able to obtain information to try to compare that on the current law makes it very, very difficult. So the information that you see in front of you is based primarily on information that we had collected from those eight counties a year ago and that's where we in doing so in the reduction amount, we came up with the 23 percent. When we looked at that statewide we realized in those nine counties, in those nine test counties, that we constantly talk about, we know that about 48 percent of the revenue probably comes in that class two area. That's just sort of the numbers out of those nine counties and keep in mine, when we were talking before about Douglas County and the revenue stream that's there, I would tell you that Douglas County with the number of cases and the population they have, there is a fairly level revenue stream. We have many counties that from year to year...some counties that there will not be any. Some counties, some times it will spike. And so it depends, certainly, from county to county. But overall across the state of Nebraska, that we know that the value of estates has been increasing over the years. That's pretty indicative of property values and everything else. But the amount of inheritance tax over the past four or five years, actually you could probably go back further than that, but it has been very flat. It's been very, very flat. And so we understand that people...there are ways to avoid this tax. We know that. There are many, many people that are stepping up and making that determination so that is happening because that amount across the state is very, very flat. When we...earlier, I believe, I can't remember if Senator Raikes if you had asked the question about the county board, their authority over an elected office. Certainly, the elected office submits a budget to the county board but in statute there's provisions that the county board cannot budget an elected official out of office. So, I think when Mr. Kimbrough was talking about their authority, certainly they work with those counties, they work with staff reductions, they work with cost reductions but they really are unable to go to the assessor's office and say, we're in essence going to cut your budget by 50 percent because that official could come back and say, if you would do so, that is budgeting me out of office and there are provisions in statute that would preclude that. So the thing that we find year after year, we talk about this year after year, and you folks know you've seen me up here year after year, it's a fundamental formula. It's really revenue. It's tax asking and it's valuation in the county. And county after county are using this money to decrease the levy. They're holding the levy in line with this money. We have a number of instances of that. What happens over the course of a lifetime of someone, if your levy is reduced through inheritance tax, you really have a tax gain, so to speak, over a number of years because of the reduced levy. You get that year after year after year. And so it's one of those that we know we go through the process year after year. We talk about it. We just...like we did last year, we tried to make that tax neutral as close as we could. Surprisingly, when I talked to Senator Wightman and I had the little note in here last year, I remember the day out in the Rotunda there was an agreement which I thought the agreement was made that it was tax neutral. And Senator Wightman was there, Senator Janssen was there, Senator White was there, Senator Mines was there. We stood around in a group and we said, to the best of our ability we believe this is tax neutral and when we do that we're going to make the effective date January 1, 2008. We full well understand that we're not going to really know the implications of that until we've had some of these estates settled over a period of time. And that to the best of my ability was negotiation compromised in good faith, and so with that we would ask that you do not advance LB913. [LB913]

SENATOR JANSSEN: Any questions? Seeing none, Larry. Thank you. [LB913]

LARRY DIX: Thank you. [LB913]

SENATOR JANSSEN: Any other opponents? Anyone in a neutral capacity? [LB913]

MICHAEL KELSEY: Good afternoon, Senator Janssen and members of the committee. My name is Michael Kelsey, M-i-c-h-a-e-l K-e-l-s-e-y. I'm the executive vice president of the Nebraska Cattlemen and here in a neutral position on LB913. I would ask your indulgence, as Senator Wightman said, be kind to the cowboy, we're almost human. (Laughter) First of all, let me begin by saying we sincerely appreciate Senator Wightman's commitment in what he is trying to do in this issue. Last year, Nebraska Cattlemen was a strong proponent of the elimination of the state estate tax. In fact, we prioritized that issue for the legislative session in 2007. I'm not sure about Fillmore County but I know quite a few producers in that area who are strongly opposed to the state estate tax. We sincerely believed then and still do today that the state estate tax is a barrier for the ability of beef producers to pass along their business to their heirs. The reason I mentioned that to you is, is fundamentally we view the state inheritance tax in the same light. Our belief and thus our policy is related to the need to ease the burden of business transfer from generation to generation. We have a very strong policy that supports the promotion of young and new families into farming and ranching. Thus, any obstacles to that, young and new farmers and ranchers, must be carefully considered and, in our opinion, almost without exception, opposed. However, our policy also opposes the full repeal of the state inheritance tax. Now you may say, now why would you say that Michael, when you just presented a pretty strong case for, at least from our perspective, in eliminating those types of things? No tax discussion within a group of cattlemen will not be held without the majority of the discussion being spent, no pun intended, on property tax. Second, and soon to follow after the death tax. As has been presented to you today, there is a threat of an increase in property taxes as result of LB913 and we can debate the probability of that action as well as the amount and terms of the effect and we can also discuss the need for fiscal restraint and responsibility. Both are very worthy topics and discussion or, and debate is healthy in that sense. However, in the environment that we are now currently in, we are forced to believe that property taxes will rise if counties lose or even lessen the inheritance tax revenue. Thus, we stand in a neutral position. We're very much in favor in one situation. Very much opposed on the other side and so that equation causes us to come to you in a neutral position. We're not necessarily encouraging that you advance the bill. We're not necessarily encouraging that you kill it either. This is something that needs to be discussed and we would appreciate being involved in that discussion. Senator Wightman has been very forthright with us, as have the counties, and so we appreciate the relationship that we have with both entities and both sides of this issue if you will. Senator Janssen, I'll end my testimony and answer any questions if need be. [LB913]

SENATOR JANSSEN: Well, you're a true neutral, neutral. [LB913]

MICHAEL KELSEY: I'm neutral, neutral. (Laughter) [LB913]

SENATOR JANSSEN: Are there any questions? Seeing none, thank you. [LB913]

MICHAEL KELSEY: Thank you. [LB913]

SENATOR JANSSEN: Anyone else in the neutral position? If not, Senator Wightman to close. [LB913]

SENATOR WIGHTMAN: Chairman Janssen, members of the committee, I'll not take long. I appreciate your attention to the introduction of the bill and to the witnesses. I feel a little like the Lone Ranger because I certainly have had people complain to me about the inheritance tax and I have a situation right now that we're handling that does involve a nephew and a niece inheriting property. I guess, fortunately, their aunt died before the end of the 2007 year so they will be under the lower rate but their jaws dropped substantially when I told them how much it would have been. Dropped when I told them there would be any tax at all and the amount of that tax which was at the 6 and 9 percent rate and told them that it would be under 13 percent had she lived until after the first of the year. So I can assure you, there are people and I suspect many attorneys that are handling small estates or large estates would be able to tell you the same story. I would just in a few seconds remind you that only eight states continue to have a state inheritance tax. Only four states, including Nebraska, tax at a greater than a rate of 10 percent so we're talking really a very few. We're in the upper echelon. So when we're talking about high tax states in this area, we're certainly a high tax state. With that I urge you to advance LB913. Thank you. [LB913]

SENATOR JANSSEN: Thank you, John. That ends the hearing on LB913 and the hearings for the day. Thank you for all attending. Do we have a motion to go into Exec? Moved and seconded we're in Exec. Please clear the room. [LB913]

Disposition of Bills:

LB732 - Indefinitely postponed.
LB733 - Indefinitely postponed.
LB913 - Indefinitely postponed.
LB1026 - Indefinitely postponed.
LR220CA - Indefinitely postponed.
LR230CA - Indefinitely postponed.

Chairperson

Committee Clerk