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Revenue Committee
March 26, 2009

[LB418 LB469 LB521]

The Committee on Revenue met at 1:30 p.m. on Thursday, March 26, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB521, LB418, and LB469. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Mike Friend; Galen Hadley; LeRoy Loudon; and Dennis Utter. Senators absent: Tom White.

SENATOR CORNETT: Good afternoon and welcome to Revenue. I'm Senator Abbie Cornett from Bellevue. To my left, Senator Cap Dierks from Ewing will be joining us, as will Senator Greg Adams from York. Senator Hadley is here today from Kearney. Legal counsel is Shannon Anderson, and committee clerk is Erma James. On my far right is Senator Utter from Hastings; Senator LeRoy Loudon from Ellsworth; and Senator White will be joining us; Senator Friend from Omaha; and to my right is Bill Lock, the committee research analyst. Our pages are Rebecca Armstrong and Elsie Cook. Before we begin the hearings today, I would ask everyone to please turn off their cell phones or turn them to vibrate. Sign-in sheets are by both back doors for testifiers wishing to testify. If you are testifying on more than one bill, you need to fill out a form for each sheet...or each bill. Please print and complete the form prior to coming up. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clipboards in the back of the room if you wish to sign in but do not wish to testify but to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door today. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state your full name and spell it for the record. If you have handouts, please bring ten copies for the committee and staff. If you only have the original, we will make copies for you. Please hand the handouts to the pages to circulate to the committee. With that, we will open today's hearing. Senator Pankonin, you are recognized to open on LB521. []

SENATOR PANKONIN: (Exhibit 1) Good afternoon, Senator Cornett and members of the Revenue Committee on your last day of hearings this session. I'm Dave, D-a-v-e, Pankonin, P-a-n-k-o-n-in, and I represent the 2nd Legislative District. I'm here to introduce LB521, and school superintendents and ESU representatives will follow to answer questions about this bill. LB521 would allow the learning community to levy up to one-fourth of 1 cent for General Fund purposes. Current statutes allow funds to be redirected from the core services funds of ESU 3 and ESU 19 to fund, in part, the administration and operation of the learning community. The redirection of core services funds has potentially negative impacts for school districts within the learning community, as well as for several schools that are served by ESU 3 but are not part of the learning community. I represent several of those schools in my legislative district. The loss of core services funding to ESU 3 and ESU 19 could undermine the current efforts to

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expand their capacities as partners with the learning community, as well as to serve their respective school districts. Although the learning community needs some form of funding, it is unclear at this time whether or not it will need the full amount provided by the current statute. Because the working relationships between the school districts, ESUs, and the learning community are still being defined, I believe we can rely on the capacities already developed in both of the affected ESUs to help support the learning community. However, under the current fiscal arrangement, it may be difficult to build a sustainable working relationship between and among the players. AM606, which the pages have distributed, would make a technical change to LB521. AM606 would have the ESUs retain 90 percent of the enrollment for the calculation of core services funding. I hope to encourage ESU 3, ESU 19, and the learning community to efficiently and effectively use the core services funds as well as the proposed levy authority. Allowing the learning community limited access to the property tax base for General Fund purposes would provide a more appropriate source of funds for learning community purposes. Hopefully, the change proposed by LB521 will become a part of the ongoing conversations to adjust and modify the statutes surrounding the learning community. Thank you. [LB521]

SENATOR CORNETT: Thank you, Senator Pankonin. Questions from the committee? Seeing none, will you remain for closing? [LB521]

SENATOR PANKONIN: Yes, I'll stick around. [LB521]

SENATOR CORNETT: With that, we'll be taking testimony from the first proponent. [LB521]

VIRGINIA MOON: Good afternoon. I'm Virginia Moon, that's M-o-o-n, from Ralston Public Schools and I'm here to testify in support of LB521. I'm here to do that on behalf of 17 of the ESU 3 schools and NCSA. For the sake of the committee's time and the consideration that we are not going to have all 17 of those superintendents testify for you and so I'm one of their representatives and Steve Baker from Elkhorn Public Schools will also be here. We'll try to make our remarks concise for your benefit. The transfer of the ESU core funds will impact the ability of all the school districts in ESU 3 to continue services, programs, and staffing. At this time, NDE is estimating that the change of the transfer will be about \$900,000 from the ESU 3 to the learning LCCC, starting September 1 of this year. The core services funds were designated by the Legislature to provide four specific functions for Nebraska schools: one, staff development and in-service training; two, instructional materials for the classroom; three, instructional technology for classrooms; and four, infrastructure technology, the Internet, wide-area network systems. With half of the core services funds now going to the learning community, each of the 18 school districts in ESU 3 will have to cut existing services in this area, cut services in noncore service programs, or try to find other dollars from the General Fund to continue the activities on which we're spending the

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\$900,000. This effort to reacquire funds is not a negative reflection on the learning community. It simply is asking that the learning community have a different kind of funding structure and that the core services be left with the ESU to provide the services they were intended to do. We didn't have a chance last year to testify on how we felt about this transfer because the transfer came as a late amendment to the learning community bill. Instead of a negative reflection on the learning community, this is an effort to say that the core services funds have their mission in statute from ESU 3's and for the school districts, and that the learning community has also a similar but different mission and that they should be funded in a separate and different way. The bill allows the LCCC to acquire the funds that they need to run governance and programs for their mission while allowing ESU 3 and ESU 19 and their schools to continue with the efforts that we now provide through the core services funding. For those reasons, we urge you to support LB521. And I would answer questions if you have them. [LB521]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB521]

VIRGINIA MOON: Thank you. [LB521]

SENATOR CORNETT: Next proponent. [LB521]

STEPHEN BAKER: (Exhibits 2, 3) Good afternoon, Senator Cornett, committee members. My name is Steve Baker and I am the superintendent of schools for the Elkhorn Public School District. I'm careful using that term because actually it's not official for 24 more hours, but Dr. Breed is testifying as the commissioner so I can testify as a superintendent. I'd like to follow up on the testimony of Dr. Moon and present the committee with two documents. This bill and related testimony is not about the ESUs but instead it's about specific school districts that are served in a cooperative and efficient manner, especially by ESU 3. The first document is a list of general items consisting of services, programs and staffing that our ESU 3 schools have identified as probable cuts based on the reduced core services...core service funds ESU 3 will receive starting in September. Each of the services and programs will impact students and staff in a negative manner. Obviously, we don't want this to happen and, as professional educators, we don't believe the Legislature wants this to happen either. While we have an understanding of the Legislature's newly created learning community, the school districts in the learning community in the ESU 3 schools from Cass and Washington Counties have no guarantee that these funds will be used in similar manners as they are today or as efficiently as they are currently being used. Our concern is that the new programs on the part of the learning community coordinating council will take away from existing programs and put our schools in competition for the same limited dollars. This is not good for either one of us. LB521 allows for the best of both situations for the learning community and ESU 3 schools, with both sides being able to maintain what we have today, while adding to what is needed in the learning

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community. The second document I have handed out is a list of our 17 school districts that support LB521 and the reacquiring of the core service funds which have always been used in a manner supported by our school districts, as all core service funds must be approved by two-thirds of our school districts that represent 50 percent of the students. This approval process is by statute and has worked well for us to cooperate among school districts. Let me close by sharing with you that the services that the Elkhorn Public School District utilizes through these core service dollars and the services that all the ESU schools receive are not frill services. They truly are core services. If the funding is taken away from the...and the need remains, as individual school districts we need to purchase these services in a less-efficient manner and, in our situation, we will have to make cuts elsewhere in order to fund these critical services. For these reasons, I urge your support of LB521 and I thank you for your time. [LB521]

SENATOR CORNETT: Questions from the committee? Senator Dierks. [LB521]

SENATOR DIERKS: Yes, thank you, Senator Cornett. Steve,... [LB521]

STEPHEN BAKER: Yes, sir. [LB521]

SENATOR DIERKS: ...give me a primer on what core services are. [LB521]

STEPHEN BAKER: Core services would be services, if I could give an example, technology. We're able to do a lot of things through ESU in a cooperative manner, which is more efficient, whether it's providing technical support to run our Internet in our facilities. In Millard's case, and I believe there's a letter, they use core service dollars actually to hire technical support staff; that those dollars would go away but the need for that staff remains and you would need to then come up with different funding for that. [LB521]

SENATOR DIERKS: Okay. Thank you. [LB521]

SENATOR CORNETT: Senator Hadley. [LB521]

SENATOR HADLEY: Steve, thank you so much for being here. [LB521]

STEPHEN BAKER: Sure, ask the rookie the questions, right? (Laugh) [LB521]

SENATOR HADLEY: It always scares me when 18 school districts agree on something. I mean that... [LB521]

STEPHEN BAKER: It is frightening, isn't it? [LB521]

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SENATOR HADLEY: I mean that is kind of unique. What would...let's see, it would allow the learning community coordinating council to levy up to a quarter cent. What happens if the coordinating council decides not to? [LB521]

STEPHEN BAKER: Then they wouldn't have those funds. I've been to every learning community coordinating council meeting and, although they are doing an excellent job and starting from nowhere and creating something, you know, they have no plan that I have ever heard articulated for what they would do with these funds. Our concern would be there is no guarantee those funds would come back to provide the services that you're seeing there and plus you have many school districts in ESU 3 that aren't part of the learning community. You know, they're kind of left out to dry with this, so. [LB521]

SENATOR CORNETT: Senator Adams. [LB521]

SENATOR ADAMS: Why are they left out to dry? [LB521]

STEPHEN BAKER: Well, the main dollars that are being put into ESU 3 are going to come from the larger districts. There's where your efficiency is going to come. You now have your smaller school districts with fewer dollars in there, fewer dollars to purchase these services in a more efficient way, but yet they still have the need, Senator. If I did not answer it properly... [LB521]

SENATOR ADAMS: No. No, it's not a matter of proper. [LB521]

STEPHEN BAKER: Okay. [LB521]

SENATOR ADAMS: I'm just thinking through your statement. I don't have another question right now. [LB521]

STEPHEN BAKER: Okay. Yeah. [LB521]

SENATOR CORNETT: Senator Louden. [LB521]

SENATOR LOUDEN: Thank you, Senator Cornett. Well, right now your service units get, what, a cent and a half levy? [LB521]

STEPHEN BAKER: I believe that is correct. [LB521]

SENATOR LOUDEN: And this bill, you want to raise it another quarter of a cent. [LB521]

STEPHEN BAKER: The ESUs would not raise the quarter cent. The quarter cent would be...the discretion would be given to the LCCC. [LB521]

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SENATOR LOUDEN: Okay. But it would still be another quarter of a cent. Because I mean this is the part of the statutes where you're working at is where the ESUs get their levy, so I presume you'd have another quarter of a cent of property tax levied. [LB521]

STEPHEN BAKER: Senator, yes, if you elected to go that direction. Our main concern would be that the core service dollars remain with the educational service units, not be given to the LCCC. If you decide that it is critical they have those additional funds then that was the provision in there to provide those funds. [LB521]

SENATOR LOUDEN: Okay. Thank you. [LB521]

SENATOR CORNETT: Senator Adams. [LB521]

SENATOR ADAMS: I apologize for not getting here quickly enough to hear the opening comments, so maybe you've already answered this question in your initial statement. To your understanding, why did the Legislature do this in the first place? [LB521]

STEPHEN BAKER: I don't know. [LB521]

SENATOR ADAMS: It was to bring ESU 3 into the fold of providing services to the learning community. And my understanding of it was, by giving the learning community coordinating council these dollars, the hope was that ESU 3 would say, we'll be the ones to provide the services for the learning community. And the learning community would, therefore, have those monies to turn back around and purchase those services. [LB521]

STEPHEN BAKER: Okay. [LB521]

SENATOR ADAMS: So are you saying at this point ESU 3 isn't interested in providing those services? [LB521]

STEPHEN BAKER: I...it would be inappropriate for me to speak for ESU 3. I know that if that's a question that needs to be answered, Dr. Kettelhut is here and could do that. But... [LB521]

SENATOR ADAMS: Is he? Oh, I'm sorry, I didn't see him. [LB521]

STEPHEN BAKER: Yeah. [LB521]

SENATOR ADAMS: I'll ask that question. [LB521]

STEPHEN BAKER: But, Senator, my fear for our school district is there is no assurance

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that the LCCC is going to do what you just described. And what I do know for sure is we still have the need for those services and if those services aren't provided through these core dollars, whether it comes from ESU 3 or LCCC, then I have a problem in our school district, as do all the other school districts. Because like I...I can't emphasize enough, these are not frill services. These are core services that we need to have. [LB521]

SENATOR ADAMS: Okay. Thank you. [LB521]

SENATOR CORNETT: Seeing no further questions, thank you. [LB521]

STEPHEN BAKER: Thank you. [LB521]

SENATOR CORNETT: Next proponent. [LB521]

GIL KETTELHUT: I need to fill out those forms and I'll do that just in a second. Maybe in retrospect, maybe I should have gone first. Gil Kettelhut, G-i-l K-e-t-t-e-l-h-u-t, chief administrator of ESU 3. And really, we had the schools testify because this is really about the schools, it's not about ESU 3, because whatever happens with these funds are going to directly impact the schools. But, Senator Adams, if it's okay, I'd like to answer your questions that Mr. Baker just referred to. In terms of the funding, I know it happened late in the session last year and we're estimating that there's about \$900,000 that we use specifically for our 18 school districts that will now be in the hands of the learning community coordinating council. Now in terms of the council this year, ESU 3 has done absolutely everything the learning community coordinating council has asked us to do. We have hosted every meeting of the council at our facility for no charge, except for one meeting that was a special meeting that was called, and our facility was completely booked, dealing with statewide writing, and that meeting went over then to UNO. We've held the subdistrict meetings that have wished to be held at our place. We've put on our Web site all the agendas, the minutes, everything that the learning community coordinating council has asked us to do. We have a proposal into the council that says if they wish to use our space, our facilities, our financial systems and so forth, we have a proposal in to them that would roughly cost them around \$13,000 a year. So right now, that's all we've been asked for. So we're in a situation where potentially there's \$900,000 leaving the service unit that we use for the schools and we have the potential of making up \$13,000 of that money. Now in terms of specific services for the learning community coordinating council, they haven't asked us. They are still debating issues, such as where are they going to meet, who's going to be their chief executive officers. They're just not at that point yet. So for us to have any kind of guarantees or assurances that we're going to be able to assist them, we don't know what...we don't know what those requests are right now. I don't know if that answers the question but we're kind of in that state also, trying to figure out how is this going to play out as we go further down the road. [LB521]

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SENATOR CORNETT: Questions from the committee? [LB521]

SENATOR ADAMS: Yeah. [LB521]

SENATOR CORNETT: Senator Adams. [LB521]

SENATOR ADAMS: Gil, let me reverse that. Outside of offering building space, what's ESU 3 offered to the learning community in terms of services? [LB521]

GIL KETTELHUT: Well, we've offered them the infrastructure they're going to need in terms of payroll, accounting, vendors, Internet services, you know, computer services. In terms of specific services for students, we haven't offered anything yet because they've not requested and they're just not there yet. They're not there. Like I said, they just got done electing their officers. [LB521]

SENATOR ADAMS: Do you envision that happening? [LB521]

GIL KETTELHUT: I don't know. And the reason I say that is that I think that the immediate effort for the learning community coordinating council is going to deal specifically with the elementary learning centers. [LB521]

SENATOR ADAMS: Uh-huh. [LB521]

GIL KETTELHUT: And I think that those initial elementary learning centers will not be inside the territory of ESU 3 today. I think those centers will probably initially end up in ESU 19, because that's where the poverty students are that meet the requirement to establish an elementary learning center. So I don't know what the requests are going to be. I wish I could give you an answer, but I don't have one. [LB521]

SENATOR ADAMS: If there is an ESU 19. [LB521]

GIL KETTELHUT: If there is an ESU 19. Well, there is today. [LB521]

SENATOR ADAMS: I understand that. [LB521]

GIL KETTELHUT: Yes. Yes. Yeah. And ESU 19, you know, even with the statute changes that were made last year, ESU 19 still exists. It's just that in the year 2013 they lose, I think, their property tax authority. [LB521]

SENATOR ADAMS: Uh-huh. [LB521]

GIL KETTELHUT: Uh-huh. So we're open, we're willing, we're ready, but I don't think

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they're ready for us at this point. [LB521]

SENATOR ADAMS: So that, your point being then, you don't think, because the learning community council is not yet ready for you to contract to do services,... [LB521]

GIL KETTELHUT: Uh-huh. [LB521]

SENATOR ADAMS: ...in effect, give us some of these core service dollars back. [LB521]

GIL KETTELHUT: Well, at this point, because there's not even a guarantee that they want to accept our services, ask for our services. Right now, when you take a look at their budget and they have put a budget together for both this year and for next year, they have on the income side what I estimate to be about the \$1.4 million they'll receive. I think they're going to receive about \$900,000 from us and about \$500,000 from ESU 19, so that would be a total of about \$1.4 million. And on the expenditure side there's been nothing about any specific student services at this point. I do think, though, they're going to need those dollars or they're going to need dollars somewhere to get these elementary learning centers up and running. And then the question comes, is that, if that's where the dollars go, then what happens to the other 18 school districts inside ESU 3? How do they make up for those services and those dollars that have now been transferred probably into those elementary learning centers? [LB521]

SENATOR ADAMS: Of course, the learning community does have levy authority for that purpose too. [LB521]

GIL KETTELHUT: Do they have levy authority to hire staff and provide instructional materials and so forth, or is that 5 cents for facilities? [LB521]

SENATOR ADAMS: I think there's some in there for...a good question. I'll have to look again at the language. [LB521]

GIL KETTELHUT: Yeah. Yeah, because that's my understanding. That 5 cents is really for buildings and facilities and the basic infrastructure, but there are not dollars for personnel and I think that's where their issue is going to be, because they're going to need...they're going to need actual folks to work with those young people. [LB521]

SENATOR CORNETT: Senator Dierks. [LB521]

SENATOR DIERKS: Well, Mr. Kettelhut, this is kind of a simple question but I am a simple man and I just need to know a simple answer. How many students are there in these 18 schools that you've listed here as compared to how many students there are in the learning community? [LB521]

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GIL KETTELHUT: ESU 3 has 66,000 students. How many students are in the learning community? Right around 100,000, I'd say. If anybody else has any different number, but I think that's pretty accurate. [LB521]

SENATOR DIERKS: So between the two there are 166,000 students. [LB521]

GIL KETTELHUT: No, then I didn't answer that very well. ESU 19 I believe has around 47,000 students. The students that we have from Douglas and Sarpy County inside the learning community council would be around 55,000. Our other students come from Cass and Washington County. So 55 from us, maybe 47 from ESU 19, OPS. [LB521]

SENATOR DIERKS: Thank you. [LB521]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB521]

GIL KETTELHUT: Thank you. [LB521]

MATT BLOMSTEDT: Good afternoon, Senator Cornett and members of the committee. My name is Matt Blomstedt, B-l-o-m-s-t-e-d-t, and I'm the executive director of the educational service unit coordinating council, which, in somewhat similar fashion to the learning community coordinating council, we're a fairly new entity. I look at this particular issue anyway in a statewide perspective, also on the role of or developing the future role of the ESUs and that relationship with the learning community serving that area. Obviously, as we kind of build a history, I guess, on the particular topic on how we develop financing mechanisms, how we work together to provide services for the learning community, I tend to believe that the ESUs provide at least a platform to do some of that work. And I think Senator Adams' question about what the intent of this shared amount of money for core services was, if nothing else, a message to find a way to share and work together in the future. Part of our, I think, our current issue is the fact that not all those pieces are necessarily in place yet. When you look at trying to develop the learning community as a new political subdivision, there's a lot of work that they have to do, obviously, and I think they've been doing lots of that work and moving forward. At some point, I don't know exactly where they are on their hiring process, it'll be...it'll be good once they hire somebody because there will be a direct counterpart for me at least to be able to go talk to and say, how can we work together to provide these services. However, at the current point in time, we're sitting there with an uncertainty about what services are going to be necessary, what's going to be requested, and how we might go about working on that together. I think the thrust of this issue is to...or LB521. And before I forget, I thank Senator Pankonin for introducing it. I think it starts a conversation about how we work together in the learning community area. There's also the potential for learning communities to be formed elsewhere in the state and that's

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another conversation that creates some dynamics statewide on how we would...how we would fund those. So I think there's some open questions on what might be able to be done, how we might be able to work together and what services could ultimately be provided. ESUs, from my perspective anyway, are...can bring a research role, can bring a services role that has already been discussed, but also to look specifically at poverty issues and work with the Department of Ed, work with the learning community and jointly work with all the school districts involved to serve poverty students and to serve, you know, all the other challenges that might exist in that area. We also can learn from that statewide and that's something else that I would like to look at from our coordinating council perspective on how we can work this out and be able to find and innovate an education that would be a benefit in the long run for the whole state. So with that, I'll take questions if you have any. [LB521]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB521]

MATT BLOMSTEDT: Thanks. [LB521]

SENATOR CORNETT: Next proponent? Are there any further proponents? Opponents? Is there anyone here to testify in a neutral capacity? Senator Pankonin, you are recognized to close. [LB521]

SENATOR PANKONIN: I just want to thank the committee's attentiveness, good questions. And Senator Adams wasn't here when I opened today but, as he knows, I have a longstanding interest in ESU 3 because of the school districts in my legislative district that have had a tremendous, long and productive relationship with that organization, and he's been great to work with in the past, as these discussions have gone on. As Matt said earlier, this is a departure to have LB521 to be part of that discussion as we move forward. Thank you. [LB521]

SENATOR CORNETT: Thank...Senator Friend. [LB521]

SENATOR FRIEND: Thank you, Madam Chair. Senator Pankonin, do you know, refresh my memory, I've went through the list, does this have a priority designation? [LB521]

SENATOR PANKONIN: No. [LB521]

SENATOR FRIEND: Okay. [LB521]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB521]

SENATOR PANKONIN: Thank you. [LB521]

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SENATOR CORNETT: That closes the hearing on LB521. He's on his way. Senator Price,... [LB521]

SENATOR PRICE: Yes. [LB521]

SENATOR CORNETT: ...you are recognized to open on LB418. [LB521]

SENATOR PRICE: (Exhibit 4) Thank you, Chairman Cornett. Chairwoman Cornett and members of the Revenue Committee, thank you for the opportunity to testify on LB418. My name is Scott Price, P-r-i-c-e, and I represent the 3rd Legislative District. LB418 would require the Tax Equalization and Review Commission to equalize the value of real property in each county of a learning community so that the level of value in all counties is equal. Contrary to many of the bills that have been introduced this session, this bill did not originate from a state agency or a special interest group. The idea and, more importantly, the need for this bill came before I was sworn into the Legislature. As a candidate for the position I currently hold, the people of Sarpy County asked why they were required by the Legislature to participate in a learning community and why Sarpy County residents are assessed at a higher rate than their counterparts in Douglas County. I want you to know that I'm not here to question the bill which created the learning community. While I have opinions of that matter, I understand that issue does not fall under the jurisdiction of the Revenue Committee. The fact of the matter is the learning community is the law of this state. The concern I have and the concern that many of my constituents have with the learning community is the common levy and the different assessment practices in Douglas and Sarpy Counties. The different practices amount to real dollars that taxpayers in one county will pay over and above what taxpayers will pay in another county. According to the Tax Equalization and Review Commission, Douglas County residential property is assessed at 96 percent of value and commercial property is assessed at 95 percent of value in 2008. In Sarpy County, residential and commercial property is assessed at 98 and 97 percent, respectively. In addition to the different levels of value, the two counties also update the level of value at different intervals. In Sarpy County, the county assessor has made a conscious decision that the value of all property will be updated annually. However, property values in Douglas County are reviewed and updated every four or five years. It is not the intent of LB418 nor do I purport to know which method is more accurate or appropriate; however, I would contend that when property is assessed, is assessed at different rates and the value of the property is updated at different intervals, the tax levied against similar properties will differ. It's obvious that assessing at 96 percent compared to 98 percent will result in two different tax bills. In addition, the handout that you've been given will show you how updating the value of property at different levels and intervals resulted in two tax amounts. The information on the handout is from two actual properties in Douglas County and from Douglas County Assessor's Web site. As you can see, the tax levied on property is greater and increased incrementally each year over five or seven years. These calculations do not take into consideration the differences in assessed

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value between the counties. However, I contend that, taken in combination, these two factors lead to a significant difference between the tax paid for similar properties in Douglas and Sarpy Counties for the purposes of the common levy. I know that the Legislature has created other entities that can levy taxes across multiple jurisdictions, such as community colleges and natural resource districts. However, when you consider that in Sarpy County, 3 percent of property tax is dedicated to community college, 1.5 percent is to the NRD, while 60 percent of property tax is dedicated to K through 12 education, I don't think it's valid to compare community college and NRDs to the common levy created with the NRD...excuse me, created with the learning community. Let me be clear. I am not suggesting that the assessment practices in Sarpy County are better or worse than Douglas County. I am only pointing out that they are different. I believe this is an issue of fairness. One of the many goals of the learning community is to share financial resources across the metro region. If that's the case, I believe that all parties within the learning community should carry this burden equally. I thank you for your attention on this important issue, and I'd be happy to answer questions I have, but there are people who will be following who also will be able to answer those questions. [LB418]

SENATOR CORNETT: Senator Louden. [LB418]

SENATOR LOUDEN: Yes. Thank you, Senator Cornett. On this then, Senator Price, your contention isn't the value...the valuation of the land, it's the percentage of how it's arrived at. Is that correct? [LB418]

SENATOR PRICE: It's the, Senator Louden, the practice that one county is counting on that difference and practice to use that fund to fund their desired goals. [LB418]

SENATOR LOUDEN: Well, right, but I'm talking about the percentage here. When you have, you mentioned, Douglas County at 95 and Sarpy County at 97 percent, now that's the valuation they use for tax...for...that's the taxable figure,... [LB418]

SENATOR PRICE: Correct. [LB418]

SENATOR LOUDEN: ...that 97 percent or the 95 percent, depending. Now the way I've understood, talking to my friend Bob on the TERC committee over the years and got mixed up in this, the valuation of the property may be a little bit higher in one of the other counties and that's the reason they go with this percentage change. Because we have the same trouble out in the western end of the state where we have several counties and you'll have maybe the school district or fire district will be in three counties, so you have to equalize that and this is how they come up with it, by changing that percentage so that actually you're paying about the same tax base on all of them. But the valuation is different in each county from whatever reason they arrived at the valuation, and that's what I'm wondering. Is it your contention that the valuations are

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wrong or the percentages have to be adjusted or you're having a problem with the percentages? [LB418]

SENATOR PRICE: If I follow you, my contention is that the same property or the valuation percentages, as you brought out, being higher in one county will pay more money, more frequently into the common levy. So you ask a person. You take the same \$50,000 home and use the valuation practices in the two counties, the one who has a higher valuation percentage will pay more money into that common levy. [LB418]

SENATOR LOUDEN: Okay. Let's go with, say you had this 3,000-square-foot home with three bathrooms in Douglas County and is that valued at a different price than that same, very same home over in Sarpy County? [LB418]

SENATOR PRICE: Yes. [LB418]

SENATOR LOUDEN: Are the value...are the valuations equal dollar for dollar? [LB418]

SENATOR PRICE: My understanding, again, my understanding--this is a pretty complicated area--is the valuations are not the same. And the... [LB418]

SENATOR LOUDEN: Okay. But then when you adjust it with your percentage, then is the taxable valuation the same by adjusting it with this percentage? [LB418]

SENATOR PRICE: Senator, I will let someone else answer that to be more precise on that, okay, because I don't want to misrepresent it. Bottom...the point I was getting to and what I tried to do with this handout that I provided to you is...and you can look at that very simply, is there's an \$11,000 difference over that period of time, from 2001-2007, on the same property paid into a common levy and a county that decides to have as a practice to have a lower assessment will always be able to soak up money from other counties that are associated in that. [LB418]

SENATOR LOUDEN: Well, yeah,... [LB418]

SENATOR PRICE: And you know... [LB418]

SENATOR LOUDEN: ...if that's what's happening, yeah. [LB418]

SENATOR PRICE: And that is what is happening. It's called out. I mean if you look at the second page I handed to you, we can see that between 2003 and 2008 there is a \$762,000 home that's never seen a change, but every year in Sarpy County that would be changed and that person is paying every year. And their... [LB418]

SENATOR LOUDEN: Well, that's up to the...that's up to somebody else to decide how

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often. That's the Property Tax Administrator decides how often you have to revalue your property, don't you, in a county? [LB418]

SENATOR PRICE: Absolutely, but when we gave the authority, when the Legislature gave the authority to a common levy, that was asked for knowing that this money is available as a pool of resources. I'm not, again, if a county decides they need to assess in one way or the other, that's what they decide to. They've become used and grown accustomed to assessing at that level and that rate and that interval. But when we lump them together and we force them together into a common levy, that's done, the idea...with the idea of, hey, there's extra money down here; take that money and redistribute it. [LB418]

SENATOR LOUDEN: Well, I know. I lived with... [LB418]

SENATOR PRICE: So... [LB418]

SENATOR LOUDEN: ...common levies for 25 years out because we've had these school districts... [LB418]

SENATOR PRICE: Right. [LB418]

SENATOR LOUDEN: ...among different counties. In fact, at one time some of our Class I districts were actually in three different counties and, yeah, and that's where the TERC came out with their valuation and that's where this percentage was brought into play so that actually your taxable value would be the same between all the counties. Your percentages were different but when you got...because of the difference in the real value of the property. [LB418]

SENATOR PRICE: And that's what I'm asking, is the TERC come out and say. I'm not going to sit there and say what is right. They'll come out and do it across the counties. [LB418]

SENATOR LOUDEN: Okay. Thank you. [LB418]

SENATOR PRICE: Yes, sir, thank you. [LB418]

SENATOR CORNETT: Senator Price, have you seen the opinion from the TERC? [LB418]

SENATOR PRICE: No, I have not yet. [LB418]

SENATOR CORNETT: We passed a letter around. Senator Louden, this may answer your questions, from the... [LB418]

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SENATOR LOUDEN: Yeah, I saw it. [LB418]

SENATOR CORNETT: ...yeah, from the TERC. [LB418]

SENATOR LOUDEN: Yeah. [LB418]

SENATOR CORNETT: Senator Price, just maybe to clarify, if you have a \$50,000 house, regardless of which county it's in, it's \$50,000 or it's evaluated at \$50,000. [LB418]

SENATOR PRICE: Right. [LB418]

SENATOR CORNETT: Okay. If it's valued at \$50,000, it's the same house... [LB418]

SENATOR PRICE: Uh-huh. [LB418]

SENATOR CORNETT: ...in Sarpy County, you're paying taxes on that \$50,000, correct? [LB418]

SENATOR PRICE: Uh-huh, at the 98 percent rate. [LB418]

SENATOR CORNETT: At the 98 percent rate because Sarpy assesses...reassesses every year the houses, correct? [LB418]

SENATOR PRICE: That's true. [LB418]

SENATOR CORNETT: That house theoretically grows in value every year. [LB418]

SENATOR PRICE: Correct. [LB418]

SENATOR CORNETT: What your contention is, is because Douglas County assesses at a different or assesses in a different manner than Sarpy County. They do not reassess every year. Even though they meet the statutory guidelines of how...or the percentages that have to be...they have to fall within, their valuation on that house is going to be at a lower rate than the valuation in Sarpy County, correct? [LB418]

SENATOR PRICE: That's correct, and there's two vectors on this, as you pointed out, Senator Cornett. There's the valuation, the percentage,... [LB418]

SENATOR CORNETT: Uh-huh. [LB418]

SENATOR PRICE: ...95 and 97, and there's the period of it, and that's what's called out

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in this. I know we actually use a home more in the median income of \$76,500 to show how this isn't just taking from well-to-do. It's taking from all spectrums. Sarpy County chose a way to do their assessments, but then we put them in a common levy and now--and we see this in all of our common levies across the state--whichever county wishes or uses the lowest rate always benefits because they're soaking up from the other counties. [LB418]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB418]

SENATOR PRICE: Thank you. [LB418]

SENATOR CORNETT: First proponent. [LB418]

STEVE COLEMAN: Senator Cornett, members of the Revenue Committee, my name is Steve Coleman, S-t-e-v-e C-o-l-e-m-a-n, and I represent the Papillion-La Vista Schools. Since this is a common levy issue, we certainly didn't want to disappoint Senator Adams and Senator Cornett by not maintaining our consistent position, and as I think you can hear through Senator Price that this is a constituency-felt pressure that I think both of us feel greatly any time we gather. I'm not going to go through a lot of the comments regarding the valuation things that I would have normally addressed, but I would like to lend myself to any questions. But just to clarify on the property valuation differences from Senator Louden's question is--and I think, Senator Cornett, you clarified it very well--that when we're talking about two \$100,000 houses, one assessed at 98, therefore taxed at \$98,000, one assessed at 96, they're going to be taxed at \$96,000. And when those monies are being put into the same bag and then being redistributed back out to various subdivisions, that's where the rub from this constituency lies. That is a concern with that common levy. So if this is not a vehicle, not seeing the TERC's reaction, that is a feasible means of addressing this particular problem within the learning community law. I think we need to start looking at a way that we can treat those properties the same so we can take this issue of unfairness off the table as people reflect on whatever their feeling might be of the learning community in its entirety. But I think this is an issue for the Revenue Committee maybe to work in conjunction with the Education Committee to look at how can we solve this, how can we create a level dance floor for the people involved in this situation? [LB418]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB418]

SENATOR LOUDEN: Yeah, thank you. You're right when you got a \$200,000 house. I mean their taxes is...your levy is going to decide how much taxes you pay on that \$200,000 house. What I'm wondering is if that \$200,000 house in Douglas County perhaps has got 2,040 square feet in it, does the one in Sarpy County then have 1,995 square feet in it? And this is how they come by the equalization. Because, see, we've

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lived with that out west in our agricultural land for a long time. Grant County, Sheridan County, and Garden County would all have the same high school district or...yeah, the same districts in there and our valuations would be a few dollars difference on our total value. So then this is where the TERC comes in and decides your percentage so those counties that had the higher percentage valuation would tax at this lower side of the...now of the 75. That's the reason the range is from 69 to 75. That was to adjust that taxable figure between the three counties and that's how they did it. Because otherwise, you're going to have to have a statewide valuation system and you're going to have to go by classifications. And then as you move from one little area to the next, you're going to get a change, like a marketing area, then you're going to get a change in valuation. So how do you adjust that, tweak that as you move across the state? And this is what I'm wondering, is where your problem is. Is it just the fact of the valuation or do you want a flat 100 percent on residential irregardless and 75 on ag land? [LB418]

STEVE COLEMAN: Let me try to clarify, Senator Louden, and again, I might ask Mr. Lock to just nod up and down or back and forth if we get askew here. But what we're talking about is a percentage of market value and, yes, the real estate market in Douglas County in certain areas may be different than the real estate market in Sarpy County. So a house that is identical in every form, number of bathrooms, number of square feet, composition of its siding, size of its lot, may be \$110,000 in Sarpy County and may be \$100,000 in Douglas County. That is true. There are different assessments in market values because we're assessing based on market value. What we're saying is if we have two identical pieces that maybe aren't identical but two pieces that are valued at \$100,000, even though one might be a little bigger and a little fancier than the other one, they're both valued initially at \$100,000 first off the rolls. The second year, Sarpy County, since they assess every year, it goes to \$102,000; Douglas County is still at \$100,000. The third year it goes to \$104,000; Douglas County is still at \$100,000. The third (sic) year it goes to \$106,000; Douglas is only \$100,000. The fourth year, maybe Douglas gets back to that piece and then they're both brought to \$108,000, and they start over again. That will constantly put the property owner in Sarpy County paying tax at a higher rate, on a higher assessment than in Douglas County. [LB418]

SENATOR LOUDEN: Well, I agree if they don't value the same time all the time. [LB418]

STEVE COLEMAN: And they don't. [LB418]

SENATOR LOUDEN: And as long as I've had a subscription to the World-Herald, that's been a problem in Douglas County, is the county assessor won't ever...is always lagging behind on the assessments. His idea is he's got so much to do it takes him longer to do it. But... [LB418]

STEVE COLEMAN: And I'm certainly not discrediting the Douglas County Assessor.

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[LB418]

SENATOR LOUDEN: ...is that...that's...if Sarpy County is valued every year, that's up to your county assessor. They don't have to do it every year, do they? [LB418]

STEVE COLEMAN: No, but I think the intent of the law, when the range was established as an acceptable assessment range, was for county assessors to get as close to 100 percent of assessed value as they can. Knowing that it's not a perfect science, they allowed for that acceptable range of assessment. [LB418]

SENATOR CORNETT: You're with the Papillion school district. [LB418]

STEVE COLEMAN: Yes. Correct. [LB418]

SENATOR CORNETT: And you obviously understand the implications of the learning community and, I assume, the funding issues. [LB418]

STEVE COLEMAN: Certainly. [LB418]

SENATOR CORNETT: What would it do to the learning community if Sarpy County adopted Douglas County's assessment practices? [LB418]

STEVE COLEMAN: That would...it would equalize the way people treat property. [LB418]

SENATOR CORNETT: It would...it would equalize the way people treat property, but how much money would it cost the learning community? [LB418]

STEVE COLEMAN: It would decrease the amount of money that people in Sarpy County pay in property tax. It would increase the state aid that would have to be sent to the learning community to support it. [LB418]

SENATOR CORNETT: So basically, you're saying that... [LB418]

STEVE COLEMAN: Correct. [LB418]

SENATOR CORNETT: ...Sarpy County could correct their own problem and short the learning community by not assessing every year. [LB418]

STEVE COLEMAN: They could. I would hope they...the games won't start being played, but they may be. But that is an answer. [LB418]

SENATOR CORNETT: And then that amount would have to be made up in state aid if

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we cannot find a resolution to... [LB418]

STEVE COLEMAN: Correct. [LB418]

SENATOR CORNETT: ...the assessment practices. [LB418]

STEVE COLEMAN: Correct. [LB418]

SENATOR CORNETT: Questions from the committee? [LB418]

STEVE COLEMAN: One last comment that I would share, there's been comparisons made and I hear the talk many times about, well, there's other crossed county line valuations that go on, whether it be the NRD, the ESUs, some school districts. There's two points there that I want to stress that I think are very important. Number one, the property tax that people pay for schools is 60 percent in many cases of their property tax bill. This is a major portion. It's not a 1 percent or 1.5 percent of their bill. This isn't something that they could wince off. This is a major part. The other thing is within the learning community that common levy is going to be split amongst 11 subdivisions of government that are all fighting for a piece of the pie. When that common levy applies to an NRD, all of that money, regardless of which county you live in, goes to your NRD and it's used by your natural resources district. It's not put into a bag and redistributed to certain communities within that NRD. If it were, I can assure you this would be an issue there also. Thank you. [LB418]

SENATOR HADLEY: I... [LB418]

SENATOR CORNETT: Senator Hadley. [LB418]

SENATOR HADLEY: I guess a question I would have, sir, is that from a tax policy standpoint, to me, at times materiality isn't what we should be, you know, holding our hat on. That if it's good for these three counties, why is the Republican River Compact and the NRDs, the lower and upper and middle NRDs, why shouldn't they, if I'm a taxpayer living in Webster County and I'm paying a little more or a little less than somebody in Franklin County, it seems to me that, you know...and I think that's...you haven't seen it but that's what TERC was talking about, the constitutionality of this, the fact that we would have 3 counties where it was set and then 90 counties where the tax levy varied between 92 and 100, and 69 and 75 for residential. So it seems to me that if we're looking at changes for three counties for this particular area, if we're going to have good tax policy we should look at other problems with school districts that go across counties or NRDs that go across counties. [LB418]

STEVE COLEMAN: Again, I would just say if those people had to put that money that they collect from those two different counties into a bag and then redistribute it back out

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based on some formula, that would be an issue with those entities as well, just like within the learning community. Within the learning community there is the possibility, and I can hear it from rural Sarpy County, that there's a distinct possibility in the south Sarpy district they will submit to the bag of money to be distributed in property taxes, for the sake of easy numbers, \$1 million and they will receive back \$750,000. And those farmers do not understand that, the patrons. I mean the property taxes are pretty sacred and we've changed the definition of what a local property tax is within the learning community. It's no longer local. [LB418]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB418]

STEVE COLEMAN: Thank you. [LB418]

SENATOR CORNETT: Next proponent. [LB418]

JERRY ANDERSON: (Exhibit 5) Senator Cornett and fellow senators of the Revenue Committee, I'm Jerry Anderson, A-n-d-e-r-s-o-n. I've owned a home in Papillion since 1973. Want to thank you first for having this hearing and allowing me to provide my testimony. Instead of telling you how much additional I would be paying in property taxes compared to an equivalent home in Douglas, which would seem insignificant, I decided to take a look at the bigger picture. It is commonly understood that the Douglas County Assessor's policy is to reevaluate only one-fourth of their homes yearly. Basically, this means that a Douglas home will be reevaluated every four years, and that was previously covered by Mr. Coleman. Therefore, one would assume that they would be paying less property taxes than if they would be evaluated every year. I believe that I will show that this is conclusively the case. It is the policy of the Sarpy County Assessor to reevaluate all homes yearly. Using this basis, it can be assumed that the Sarpy homes have been paying their fair market value every year but the Douglas County's homes lag in paying their fair market value since they are lagging in reevaluation by three years. I must point out that both are complying with the state statute's requirement to value a home within 92 to 100 percent of its real property value. So what has Douglas County been losing in possible revenue by using their current property tax evaluation method of only reevaluating 25 percent of their homes in one year versus Sarpy County doing 100 percent? And, Senator Cornett, you asked about what the cost would be, difference, to Sarpy. I'm going to answer what...from a different perspective on Douglas, and that will be right at the end and it's significant. So I went to the Nebraska Department of Revenue Property Assessment Division Web site, as indicated, so that I could provide a data and analysis source that could not be questioned and one that you probably are aware of. Here I found two reports that allowed me to determine the extent of unequal tax payments by the Douglas homeowner compared to the Sarpy homeowner. On the second page of my document I've...and I've included these reports for your reference, although they're very difficult to

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hear and if you're 70 years old it's tough to see. But they're there so that you have it as a reference. But those report...the first report was the tax change bond, growth, and existing property chart. I had one for Douglas and one for Sarpy. The second was a history value and taxes by property type; again, one for each county. I will show that the Douglas County homeowners were not taxed an additional 8.3 percent, which totaled \$413,697,843 that was not...that they could have collected but that was not collected because only 25 percent of their homes were reevaluated each year and 75 percent were not. Again, since the Sarpy County homeowner is reevaluated each and every year, there's no analysis to be done. I will use the following information to show the possible discrepancies caused by the two different methods. I used the property type evaluations and the tax levy, and if you look at the second page of my document, my presentation here, you see some significant differences. The valuations from 1997 to 2008 went up 198 percent for Sarpy but only 133.45 percent for Douglas. And then the tax valuation for Sarpy went up 166.79 percent; for Douglas it went up 100.03 percent. All that showed was that there was a huge discrepancy. But that doesn't answer the question, in my mind, so this required me to do deeper research in what portion of those differences are strictly contributable to the established homes and not bond and growth, which is what's covered in these reports. What then is the portion contributable to the difference in home valuation methods? The above-named attached reports provided me detail and accurate data to make this determination. I then used the tax change bond, growth and existing property attachment one chart to provide this data. I placed this attachment in front of the others so it would be easier for you to find and reference. Please look at the first year of this report, which is 2001. You will see that it shows the total taxes paid in 2001 was \$491 million, and you can see there. Please note just below that figure the \$19,077,837 which is the amount of the increase in the homeowners' taxes in Douglas County because of an increase in valuation. That's 25 percent of the homes were reevaluated. The percentages shown below those figures are those percentages of the total increase due to existing property and not the growth and bonds. The growth and bonds are not shown because they would have cluttered the attachment one too much and I'm only looking for the evaluations on existing property or homes. The total data is shown in attachments two and three. And now I ask you to go to the second page of attachment one to see the totals. As you will see in bold and underlined are the figures \$413,697,284 and the 8.35 percent mentioned above. What I did was, since they were only evaluating 25 percent a year and not evaluating 75 percent, I took then and say let's evaluate as a proportion all 100 percent, and that's how we came up with Douglas County is not picking up \$413 million in additional tax revenue. All I'm requesting is that you see to it that all homeowners pay the identical tax rate for each county based on the identical assessment method by passing this amendment as Senator Scott Price has offered. Is there any questions? And I thank you for listening to my testimony. I guess I'll just add that I majored in math in college and got a master's in computer science, so I am very comfortable with numbers, I guess.

[LB418]

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SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent. Are there any further proponents? We'll move to opponent testimony. [LB418]

MICHAEL GOODWILLIE: Good afternoon, Senator Cornett, members of the committee. My name is Mike Goodwillie, G-o-o-d-w-i-l-l-i-e, and I am the chief deputy assessor in Douglas County. Let me start with a couple of basics, just for the record purposes. This is kind of a technical subject and it can kind of get caught up in the technicality of it. Nebraska law requires two things of property valuations. One is that they aim for actual value, which is defined as market value. The other is that they be uniform and proportionate, meaning everybody is at the same relative percentage of market value. When you hear the phrase "equalization" or the word "equalization," that's really shorthand for the concept of uniform and proportionate. There has been some discussion today about ranges, 92 to 100 for residential and commercial, 69 to 75 percent for agricultural. That is shorthand under 77-5023, under Nebraska law, for uniform and proportionate. The Department of Property Assessment...I'm showing my age a bit. My gig before I went to work for Douglas County was for ten years I was the agency counsel for the Department of Property Assessment and Taxation, which was the predecessor to the Property Assessment Division. And what the state tries to measure is whether or not classes and subclasses of property are within that 92 to 100 or 69 to 75 percent range. If they are, they are deemed by Nebraska law to be uniform and proportionate. Additionally, the measurement is something called the median level of value, and what that basically means is all sold properties are arrayed based on their assessment/sales ratio, and the median is the middle sale in that ratio. It is not a particularly precise yardstick, quite frankly, and good assessment practice is viewed as, under International Association of Assessing Officials standards, as between 92 and 100 percent of actual value. Our state's range is between 92 and 100 from a residential standpoint and the reason is the measurement of assessment/sales ratios, they're inferential statistics and they can be affected by a lot of variables. For example, how representative is your sales sample? How many sales do you have in the sample? Have values been adjusted for sold properties as opposed to unsold properties? And so in consequence, that 92 to 100 percent range is deemed essentially the same for uniform and proportionality purposes. And don't take my...and because this is...and this is an imprecise measure and don't believe me if you don't want to. Believe the Nebraska Supreme Court when they said, in dealing with the intangible concepts of valuation and uniformity, a mathematically precise result can never be achieved; neither mathematical exactness nor precise uniformity is possible in the complex task of equalization. LB418 proposes or at least appears to take classes and subclasses that are already within the acceptable range of between 92 and 100 for residential or 69 and 75 for agricultural, and move them to specific point estimates. I think the whole premise is inconsistent with the nature of ratio studies in general. If you look at the levels of value in any given year across 93 counties, just reading down the list for 2008 median level of value: Adams, 90...for residential, 93; Antelope, 97; Blaine, 98; Boone, 96. There's quite a difference

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among counties and that's why you have a range of between 92 and 100. Now I must say I did have some questions as I read the bill about what the target was. What it says is: The commission shall increase or decrease the value of a class or subclass of real property in each county that has a school district that is a member of a learning community so the level of value in all counties which have a school district that is a member of the learning community are at the same percentage in the acceptable range. What I'm not seeing is what exactly the point estimate, what exactly the target is. If, for example, if Sarpy is at 98 and Douglas is at 95 for residential, does that mean Douglas gets moved to 98 or does it mean Sarpy gets moved to 95 or does it mean they both get moved to some other point? The legislation isn't particularly clear. Now if you go down to subsection (3) of 77-5023, which is the statutory section being amended by LB418, it does provide that any increase or decrease shall cause the level of value determined by the commission to be at the midpoint of the applicable, acceptable range. So does that mean that if, for example, Sarpy is at 98 and Douglas is at 95, the TERC is required to reduce Sarpy by 2 percent to 96, which is the midpoint, and increase Douglas 1 point from 95 to 96? It's not entirely clear. I don't know. If that is what is intended, that sure seems like a lot of work to take property that is already deemed uniform and proportionate because it's in the range and to try and micromanage assessments by 1 percent or 2 percent. The other question I would have with respect to that is, on what basis is the measurement going to be? The measurement period of the state of Nebraska for residential is a two-year window that ends six months before the assessment date in a given year. So, for example, for assessments that need to be for January 1 of 2009, the last sale on that study period is June 30 of 2008 and that goes back two years. Well, what can happen is the market can be significantly different at the start of the study period and at the end of the study period. And if you have a changing market in your county and you say we're going to weigh much more heavily the most recent sales, including those outside the study period, your level of value for that period of time may be significantly different than the measured level of value that the TERC has as part of the statewide equalization process. Which of those is correct? Are you going to adjust me based on the two-year study period or some other time frame? I also see a different standard, and I think somebody touched on this earlier, for 90 other counties where within the range is perfectly acceptable. If you're in...if you're in Adams County, by golly, 93 percent is perfectly acceptable as your level of value and you are considered uniform and proportionate to everybody else in the state. So you're going to apply one standard for 90 other counties and a different standard for 3 others. The question I would ask, I guess, is what are you going to do about, as Senator Loudon mentioned earlier, you know, in the western part of Nebraska we have a lot of school districts that straddle a number of county lines so are we going to make that same requirement for them where the agricultural level of value in one county that's within the school district is 70 percent and the other one, the adjoining county, is 74 percent? The TERC doesn't adjust those to one particular point. If they're within the range, that's close enough. So what I see is kind of a double standard there under this particular bill. Another issue I would raise is one of sort of an unintended consequence, or at least I

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don't think it's an intended consequence because nobody talked about it. Remember, the increase or decrease the commission orders to get classes or subclasses within the counties in the learning community, they don't happen in a vacuum. They don't just touch on the school districts that are in the learning communities. Let me give you...and they'll touch on other political subdivisions that collect property taxes based on that value. Let me give you an example. Let's assume that the bill passes as written and any increase or decrease has to be, as in subsection (3) of 5023, to the midpoint of the range. And let's also assume that Sarpy is at 98 and that Douglas is at 95 for residential. So the TERC comes in and they adjust both counties. They adjust Sarpy down 2 percent and Douglas up 1 percent. That's what's required--go to the midpoint of the range, 96. What happens to the valuation base for those political subdivisions in Sarpy County that are relying on that residential value? They lose 2 percent off their base. So if you're the city of Bellevue, if you're the city of La Vista, if you're some other political subdivision that relies on that valuation base, you know what, you just had your base cut. I don't know if that's what's intended by the bill. That's how it reads currently now or how it reads currently now. That's a consequence that would result. And finally, let me touch on assessment practices for a moment. Section 77-1311, which became...which resulted from LB334 passed in 2007, provides for a six-year assessment cycle, okay? You are not required to adjust each and every year. Your report card comes from the Department of Revenue every year when they analyze your level and your quality of assessment. And counties are free to basically generate their assessment practices as they will, as long as they meet that standard, and we're meeting it in Douglas County. They're meeting it in Sarpy County. The fact of the matter is LB418 provides an extra dollop of micromanaging that's sort of at odds with what the Legislature has told assessors to do, both in the statutes with respect to level of value and quality of assessment, and in terms of how they set up their assessment cycle. For these reasons, Douglas County Assessor's Office would stand in opposition to the bill. And I'll be happy to answer any questions that you may have. [LB418]

SENATOR CORNETT: Mr. Goodwillie. [LB418]

MICHAEL GOODWILLIE: Yes. [LB418]

SENATOR CORNETT: Just, obviously you know the political situations involved with LB1024 and the learning community with Douglas County and Sarpy County. I would put forth the idea that the counties in the western part of the state that have joined in to a common levy for a school district have joined for what they believe is the common good. [LB418]

MICHAEL GOODWILLIE: Certainly. [LB418]

SENATOR CORNETT: And it's something that they have chosen to do. If you stopped...and this is my district and I support the learning community, and I have taken

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a lot of political heat over that fact, but if you stop ten people on the street anywhere in Sarpy County and ask them do they want to be part of the learning community, you might get one person that says yes, and that would be lucky. [LB418]

MICHAEL GOODWILLIE: Okay. [LB418]

SENATOR CORNETT: Okay? So right there, there's a difference. Sarpy County really did not want to become part of this. This was not a freewill choice. It was for the greater good, I understand that, but that doesn't mean the people necessarily agree with it. Secondly, no one is arguing that Douglas County is inside the legal or statutory requirement for assessment practices. My question to you is what would be the impact to both the learning community and the state if Sarpy County, because of the political will, chooses to assess at the same level as Douglas County or the same practices? Do you agree that that would be a significant dollar amount? [LB418]

MICHAEL GOODWILLIE: From one year to the next, in terms of raw dollars, I don't have any idea how much it would be, but I suppose theoretically it could add up. I mean if you're at 98 one year, 96 another year, yeah, I suppose there could be a difference. [LB418]

SENATOR CORNETT: Thank you. Senator Hadley. [LB418]

SENATOR HADLEY: Just so I understand this, the range of 92 to 100, do you determine where that range is or is that a range that's determined basically after the fact when you're looking at assessed values? [LB418]

MICHAEL GOODWILLIE: What will happen is we will analyze. I'll walk you through some of the process that we do when we set values. We will analyze sales assessment data in all of the neighborhoods in Douglas County and if we see some that we think are out of the range, those are good candidates for reassessment. And so we'll go ahead and review the market in those particular parts of the county. We will...we'll set a market valuation model. We'll value the whole neighborhood and then, ultimately, the state of Nebraska will measure us to see whether or not we fit within that 92 to 100 percent standard. The assessor does have some input in terms of how they are measured. For example, in 2008, there were 23,743 residential sales in Douglas County that go into the...that were initially out there that could have been chosen from to measure. Ultimately, there are only about 20,500 of them that were what we would call arm's length transactions and the assessor does have the ability to call out those transactions that are non-arm's length. In the end, we were measured based on about 87 percent of the residential sales in Douglas County in 2008. So to some degree, the assessor has some input in how they are measured, but the ultimate people who give us our report card is the Department of Revenue. [LB418]

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SENATOR HADLEY: Well, I guess the question I have is that when you talk about the range of 92 to 100, I guess I understand how that applies in a county because it applies, if it's 96 percent or whatever, it applies to everybody, all the property in that county, right? [LB418]

MICHAEL GOODWILLIE: It is a rough overall measure within county...the county, within that overall of 96, you could have some subclasses that are higher and some subclasses that are lower. [LB418]

SENATOR HADLEY: Okay. I guess is it a problem when suddenly you've got three counties that you're trying to meld together to come up with an appropriate amount of money that you need to run the learning community when you do have...they are all in the range but they're at different places in the range? [LB418]

MICHAEL GOODWILLIE: Well, in terms of problems, there are some that are theoretical, I think, and some that are practical. In terms of the theoretical problems, you are saying to these people, we are going to measure you on a different standard or apply a different standard to your level of value than in 93 other...or 90 other counties. So, for example, residential in Adams was at 93 and that was good enough to be uniform and proportionate. However, for you three counties in the learning community, even if you're within the range, we're going to give you a final little bump to get you to a different point. That's a theoretical problem, okay? There are some significant practical problems that I didn't really touch on and one of them is, you know, every time you change a value you're going to send out a change notice to every single taxpayer who's affected. So for example, if there's 47,000 residential property owners or parcels in Sarpy County and they get a 2 percent decrease because the TERC has to bump them down to 96 percent, there's going to be 47,000 change notices go out. In Douglas County, if we get a 1 percent increase to go to 96 or whatever the increase is to go to whatever target figure is chosen, that's going to be basically about 170,000 change notices that get sent out. That's going to turn into probably roughly about 17,000 protests, because our rule of thumb tends to be that about 10 percent of the number of change notices that we send out in any given year turn into valuation protests. So there are some theoretical issues in terms of how exact you think a ratio study needs to be, and there are some practical problems in terms of what happens after the commission comes in and issues those orders to get everybody at the same numerical point estimate. [LB418]

SENATOR HADLEY: One last question: We talk about this in terms of the learning community but basically, when you're changing either the levy or the valuation method, you're impacting other governmental agencies, correct? [LB418]

MICHAEL GOODWILLIE: Sure you are. [LB418]

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SENATOR HADLEY: The counties, fire districts,... [LB418]

MICHAEL GOODWILLIE: Absolutely. [LB418]

SENATOR HADLEY: ...whoever else, NRDs,... [LB418]

MICHAEL GOODWILLIE: Whoever else... [LB418]

SENATOR HADLEY: ...whoever else is getting a piece of that pie. [LB418]

MICHAEL GOODWILLIE: Senator Hadley, that's exactly right. Whichever political subdivisions are levying on that particular class or subclass, they're going to have their valuation base affected. That's exactly right. [LB418]

SENATOR HADLEY: So if one county were to go down, these other political subdivisions could practically get less money. [LB418]

MICHAEL GOODWILLIE: Well, yeah. I mean the \$64 question is, where is that target going to be and how comprehensive do you want the commission to be in terms of adjusting to that target? If you say the midpoint of the range, 96, is where you want to be, that means every class of property in those three learning communities that's below 96 would get an increase and every one that's above would get a decrease to level them all off at 96. And so if you are a class or subclass that's 97, 98, 99, yes, your valuation base will decline. [LB418]

SENATOR HADLEY: I guess that was my point, that this really impacts more than the learning communities if we really implement it. [LB418]

MICHAEL GOODWILLIE: Yes. [LB418]

SENATOR CORNETT: Further questions from the committee? Senator Louden. [LB418]

SENATOR LOUDEN: Yes. Thank you. If you put the percentages the same between Sarpy and Douglas County, that wouldn't necessarily mean that the people in Sarpy County would be paying their exact share of taxes as the ones in Douglas County or vice versa, just because these percentage numbers are the same. [LB418]

MICHAEL GOODWILLIE: Well, I think you do...you do touch on what we were talking about a little bit ago and that is these are really not precise yardsticks. [LB418]

SENATOR LOUDEN: Yeah, but what I'm going at is each county has their own comparable sales to analyze their valuations and that... [LB418]

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MICHAEL GOODWILLIE: Oh, is it the same...is it the same, no, is it the same raw...is it the same raw dollar amount? [LB418]

SENATOR LOUDEN: Yes. [LB418]

MICHAEL GOODWILLIE: Probably not. If you take the same four bedroom, three bathroom house and put it in the nicest neighborhood in Sarpy County and the poorest neighborhood in Douglas County, you know, to value that property at its actual value, the value is going to be a heck of a lot higher on the one in Sarpy than in Douglas, and the same would be true if you reversed it, where the example would be where would you rather own your identical house. Would you rather have it along the fourth fairway of the golf course or next to the rendering plant? You know, what would you pay more for? So you're right. [LB418]

SENATOR LOUDEN: Right. And what I'm...the reason this valuation percentage is such it is, that's how they...that's what was put into place if you were back there in the Property Tax Division back then. That was set up so that you could value land between counties. It would be more equalized between counties. Is that correct? [LB418]

MICHAEL GOODWILLIE: Well, the idea was to recognize that it wasn't realistic to get everybody to the same dollar amount. So if you had a range, you could recognize differences in the market between different counties but the approximate value would be more or less close enough for uniformity and proportionality purposes. [LB418]

SENATOR LOUDEN: But that's what...and that's where, as I said before, I'm more familiar with agricultural land. [LB418]

MICHAEL GOODWILLIE: Sure. [LB418]

SENATOR LOUDEN: But the agricultural land, say in Grant County, could have been valued at about, with their comparable sales, came out at about \$5 an acre more than what it would in Sheridan County. And consequently, the percentage then in Grant County, when it was figured out, would be a lower percentage than what it was in Sheridan County. And when you got all done, you all paid about the same kind of...same dollars. [LB418]

MICHAEL GOODWILLIE: Sure, and... [LB418]

SENATOR LOUDEN: And that's what that percentage has been in there for. [LB418]

MICHAEL GOODWILLIE: Yes, and you're measuring against the market in your particular county. You know, it may, you know, demand for some kinds of grassland

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may be more in one county than another. The quality might be better in one county than another. Not everybody is going to be the same. [LB418]

SENATOR LOUDEN: Okay. Because I went through this with the TERC and some of them a long time ago... [LB418]

MICHAEL GOODWILLIE: I bet. [LB418]

SENATOR LOUDEN: ...on between Grant County, Sheridan County, Garden County,... [LB418]

MICHAEL GOODWILLIE: Sure. [LB418]

SENATOR LOUDEN: ...and Cherry County. We live all right there and we've had to equalize those counties with the school districts in there. [LB418]

MICHAEL GOODWILLIE: Uh-huh. [LB418]

SENATOR LOUDEN: And this is how we...this is what the percentage was in there for. [LB418]

MICHAEL GOODWILLIE: Right. [LB418]

SENATOR LOUDEN: And when you've sat down and figured it out, you all paid about the same amount of tax dollars because your valuations were tweaked just that much. [LB418]

MICHAEL GOODWILLIE: Uh-huh. [LB418]

SENATOR LOUDEN: Okay. Thank you. [LB418]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB418]

MICHAEL GOODWILLIE: Thank you. [LB418]

SENATOR CORNETT: Next opponent. Are there any further opponents? Is there anyone here to testify in a neutral capacity? [LB418]

MICHAEL SMITH: Good afternoon. My name is Michael A. Smith, M-i-c-h-a-e-l S-m-i-t-h. I'm a deputy county attorney in Sarpy County, here testifying in a neutral capacity. I am head of the civil division in the county attorney's office and, among our duties, we advise the board of equalization as well as defend tax protests to the TERC. While much of the discussion today has resulted in sort of the macro aspects of this, the

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larger report card of the assessor, we have long had a concern about what happens because of taxing districts that straddle the county line and we're thankful that the senator introduced this bill because we hope this will open the discussion as to how you deal with those sorts of things. And as Senator Cornett pointed out, the learning community has less than unanimous support in Sarpy County and we believe, because of the scrutiny, that we...more potential for seeing those kind of arguments come up in the future. What I'm referring to in particular is that the requirement that property be assessed in a uniform and proportional manner. As it's been interpreted by case law, is that within a taxing district. So to the extent that a taxing district crosses a county line, everyone within that district is entitled to be uniform and proportional with each other. That's the way that law has been interpreted. And so for a long time we've had parts of OPS, part of the Millard School District. You have NRDs and other things which are separate taxing districts and straddle multiple county lines and we've been fearful of someone coming in and, because of the difference in assessment practices and how they might affect a value in any given year, coming in and making that equalization argument in a TERC protest and demanding that their level...that their assessment be changed because of that difference. As Mr. Goodwillie says, there are some concerns about how this is applied. Besides some of those how he mentioned is exactly one of the mechanics of how TERC does this and how that affects everyone, you'll note the language is for classes and subclasses. The statute and the regulations give criteria for what's supposed to be in a class and a subclass, I'm sorry, in a subclass in particular, but they don't really define it. They've not set out what they are and my understanding that the practice is that each county assessor will do that a little different. They'll adopt classes that are more particular to what they're seeing and what they're doing and what their practices are. And without knowing any of those, as long as it deals with items that affect market, that would be acceptable. The problem would be is if you have, in a same taxing district in different counties, different subclasses of property. Well, then you are now attacking that assessment practice in an equalization argument and I think it results in some problems for us. And so anyway, that was sort of the concern and while I'm testifying...while I'm in a neutral capacity, the problem arises when you do have two different assessors who are both doing their best given the situations they're in, who are both meeting the law as far as it's applied to them but could result in different values. And then you now have people in the same taxing district who have different values applied because of that different assessment practices. And hopefully, if nothing else, this bill will help address and open up that conversation and as to how those are going to be ruled upon in the future and what guidance, if any, can be given to the assessors to try and make those more uniform. Thank you. [LB418]

SENATOR DIERKS: Thank you. Are there questions for Mr. Smith? Senator Adams. [LB418]

SENATOR ADAMS: Mr. Smith, I know you didn't necessarily refer to this. It was heard earlier in comment. So the essence of this is that your interpretation is that within a

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taxing district we've got to have uniformity and we do, within...we cross jurisdictional lines with NRDs, ESUs, community colleges, but I don't know that...I don't mean to put words in your mouth because I think I've heard it from other testifiers today, but the Sarpy County argument was or is, yeah, but the financial obligation is greater in the learning community versus an NRD or community college across jurisdictional lines. Is that...am I interpreting things correctly? [LB418]

MICHAEL SMITH: I think the... [LB418]

SENATOR ADAMS: I mean the reality is we cross jurisdictional lines. [LB418]

MICHAEL SMITH: Yes, and that's been a problem for awhile and we've talked about that and how we would address that, and it's fortunately never come up, it's never come up because I don't know where we'd go with that. And a little bit of this is hypothetical. I'm curious as to how exactly to construct that argument and what the evidence would be. Having not seen one, you know, I really don't know, though I have some idea how it might work. I think why this is a particular problem now is...what the learning community does, is because it's not very popular in Sarpy County. It's being scrutinized, all aspects of it, and so I think there's more awareness of this problem. So, frankly, you're going to have people that are not excited about other aspects of that but will seek to attack it using this. [LB418]

SENATOR ADAMS: And it's a bigger chunk. It's a bigger chunk of the tax statement than is your ESU or your NRD assessment. [LB418]

MICHAEL SMITH: Right. Right. [LB418]

SENATOR ADAMS: Yeah. Thank you. [LB418]

SENATOR DIERKS: Senator Hadley. [LB418]

SENATOR HADLEY: Well, Senator Adams just asked the question I was going to ask, because from a tax policy standpoint we should be doing the same things in the NRDs, the community colleges and such as that, except it is not as material so people haven't probably raised the issue of the unequal... [LB418]

MICHAEL SMITH: Well, yes, but I just, just to understand what the protest would be if it came in, would be I'm in this particular, you know, say the Millard school district and I have the exact same house on this, on the south side of Harrison as that one on the north side of Harrison, however, it results in a much higher value on the south side, as an example; therefore, you need to lower my value to be equalized with the property on the north side. And that taxing district is only for the poor purpose of kind of setting your subset of properties you're looking at for what you have to be equalized with. So it's not

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just within the county. It's within any sort of taxing district you can come up with in that. That would appear to be how the law is applied. [LB418]

SENATOR HADLEY: Sometimes you shouldn't ask questions if you don't know the answer. (Laughter) Is this something that you could see someone...a potential lawsuit on this kind of issue? Because you said it hasn't been adjudicated, is that correct? [LB418]

MICHAEL SMITH: We haven't had a TERC protest on that basis yet. [LB418]

SENATOR HADLEY: Okay. [LB418]

MICHAEL SMITH: We've speculated that it could happen because we recognize that there might be a problem. [LB418]

SENATOR HADLEY: Whether it be the learning community or the NRDs or whatever, somebody could bring it. [LB418]

MICHAEL SMITH: Yes, they could do it even before the learning community, we believe. [LB418]

SENATOR DIERKS: Any other questions? Thanks, Michael. [LB418]

MICHAEL SMITH: Thank you. [LB418]

SENATOR DIERKS: Anyone else in a neutral position today? Whenever you're ready, Jack. [LB418]

JACK CHELOHA: Good afternoon. Good afternoon, Senator Dierks, members of the Revenue Committee. My name is Jack Cheloha, first name is J-a-c-k, last name spelled C-h-e-l-o-h-a. I represent the city of Omaha. I want to testify in the neutral capacity on LB418. What I was going to say was brought up by some of the previous testifiers. I'm in a group of those that have been called the unintended consequences, if you will, from this bill. A little bit of background: Omaha has roughly a \$500 million budget a year. About 25 percent of our budget is funded through property tax. And I understand there's growing pains with the learning community. In the meantime, we're getting a little bit of a picture here between the counties looking at each other's assessment practices and examining that. We don't want to get in the middle of any of that. In the meantime, though, we look for certainty in terms of what the county's assessor's office does do regarding property tax so that way we can set our budget. By law we can't, you know, have deficit spending, so we need...we need certainty. Under this bill we don't know, you know, at what point will TERC come in and make any orders. In terms of, you know, if they make Douglas County go up, cities or any other local taxing authority would have

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a windfall locally and I suppose that wouldn't be a bad thing, you know, strictly from a revenue sense. But if it went the other way, we'd have an obvious and real problem because we wouldn't be able to meet our budget and our obligations. And for those reasons, you know, we just wanted to let you know we had concerns. And if this bill is going to be discussed further, we'd like to, you know, get some certainty in terms of time and when we look at it. One last thing: It seems to me that there was this old axiom or saying, you know, that close enough was only good enough for horseshoes and hand grenades, but apparently it's also good enough for real property valuation too. I mean the key is you have to get close enough, which is that 92 to 100 percent. So we just have some concerns but we don't have an official position. I'll try and answer any questions. [LB418]

SENATOR DIERKS: Questions for Jack? Senator Louden. [LB418]

SENATOR LOUDEN: Yeah, Jack, I always heard it was close enough for government work and that's what (laughter). [LB418]

JACK CHELOHA: Well, I think we're there then. [LB418]

SENATOR LOUDEN: Thank you. [LB418]

JACK CHELOHA: Thank you. [LB418]

SENATOR DIERKS: Any other questions? Senator Hadley. [LB418]

SENATOR HADLEY: Well, Jack, maybe you could have another baseball field and work it out with Sarpy County. (Laughter) [LB418]

JACK CHELOHA: There you go. We'll make up the revenue. [LB418]

SENATOR DIERKS: You really didn't have to bring that up. (Laughter) [LB418]

JACK CHELOHA: I know. I know. Oh well. [LB418]

SENATOR DIERKS: Other questions for Mr. Cheloha? Thank you. [LB418]

JACK CHELOHA: I think we're done. Thank you. [LB418]

SENATOR DIERKS: Anyone else in a neutral position on LB418? Okay, we need a closing, Senator Price. [LB418]

SENATOR PRICE: Thank you, Senator Dierks and members of the committee. And I do want to express my appreciation. Here it is the end of the day, the end of the hearings

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and everybody has been attentive and asking great questions. I do appreciate that. And I do want to call out that we do see that there is a need here that has been called out by the creation of the learning community where we do have taxing authority going across boundaries and it's been happening for years. And as Senator Adams had said and we had heard before, it's at such a small or material level that it hasn't risen above the noise level for the people really. It really hasn't, but doesn't mean that it wasn't something that should have been dealt with; just hasn't gotten to the noise level, above the noise level. But when you talk about 60 percent of your tax burden, then that begins to pique curiosity and begins to get people wondering. I'd like to take a moment to address some of the statements that we've heard here and I'll try to be as brief as I can. And first and foremost, I do not want to be cast...seen as casting dispersions on Douglas County or their assessment practice. They are fully within the law and they operate in that and that's great. However, I want to focus on the disparate practices and the "disproportionately" favorable...that are "disproportionately" favorable to Douglas County and burdensome to Sarpy County in the creation of a learning community, particularly to the residents of Sarpy County. Now we've heard about if Sarpy County were to move down, but think of the possibilities if Douglas County were to move up. We heard testimony. With only 25 percent of the properties being assessed, they're missing out on \$400 million. How would that affect state aid formula? How would that affect when people pay what some would say their fair share? And how more egregious is it if a situation is set up to take advantage of a partner. That would be like me mugging somebody, you know, just because I'm bigger. Okay? And that wouldn't be right, one for mugging and for me being bigger. (Laugh) Now again...and then to the idea of we only have certain manpower capability to do assessments within the county. Well, if you raise your taxes you could pay for those people. If you raised the assessment, now you're raising your taxes. If you just assessed everybody, in just one year, let alone maybe five years, if you did it every year, you're not asking anybody to pay any more. So again, I don't believe that would necessarily hold water. Again, all this shows out how much differently those within the learning community are being treated than those throughout the state also. We only called out two counties and we called out that Sarpy County must participate. No one else was called out to have to participate. So that's why you get that focus. That's why people are looking at it, because they were called out specifically. Now this may not be the answer. There may be another answer out there. It may be an answer where we say the lowest contributor to that common levy is the percentage by which all others will have to pay in. Then you don't have that set point issue we were talking about where you'd lose revenue for a city and everybody else. They could still go about their same common practices. But if one county is only assessing and paying in at 93 percent of their value, all the other ones would only go in at 93 percent. It wouldn't hurt their total value, only what they pay in to that common levy. But again, this just points out and brings that in the creation of the...from the Legislature, foisted on the citizens, we created this and that we should take steps to work it out to where it isn't so egregious. And that's why I brought this forward. Understand this is a sticky wicket. It's late in the process. And again, I do appreciate

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your focus and your attention on this detail, and I'd be open to questions you may have. [LB418]

SENATOR DIERKS: Thank you, Scott. Questions for Senator Price? I guess you did a good enough job, we're all... [LB418]

SENATOR PRICE: Either that or they're tired of you. [LB418]

SENATOR DIERKS: Okay. [LB418]

SENATOR PIRSCH: Thank you. [LB418]

SENATOR DIERKS: Thank you very much, Senator. That will close the hearing on LB418, and we'll now have an opening on LB469 by Senator Karpisek. [LB418]

SENATOR KARPISEK: Are you ready, Senator Dierks? [LB418]

SENATOR DIERKS: We are ready whenever you are, Senator Karpisek. [LB418]

SENATOR KARPISEK: Thank you, Senator Dierks. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. LB469 is a familiar site that we've seen before. I've brought it before and it was Senator Coordsen's pet project I think, and so Senator Dierks has seen it many times. What LB469 is trying to do is create the Agricultural Land Valuation Task Force to see if we should value our land, ag land, differently, talking about going to an income capitalization approach to valuation of ag land. Again, I won't take a lot of time because most of us have talked about it and those of you that weren't here I'm sure have heard about it. The problem that we're seeing, especially in my area, is land valuation raising very high, which increases taxes very high. Some of why that land is going up so much is because of 1031 exchanges and also because of people from an urban area coming out and buying land for recreation. They might buy some land that has a lot of creek bottom in it for \$10,000 an acre. It's not any good for farming. You can't produce anything, but they want it to come out and come hunting on, which is fine. But the person next-door, the adjoining land has that same creek bottom running through it and their valuation will change dramatically because that last parcel just sold for \$10,000 an acre. That person may have had that land for 100 years but now they're paying a lot of taxes on it for really what is not good for them. They may have bought it at a discount because that creek did run through it. So my idea is just to look at what the land can produce and tax it accordingly. We had an interim study that Mr. Lock did two years ago I think, did a nice job, a wonderful job, as always, of seeing Kansas does this, Iowa does it, talked about how they do it. But that's fine to know how they do it but I would like to do a study of how it would affect Nebraska. There's nothing in here to say that it would put it in place because we don't know. It might not be a good idea for us to do it. I

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know that task forces are not looked real kindly upon in the body and I have to admit that I usually don't smile real highly on them either, but I don't know how else to go about this to get it done. I have said maybe a Exec Board or Exec Committee looking at it may be one way, or Senator Harms has a bill to create the Economic Development Committee, may be ways to go on this. I don't know, but I do think it needs to be looked at closer than what we've done before. We've kind of taken a 10,000-foot approach in saying, well, I don't know, we're okay the way we are, but some people are really getting upset and hurting on how this happens. I did have people say when the corn was high, boy, I'll bet you're glad that didn't go through, that would have really raised the rate on 80 acres of corn. Well, their input costs also went up. I would have to say they did make more money when the corn was up. Input costs went up. And what we have talked about is to create a three- or a five-year running average so that would have made a blip in our running average. But I would say we're back down again so it would level out. Again, I don't know, we don't know, but I think it's something to look at to try to get things a little bit more on an even playing field, although I don't like that word or that phrase, to see where we're at. Senator...as I understand Senator Coordsen's big opposition or where he had trouble was he wanted to have one capitalization rate across the state. I don't have an issue with that if we had three or more. I understand farming in Lancaster County is not farming in Box Butte County. So Senator Coordsen understood this, I'm sure, many, many more times than I do, so there must have been some reasoning for that. But as I understand, that's...he wouldn't move off that and why it didn't move. So anyway, I'm just asking that somehow we try to get some money together to try to do a study and see what it would do. It may help us out. This is not, in my opinion, a way to lower taxes but a way to equal them out, make them more fair. With that, I would take any question or try to answer any questions you may have. [LB469]

SENATOR DIERKS: Thank you. Senator Utter. [LB469]

SENATOR UTTER: Thank you, Senator Dierks and Senator Karpisek. Would you agree this may not be the year to...the thing that begins to concern me is I had a little session with our good friend, our mutual good friend Senator Heidemann the other day and he showed me kind of a snapshot of the state budget and the bottom line just looked really kind of bad. [LB469]

SENATOR KARPISEK: Kind of bad. [LB469]

SENATOR UTTER: And I'm kind of wondering where we're going to get the 50 grand that it says in the fiscal note to do this study. [LB469]

SENATOR KARPISEK: Yeah, and I agree. I don't know if you had many bills in that at the beginning of the year looked a little better than they do at the end with the reports out. That is...that is...yes, I do wonder that. I'm hoping that maybe some people behind

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me...and in the beginning we talked about maybe doing some cost-sharing with some of the farm groups in the state. I don't know if they would still even think about that or not, but they'll be behind me and maybe we can think about that. Again, maybe if we can put it to one of these other newly formed committees or to the Exec Board, maybe it wouldn't cost as much. But I also want to make sure that we have a very good picture of what...that we know what the heck we're talking about before we implement it and go, oh boy, that wasn't a good idea. So thank you for that and you are right. Anywhere we can save a dime, I'm with you. [LB469]

SENATOR DIERKS: Senator Hadley, please. [LB469]

SENATOR HADLEY: Senator Dierks, Senator Karpisek, just a question on the makeup, and being new to the Legislature I don't know how these normally do. I notice that you do not have any member of the body on the committee. Is that a common type of thing when these types of task forces are made up? [LB469]

SENATOR KARPISEK: You know, I don't know that, Senator, and maybe Farm Bureau may be able to help with that. They helped me craft the bill and we were trying to think of who all to put on it. I don't know that we would normally want a senator on there making a decision to where this would go. I would definitely want to be involved with the process and be at the meetings. I don't know that you need someone sitting on that board. [LB469]

SENATOR HADLEY: Okay. [LB469]

SENATOR DIERKS: Senator Louden, please. [LB469]

SENATOR LOUDEN: Yes, thank you, Senator Dierks. Senator Karpisek, yeah, you were on that commission, Tax Policy Commission, a couple years ago that Senator Burling had. Were you on that commission? [LB469]

SENATOR KARPISEK: No. [LB469]

SENATOR LOUDEN: Okay. Some of us were. I know Senator Pahls was. Anyway, we went through some of this. When you talked about the 1031 tax deferred, now this is something that I don't know if you're familiar with, and Bill may have to help me with this, but there's in that section the 12 comparable sales, is it like 79-1304 or somewhere along...? [LB469]

BILL LOCK: I think your memory is actually better than mine. [LB469]

SENATOR LOUDEN: But anyway, there are 12 guidelines in there for what you use for a comparable sales analysis. And we could never get the Property Tax Administrator,

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and especially when Cathy Lang was in there, to rule that these 1031s couldn't be used, shouldn't be used for comparable sales analysis for valuation purposes. Because that's what we're talking about, is valuation. We're not talking about taxes or levy because that's all a local issue, what our property taxes is. That's...very little of that is state. So consequently in there, that has been my contention for years, that no one has followed those comparable sale analysis guidelines. There was...the problem is that when you get out in some of this country there's probably one-tenth of 1 percent of the real estate ever changes hands in some of these counties, like Sheridan or Cherry or something like that. So whenever they do get this one piece, they use that to value the whole God's creation, you might say, and the question is, is really should that one piece be used for that. And so when you talk about doing this, I think some of this could be done with literally an interim study type deal because there's some things that would be just a matter of addressing what's in statutes and whether or not that agency or property tax agency wants to follow those guidelines that are already in statutes and redefine them. I mean we've got this several times this year of how they interpret the law and how other people think it should be interpreted, especially on sales tax issues. So I think, yeah, I think this is a good idea. Something needs to be done. Whether we have to have another study, because the other day we were talking about studying with Senator Pahls's bill, well, we go back and pick up your Syracuse study, that happened about the year before I came down here, and then go look at the Tax Policy Commission that we set up two years ago and all of us got that book. I mean that book is still there. That information is still there, so I think something like an interim study or something like this. And of course, you may not have these other people involved, but I think this is where we're going to have to go. I think we do have stuff in statutes that probably could be reinterpreted or decide whether they're interpreted right at the present time. [LB469]

SENATOR KARPISEK: And, Senator, I agree with you. As I said, there was an interim study a couple years ago and Bill did a very good job of getting some information, but as to actually sit down and try to figure out, even to take one county maybe and see how this would affect, I think would be a huge undertaking and I don't know that the research analyst (laugh) has that sort of time or...to put into that. Because I think it would be a big...especially like I told Senator Utter, to make sure that we're doing the right thing here and not put it in. Another thing that, as you talked about, things don't maybe sell very often and maybe when they do, there may be someone like Ted Turner buying things that may be buying them at a higher rate than what the normal person would buy them. So that skews everyone's valuation too. And you are absolutely right, it's valuation, but then the taxes go by the valuation. [LB469]

SENATOR LOUDEN: By the valuation. [LB469]

SENATOR KARPISEK: But I don't know that we could do it in an interim study. I just think it's a little bit too broad. [LB469]

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SENATOR LOUDEN: The reason I point that out on an interim study like that is you have your work with your valuations, you have your work with people that come in and, as you say, buy that land that's got that creek, on and on. Now should we have a different classification for that? Should that be classified as residential right away instead of agricultural? Put that up at 100 percent of value or, as we've sat here, 92 to 98 or whatever. But...and that's never been addressed. Now some county assessors have done that and some of them have gotten in trouble over it because they've had either their marketing areas or they've tried to reclassify some of that...especially some of that Pine Ridge area, classify it as scenic or something like that and put a different valuation on it. And, well, you've even noticed, I think, some politicians have bought some ground out in an area and built a house and bale up a couple bales of hay, you know, and call it ag land. And if you remember a couple years back, there was some questions about (inaudible). [LB469]

SENATOR KARPSEK: I remember some sort of a commercial about that. (Laughter) [LB469]

SENATOR LOUDEN: But this is something that...I mean this can be addressed in-house really. I mean this is stuff that's already been talked about, put it out in front of us, but nobody, like you say, nobody has picked it up and decided that now something has to be done. [LB469]

SENATOR KARPSEK: Well, and I would be glad to try to pick up the ball and run with it if I really just knew where to go. [LB469]

SENATOR LOUDEN: Well, I'll nominate you as Chairman. [LB469]

SENATOR KARPSEK: And I'll hand it off to you. (Laughter) [LB469]

SENATOR DIERKS: Well, when we get around to doing business, we really get it done, don't we? [LB469]

SENATOR KARPSEK: Boy, I guess. That was easy. (Laughter) [LB469]

SENATOR DIERKS: Any other questions for Senator Karpisek? Thanks, Russ. [LB469]

SENATOR KARPSEK: Thank you, committee. [LB469]

SENATOR DIERKS: First proponent, please, for LB469. [LB469]

JAY REMPE: Senator Dierks, members of the committee, my name is Jay Rempe, that's J-a-y R-e-m-p-e, vice president of governmental relations for Nebraska Farm Bureau Federation, here today on behalf of Nebraska Farm Bureau in support of LB469.

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First, let me congratulate you. You're just about done with hearings this year so good job. And also, I want to thank Senator Karpisek for bringing this bill again and keeping this issue alive. Let me just real quick, for the new members of the committee, just a real brief history of this. Nebraska used to value ag land based on its income capabilities or its productive capacity until we ran into some constitutional problems in the...I believe it was the early 1980s. We had some constitutional problems. At that point, the Legislature came back, and it wasn't an easy solution, it took a few years, but put in the present approach that we have, based on the market value. As you look at Nebraska compared to other major ag producing states, we are one of very few that value our agricultural land based on market value. Most other significant agricultural producing states use an income approach to valuing ag land and, for that reason and several others, we've had this on-and-off-again discussion over the years about what Nebraska could do to go back to valuing ag land based on an income approach. And Bill Lock has been involved in those discussions and, as much as anybody, can give you the history on this better than I can. And I want to thank Bill because every time we've called him up to talk about this, he's been very gracious and very helpful in this effort or in aiding our discussions. From our members' standpoint, there are several reasons why we should continue to look at trying to go back to an income approach and some of them have already been mentioned, one, the other influences or factors that are out there in the ag markets. The 1031 exchanges, the recreational interests, the folks that just want to buy land because they like the view or they're close to the river or those kind of things, those are all factoring in and influence the market and there's some documentation of this. Each year the Department of Ag Economics, Dr. Bruce Johnson, does a study of the...or puts out a survey of the ag land markets and he does this annually. It comes out in June and last June, to no one's surprise given what's happened in the crop prices lately, the crop prices were the biggest influence on ag land markets. And as a result, we're seeing, of last year, ag land value went up 37 percent statewide and probably taxes on ag land went up almost, I think it was, 29 percent statewide. But once you get beyond the crop prices right now, they are...they are documenting other influences. The fourth and fifth largest influences that they were seeing were 1031 exchanges and nonag investors in ag land. And so there are other influences out there, and that changes from year to year. In 2006, in their report the top two influences were nonagriculture buyers and 1031 exchanges. So while it does go back and forth from year to year, there are significant influences. That's one reason. The other is, as already mentioned, the...and I think in this report they've documented it looks at 3 percent of the land or the land base that we have in Nebraska will transfer from year to year, or it will be sold. So we're taking a very small part of the land base and we're spreading that out over everybody and trying to value everybody based on only 3 percent of the land base or the sales that are going on, is another reason. And then third, a lot of our members look at other states, bordering states--Kansas, Colorado, Wyoming. They use an income approach and wonder why we can't do that here in Nebraska. So for all those reasons, we certainly support this bill. I think...let me touch on your question a little bit, Senator Loudon, in terms of why maybe a separate

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study beyond an interim study. I think the bill raises questions that we need to have somebody with a lot of expertise look into and that's why the money is attached to the bill, to maybe contract with some people to look at some of these things. But Senator Karpisek mentioned Senator Coordsen's bill a couple of years ago. One of the things that always plagues a look at this approach is can it be done in such a way that's uniform and proportionate across the state, and that's what did it in the first place and so that's something we always got to be cognizant of. So there's got to be some kind of a legal analysis there. The other is, is do we have the data sources and the information available to do this kind of an approach? It's a very data intensive kind of an approach and so we'd have to have somebody look at do we have that data readily available, do we have confidence in that data. Third, I think when you start looking at this kind of approach, the roles of the county assessors versus the property...or, at the state level, the Department of Property Assessment and Taxation would likely change. We need to know what that would be. And then I know lastly the Department of Revenue and the DPAT have been looking at maybe alternative ways, looking at soil productivity indexes, those kind of things, some alternative methods of maybe merging maybe kind of a market approach with an income approach under some different scenarios, and I think that deserves some look at as well. So I think this goes beyond a little bit of the interim study type of thing that we're looking at and, for those reasons, it would maybe dictate a task force and investing some resources into it. So we're very supportive of this bill and I would close there and be happy to answer any questions that you might have. [LB469]

SENATOR DIERKS: Thanks, Jay. Questions? Senator Louden, please. [LB469]

SENATOR LOUDEN: Well, Jay, do you remember how much? It was \$100,000 for that policy...Tax Policy Commission last time, wasn't it appropriated for that? I don't know if they used it all or not but they...there was a...that was a big deal with Senator Chambers and Senator Burling, is the money, and that was \$100,000. [LB469]

JAY REMPE: Uh-huh. [LB469]

SENATOR LOUDEN: And Senator Burling had a problem getting a facilitator and some people like that. So I mean I don't think \$50,000, if you want to do what you envision, you haven't got there yet. That's the reason, as I listen to Senator Utter here that have we got the bucks, I think, yeah, you can probably have an interim study for a lot less than that and probably use the information we have and probably come up with some legislation if you got guts enough to do it. [LB469]

JAY REMPE: Yeah. And I don't discount the money factor in terms of the dollars that are needed and Senator Karpisek and we have had discussions about whether or not it could be a cost-share basis where if we can come up with some state funds, groups like Farm Bureau and others that have an interest in this might be willing and able to come up with some private funding to match that as well, and that's certainly a discussion

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we'd be willing to have. [LB469]

SENATOR LOUDEN: Now do you think you could get the organization of NACO to donate to this. Because, you know, soon as you talk about cutting down the valuations, you're going to have a bunch of counties that are...well, yesterday we were listening to nine counties that are at the maximum (laugh) and right now you're going to get some resistance there if you're going to start changing the valuations because those are the first ones that will be affected. [LB469]

JAY REMPE: Yeah. And I don't know how NACO would feel. And I guess I want to echo what Senator Karpisek said. I guess the goal isn't to necessarily reduce valuations. The goal is to try to make sure that we're valuing the land based on its ag productivity. And wherever that may fall, that's where we need to be. But obviously, if it reduces values, everyone will be happy. Now if they go up, they may not like the idea so well, so. [LB469]

SENATOR LOUDEN: Well, I know one senator here sitting on the board wouldn't be happy from the Education Committee (laugh) because soon as you reduce that value, why, your state aid will go up. I mean it's a serious, serious discussion when you do have it. [LB469]

JAY REMPE: Yeah. Oh, it is. [LB469]

SENATOR LOUDEN: Thank you. [LB469]

JAY REMPE: Uh-huh. [LB469]

SENATOR DIERKS: Other questions? Thanks, Jay. [LB469]

JAY REMPE: Uh-huh. Thank you. [LB469]

SENATOR DIERKS: The next proponent, please, LB469. [LB469]

GREGG WIEDEL: Good afternoon, Chairman Dierks, members of the Revenue Committee. My name is Gregg Wiedel, G-r-e-g-g W-i-e-d-e-l. I am here today representing the membership of the Nebraska Cattlemen. I am chairman of the farmer stockman committee, as well as serve on the NC executive board. I am...my testimony is in support of LB469. I'd like to thank Senator Karpisek again for bringing this bill forward. I'll give you a little bit of history here. This bill was taken from Senator Coordsen, which was friends of my mom and dad. I live ten miles away from where he always did, so I am District 32, so this is a little bit of history on me. And this is Senator Coordsen's passion for a long time. But the Nebraska Cattlemen has longstanding policy on this specific idea of income capitalization approach to ag land valuation.

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Believe it's worthy to study this approach for a couple of reasons. I will not try to mention the task force because you guys will throw your books at me here today, but if it comes up it's because I wrote it down. First, we have seen extreme volatility in commodity prices in the last five years, as well as increased price pressure on land from outside of production agriculture. Therefore, we believe the taxation of ag land based on income capitalization would potentially give a more stable approach to farmers and ranchers. In recent years when commodity prices have risen, land values go higher. Then when commodity prices have gone lower or back to a typical trading range, ag land assessment does not necessarily follow. Consistency greatly helps producers plan for the future. As we look to the need of this study, serious tax reform has been proposed this legislative session by Senator White and Senator Pahls. NC applauds their efforts to scrutinize taxing in our state. Nebraska Cattlemen would agree for the need of examining ag land valuation, which relates to NC's opinion of an excessive dependency on property taxes. Cow-calf operators can pay anywhere from \$50 per cow per year or higher when cow-calf operators, being fixed cost producers, they have few if any options when ag land valuations and, subsequently, property taxes go higher. In closing, NC realizes that as this committee and all senators are prudent in analyzing all cost, including the fiscal note of this proposed legislation, it is our belief that the investment to study ag land valuation based on income capitalization would be a wise, long-term investment into a more fair way in tax assessment based on income capitalizations. I'd like to again thank Senator Karpisek and the Revenue Committee for your time today. I'd be happy to try to answer any questions. [LB469]

SENATOR DIERKS: Thank you, Gregg. Questions for Mr. Wiedel? LeRoy, Senator Louden. [LB469]

SENATOR LOUDEN: Yes. Thank you, Gregg, for being here. I remember, I was here the day that Senator Coordsen introduced that bill here in the Revenue Committee because, as you remember, he talked real slow and everybody else would come up and say, oh, well, I'm just going to take a minute, and when he got up, he says, I'm going to take a lot more than a minute, and he did. (Laughter) And if you remember, I think it was LB600. Wasn't that the number? [LB469]

GREGG WIEDEL: I think so, yes. [LB469]

SENATOR LOUDEN: And at that time, I was here that day because we got Senator Adrian Smith to introduce a bill to put in one other comparable sale guidelines and that was to do away with these 1031s as a comparable sales analysis. [LB469]

GREGG WIEDEL: Correct. [LB469]

SENATOR LOUDEN: I remember it real well. Now where Senator Coordsen run into trouble, and it all looked good until he got out the western end of the state with these

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people that irrigated with surface water irrigation, and when you had the, using the production costs, what they were getting off of that, but their input was so much higher that it made their valuations go way up. [LB469]

GREGG WIEDEL: Okay. [LB469]

SENATOR LOUDEN: And that's where the buzz saw came in and that's what shot the thing down. He lost support then of about two-thirds of the western end of the state. [LB469]

GREGG WIEDEL: Okay. [LB469]

SENATOR LOUDEN: But I agree there was something in there that he had a lot of work done on that, on the ability of property to generate income. Now I can remember on that. You're talking about your cow-calf, what you pay. How much do you pay a month to summer a cow and calf in your area? [LB469]

GREGG WIEDEL: It's running \$35, \$40 a month. [LB469]

SENATOR LOUDEN: Okay. See now if we have to do that up in my area, you know, we can't make a living at... [LB469]

GREGG WIEDEL: Yeah. [LB469]

SENATOR LOUDEN: ...paying that much pasture bill, mostly because in your area you can winter those cattle for literally nothing because you have corn stalks. In our area, we have to purchase all of that feed. [LB469]

GREGG WIEDEL: True. [LB469]

SENATOR LOUDEN: So therein is how you work that out across the state and that's what's happened with Senator Coordsen's problem right there, was... [LB469]

GREGG WIEDEL: Uh-huh. Yeah. I know that, you know, I use kind of my scenario along with somebody that lives out in your area, you know, and they said their tax is about \$48 to \$50 per cow. That's animal unit, you know? And then in my area, see, it takes, what, ten acres out there in your area? [LB469]

SENATOR LOUDEN: Or 15. [LB469]

GREGG WIEDEL: Or 15. You know, that kind of blows my theory all to heck real quick, but I'll use ten it makes it work. (Laugh) I use five acres for an animal unit per cow per season, that's for five months, and my taxes are around \$10 an acre for that. So that's,

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again, we're back to that \$50. You know, it's about the same per cow, I'm trying to say, kind of throughout the state, but there are variations. I mean I'm sure there's differences in even ranchers or even farmers in my area, you know, how many cattle they do run. You know, we can compare Colorado and Kansas and everything else. I also know that Thayer County, where I'm at, is straight south of York, Nebraska, on Highway 81, right the southern tier of the county. Republic County is the northern tier right south of me in Kansas. There was a pivot irrigated farm that was up for sale. An appraiser appraised it and he had told me that their taxes were like \$1,500 on that pivot-irrigated farm. Right across the state line, you know, we're talking double that quite easily, you know, and you know the water is basically the same. You know, we're within five or six miles of each other. But I understand that. And I don't want to get off the subject here but, to answer some of your questions, Senator Louden, you talked about how...we've all talked about, you know, like recreational land, land getting sold for recreational purposes. Now my local assessor, I will hand it to my assessor, she's doing a great job but she has gone out and she has...land that she felt like that was sold not for agricultural purposes she has gone out and looked at and she has documented it and she has wrote to them people and says it will be taxed as recreational ground, which will be 100 percent instead of the 75 percent for ag ground. So I will hand that to her. But the problem she's got then is that the surrounding county, not everybody in the county, not everybody in the state is doing that. You guys have got to maybe set down a policy and says, this is what you will do; you have to document these sales whether they were ag ground or for recreational purposes. You know, that would be a considerable amount, I shouldn't say considerable, but that would be some more money coming in for you guys' revenue. [LB469]

SENATOR LOUDEN: Now when they do that, what is that, that 525 that they have to file, 515, 525 or whatever it is that you have to file to say what that...what you were buying that land for or what you did with it. [LB469]

GREGG WIEDEL: Uh-huh. [LB469]

SENATOR LOUDEN: But now when she does that, can she do the...like if they buy 160 acres like that, can she do the whole 160 or does she have to go in there and more or less take four or five or six acres where the house sits and put that and then...but the ag land out there or the other land she has to go ahead and use as ag land because then they'll challenge it and show that they're... [LB469]

GREGG WIEDEL: Yeah. [LB469]

SENATOR LOUDEN: ...baling a bale of hay or something on it. [LB469]

GREGG WIEDEL: You know, say like there's a creek bottom down there, 20 acres out of the 160 is farm ground. Maybe they'll still have some farmer come in and farm that

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and plant corn to it. Now the way I understand it, she is trying to take that out and still consider that ag ground, but you know then the grassland or the timberland she is going as recreational ground. But the other side of that though is that when that person comes down here to buy that ground for recreational purpose, that person had to compete with the farmer right next-door that has been waiting for that piece of property. You know, we cannot stop him coming in there and doing it, but that does hurt him though to extend out his business, his ranching operation, and to make more income, you know. And it kind of hurts sometimes to bring in younger farmers back here, you know, when we have to compete with that because they can pay a little bit more money than what we can. I know I bought a piece of property last year that I had to pay more than what it will ever be worth probably, but, you know, I've been farming it for 20-some years and I needed it for my operation. So I'll pay for it till I'm 80 years old, just like my dad still is, so. (Laugh) But, Senator Louden, again, I do not think that we are proposing this as to take more money away from the state because, you know, we don't want to, if I can say this correctly, we're not trying to take more money away from the state by lowering our taxes. This might come back and it could be the other way around. I do not know. That's why we need to have this study, to see which way is best. And with Senator Pahls and Senator...the other senator, you know, with him wanting to do this by going through our whole taxation system and redoing this, this might be a good time to look at some of these things. I know that, you know, money is very tight. It's tight everywhere right now. But do we, you know...is there any other questions, I guess? [LB469]

SENATOR DIERKS: Senator Hadley, please. [LB469]

SENATOR HADLEY: I...it just brings back memory because for...in another life, I was an accounting professor and we used to teach about the value of an asset is the present value of the future streams,... [LB469]

GREGG WIEDEL: (Laugh) Yeah. [LB469]

SENATOR HADLEY: ...capitalized at an appropriate rate, and the marketplace is the surrogate that we use for that process. And what I'm hearing from you, that sometimes the marketplace is not a good surrogate for that valuation because of the recreation lands, the 1031 swaps and that kind of thing. So... [LB469]

GREGG WIEDEL: Yep. [LB469]

SENATOR HADLEY: ...I applaud something like this because this is the last day of our hearings and we've heard a lot of talk about people wanting exemptions from this or exemptions from that, and I think this is one of the first constructive things that I've heard about saying, well, let's take a look at something, you know, you know, using a good theory... [LB469]

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GREGG WIEDEL: Uh-huh. [LB469]

SENATOR HADLEY: ...to find out if there is a way of valuing the land for taxation purposes. [LB469]

GREGG WIEDEL: Yeah. [LB469]

SENATOR HADLEY: So I applaud that. [LB469]

GREGG WIEDEL: Thank you. Saved the best for last. [LB469]

SENATOR HADLEY: This is the last, isn't it? (Laughter) I hope. [LB469]

SENATOR DIERKS: I was a cosponsor of that bill with George Coordsen... [LB469]

GREGG WIEDEL: Okay. [LB469]

SENATOR DIERKS: ...and we sweat blood to get it out of committee. [LB469]

GREGG WIEDEL: Yeah. [LB469]

SENATOR DIERKS: I mean we had a heck of a time. [LB469]

GREGG WIEDEL: Kind of know what you're talking about. (Laughter) [LB469]

SENATOR DIERKS: Fact is, George just got up and walked out one day and said, I'm through. And so some of the committee members called him a little bit later that night and said, we're sorry, George, come on back, we'll help you get that bill out. [LB469]

GREGG WIEDEL: (Laugh) [LB469]

SENATOR DIERKS: But it took a threat from him to do it. [LB469]

GREGG WIEDEL: He was real adamant about it. [LB469]

SENATOR DIERKS: Yeah. Well, Mr. Wiedel, do you have any idea what landowners in surrounding states pay for, paying property taxes? [LB469]

GREGG WIEDEL: In Colorado they're paying, this was...got some research done a year ago or so but in Colorado it's \$13 a cow; Kansas it was approximately \$12 a cow; South Dakota was \$18 a cow; and Wyoming was \$2.75 a cow. Now we all know that Wyoming has minerals to rely on for, you know, income. Colorado has a lot more people and tourism. Kansas has gas and oil and Duane and I kind of beat our heads together today

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and the only thing we could figure out is South Dakota has pheasants that we don't have. That's the only thing we could figure out. But, you know, that's the comparisons that we have with the neighboring states. [LB469]

SENATOR DIERKS: Well, South Dakota probably taxes a few more services than we do in Nebraska. At one time Senator Schellpeper, who came in the Legislature at the same Senator Coordsen and I did, in 1986, he had a bill that put a tax on services and he pursued it quite a little bit but I think it got shot out of the saddle finally. But... [LB469]

GREGG WIEDEL: Yeah. [LB469]

SENATOR DIERKS: ...we have...we have...we are blessed. We have an excellent amount of water. This Ogallala Aquifer is a beautiful thing for us and we really haven't hurt it all that much with our irrigation stuff. It's better today in the community where I live than it ever has been, and we've been pumping a lot of water out of that aquifer. [LB469]

GREGG WIEDEL: Yes, we have. You know... [LB469]

SENATOR DIERKS: So maybe we could get an excise tax on the water. [LB469]

GREGG WIEDEL: Well, I'd almost hate to say that we're going to go sell our water. (Laugh) [LB469]

SENATOR DIERKS: Yeah. Well, there's another chance now. We got these big wind towers going up around the country. Maybe we should sell...get an excise tax for the wind we harvest. [LB469]

GREGG WIEDEL: Could be an opportunity there. [LB469]

SENATOR DIERKS: That would increase the electric bill, wouldn't it? [LB469]

GREGG WIEDEL: Yeah. You know, we all take... [LB469]

SENATOR DIERKS: Got to be careful. But I wanted to ask you a question. In your testimony you said that you compared the price of an irrigated quarter in Kansas and Nebraska and I guess I misinterpreted. Where was it higher, Nebraska or Kansas? [LB469]

GREGG WIEDEL: It was higher in Nebraska. [LB469]

SENATOR DIERKS: Okay. I thought that...I thought you said it was the other way around and I was just kind of puzzled with that. [LB469]

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GREGG WIEDEL: Excuse me for that. [LB469]

SENATOR DIERKS: Sure. Anybody else have questions for Gregg? I guess that does it. Thank you very much, Gregg. [LB469]

GREGG WIEDEL: Thank you. [LB469]

SENATOR DIERKS: Welcome to the Legislature. [LB469]

GREGG WIEDEL: (Laugh) Okay. [LB469]

SENATOR DIERKS: Other proponents for LB469, please. [LB469]

LARRY HUDKINS: Good afternoon, Senator Dierks and members of the Revenue Committee. My name is Larry Hudkins, L-a-r-r-y H-u-d-k-i-n-s. I'm a farmer from Lancaster County, member of the Lancaster County Farm Bureau, serve as a Lancaster County Commissioner, and serve on the board of equalization. Probably my toughest duty has been sitting on the board of equalization when I have farmers and ranchers come up and say, you know, when I have income I don't mind paying income tax, but when that cow doesn't drag in a calf or I have a drought, those property taxes go on. And so most of the farmers that I visit with and ranchers, I wonder why in the world we can't look at some type of a tax that takes into account the ability to produce. Also, being in Lancaster County, we see an awful lot of pressure because we are so close to Lincoln and Omaha that we have a lot of urban pressure. We have a lot of recreational pressure. We have a lot of 1031 land exchanges that are done in this area. And so our market value is higher than what I produce. I have land in Seward County and Lancaster County, isn't even a fence between them in some places, and I have higher taxes in Lancaster County. I'd like to bring to light Rex Kirchhoff, a...I was in the LEED Program. Rex was the president of the Superior school board. He farms on the Nebraska-Kansas line between Republic County, Kansas, and Thayer County, Nebraska, and his taxes are over double on his land that's in Nebraska compared to his land that's in Kansas, and yet there isn't even a fence dividing that. So I would like to say, first of all, we want to thank Senator Karpisek for introducing the bill, LB469. I know money is tight but I think we can do a better, fairer, more equitable way of taxing land and so that our farmers and ranchers can compete with the states that are around us. I believe that all the states around us have some form of production-based valuation for their ag land and I think we should too. Are there any questions? [LB469]

SENATOR DIERKS: Thanks, Larry. Questions for Larry Hudkins? Senator Louden, please. [LB469]

SENATOR LOUDEN: Yeah. Thank you, Senator Dierks. Well, thank you, Commissioner

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Hudkins, for being here today. You're just the man I need to talk to, since you're county commissioner. (Laugh) What...when you talk about changing that value, you know, are we talking about changing the valuation or are we talking about changing the mill levy. You're the commissioner now. You got...you got control on the mill levy now. You don't have that much control on the valuation but you do have control on the mill levy. So is there...when you talk about Kansas, now do they fund their school system separate? Do they fund their counties or some of these other systems separate? [LB469]

LARRY HUDKINS: Not being a resident of Kansas, I'm not an expert on that but, in visiting with my friend Rex Kirchhoff, he tells me that Kansas funds their school systems through state aid at a higher rate than we do. And with Kansas, I'm sure that a sales and income tax is going to work better down there because they have more people. Now as a county commissioner, yes, I have limited control over the mill levy, but most of our programs are state mandated, which you fellows control and if we could get you to pay your jail reimbursement, why, we'd have more money to lower the property tax with. (Laughter) [LB469]

SENATOR LOUDEN: Yeah, I'll vote for that because I know where that is. [LB469]

LARRY HUDKINS: (Laugh) You know about that. [LB469]

SENATOR LOUDEN: Yeah, you got to cap it at 50 cents on counties. [LB469]

LARRY HUDKINS: And we can only raise it 2.5 percent per year. [LB469]

SENATOR LOUDEN: And like in our area, about 65 percent of our property taxes is school. [LB469]

LARRY HUDKINS: Yep. [LB469]

SENATOR LOUDEN: We also have quite a mill levy for community colleges, you know, so in there someplace, so the question is there's about...all that money is going to have to be spent. It's a question of whose money you're going to spend and that's what I'm wondering. [LB469]

LARRY HUDKINS: Is it a state responsibility or is it a local? [LB469]

SENATOR LOUDEN: Is a local. And... [LB469]

LARRY HUDKINS: Precisely. [LB469]

SENATOR LOUDEN: ...when we talk about valuations, I can remember the first time I ever went to a tax protest, I said I was 16 years old because I drove the car for a bunch

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of old guys went up there, and that was their problem then. They said, well, if your valuation goes up, your mill levy will go down. And that's been (laugh) been way over 50 years ago and I never did see it happen like that. And that time, those people were up there protesting their tax because it went up to \$16 an acre and it was at 35 percent of actual cash value at that time and they were protesting it then. So it's a question of whose money we going to spend, and I don't know how we're going to figure that out. [LB469]

LARRY HUDKINS: Well, I think you'll do a diligent job of assessing it and what we're asking for here is a study and, you know, I would hope we can take a look at our surrounding states. And you know what works for them isn't necessarily going to work for us, but maybe we can take a look and do something fair. As you well understand, as a rancher, you know, when that cow comes up without a calf, you still have to pay taxes on the land that it took to support her each year. That's what hurts. If we have the income, I don't know, personally, I don't mind paying state income tax, but that property tax bill that comes around, in my case that's about \$25,000 to \$30,000 a year, whether I've had a drought or whether I've raised a calf crop or not. That's what hurts, when you've got to go to the bank and borrow the money to pay your property taxes. [LB469]

SENATOR LOUDEN: Now if something came about of this and you lowered the valuations, now your county wouldn't be getting as much money. You'd still be capped at 50 cents but your valuation wouldn't be high. Is that correct? [LB469]

LARRY HUDKINS: That would be correct. [LB469]

SENATOR LOUDEN: Can you live with that? [LB469]

LARRY HUDKINS: We can in Lancaster County... [LB469]

SENATOR LOUDEN: And not... [LB469]

LARRY HUDKINS: ...because we're not up against... [LB469]

SENATOR LOUDEN: ...of course, you're down around 20-some cents for... [LB469]

LARRY HUDKINS: We're at 26.82. [LB469]

SENATOR LOUDEN: Twenty-six, yeah, for that. Some of these counties that are right at the max then you have a problem. [LB469]

LARRY HUDKINS: I thank my lucky stars every day that I'm a county commissioner in Lancaster County, where up till now at least we've had growth so I don't have to make a decision about not replacing a bridge on a farm-to-market road or some of those things

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like that. However, this dynamic is changing our assessor just filed with the Nebraska Property Tax his preliminary values and they were released to us this morning at our staff meeting, and he's showing actually a decline in the valuation for Lancaster County for next year. So it will be a challenge. We'll have to make that budget work. [LB469]

SENATOR LOUDEN: Okay. Is that ag land is going down or is it all? [LB469]

LARRY HUDKINS: Ag land is going up, but other properties in Lancaster County are going down. [LB469]

SENATOR LOUDEN: The farmers are going to get stuck again. [LB469]

LARRY HUDKINS: We're going to have to pay more. That's the reason I'm here. (Laugh) [LB469]

SENATOR LOUDEN: Okay. Thank you. [LB469]

SENATOR DIERKS: Any other questions for Larry? You know, one of the things that...and this is what I hear when I go home. Every place I go to talk, the first question comes up is, what can we do about property taxes? And we heard it the other day in here that someone said, well, the first thing you have to do is you have to ask them have they been to the budget hearing for the people that are getting these taxes, like the school boards and the county boards, and when they put their budget together do you go in and ask them or complain about it. Because, you see, if we reduce the amount of dollars we can get from property tax, we've got to increase it in the way of sales tax or income tax to make up the difference. You don't do away with the need. You might do away with the way you fund the need but...so it's a huge problem and I just...I'm glad, too, that Senator Karpisek brought this. I think it's long overdue that we figure out some way to let property taxes be taxed based on production capacity rather than on sale value. Any other questions for Larry Hudkins? Okay, thanks, Larry. [LB469]

LARRY HUDKINS: Thank you for your time. [LB469]

SENATOR DIERKS: Okay. Thanks, Larry. Anyone else here in support of LB469? Anyone here in opposition to LB469? Opposition? Anyone neutral? Well, I think for that we're going to close, Senator...oh, Senator Karpisek waives closing. [LB469]

SENATOR HADLEY: Wait a minute, I got a lot of questions. (Laughter) [LB469]

SENATOR KARPISEK: I know, 36 left (inaudible). [LB469]

SENATOR DIERKS: That closes the hearing on LB469 and the hearings for the day. Thank you. [LB469]

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Disposition of Bills:

LB418 - Held in committee.
LB469 - Indefinitely postponed.
LB521 - Indefinitely postponed.

Chairperson

Committee Clerk