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Education Committee
February 01, 2011

[LB440 LB531]

The Committee on Education met at 1:30 p.m. on Tuesday, February 1, 2011, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB440, and LB531. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Bill Avery; Abbie Cornett; Brenda Council; Ken Haar; Ken Schilz; and Kate Sullivan. Senators absent: None. [LB440]

SENATOR ADAMS: I think, though we are missing a couple of members who are out introducing other bills, we'll begin this session today of the Education Committee. I want to welcome everyone who is here. And given the cast of characters that is in the room, I think everybody knows everybody today, so I'm going to skip introductions and instead we will proceed with the hearings. We're going to hear two bills today, LB440, Senator Heidemann, and he's with us, and then we're going to go on to LB531 that is being introduced by Senator Fulton. I want to remind all the testifiers today, whoever and however many there may be, to, of course, fill out the registration form and hand it to Becki Collins, the committee clerk. And be sure that you state your name and spell it for the record so we have that clear for the transcribers. In addition, let me remind you to turn off your computers and your cell phones so that we comply with the legislative rule of no electronic communications during these hearings, and so that everyone can hear and pay attention to what's going on. With that, why don't we begin, Senator Heidemann, with LB440. [LB440]

SENATOR HEIDEMANN: Senator Adams and members of the Education Committee, I'm Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, representing District 1 in the southeast corner of the state. I'm here today to introduce LB440. LB440 would lower the valuation of agricultural and horticulture land and such land that receives special valuation by 1 percentage point per year for ten years for the purpose of calculating state aid to schools. Beginning with the 2012-2013 school year, the value of agricultural and horticultural land would decrease from 72 to 71 percent for state aid purposes, dropping by 1 percentage point per year the value of ag land for state aid purposes would reach 62 percent for the school fiscal year 2021-2022, and remain at that level for each year thereafter. Although LB440 doesn't decrease the valuation of agricultural land for taxation purposes, I actually have a bill in the Revenue Committee that will propose to do that. It will decrease formula resources in the calculation of state aid for school districts that have agricultural and horticultural land. This in turn would trigger an increase in equalization aid to those school districts. My intent behind this bill as the school districts that would benefit from additional state aid would possibly lower the levy of the property taxes, but I will say that this bill is mainly to try to get more state aid to probably more rural school districts. And as I said, the bill on the other side deals more with the taxation side. I realize that LB440 would increase state aid by approximately \$3 million. However, I feel that the change in the valuation is necessary as farmers and ranchers are funding more and more of our rural school districts. I became interested in

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this concept after talking to a constituent, and actually he wasn't...he's not a constituent. He actually lives in Kansas, and when I first actually talked to this guy, he called me up at 11 o'clock at night after I got done in the summertime...after I got done baling hay and my wife informed me that this guy really, really wanted to talk to me. And he didn't care when, so I called him back and for the next half hour to an hour he let me know how unhappy he was with the property taxes he paid in Nebraska. And after realizing in part of his conversation that I didn't think he actually lived here, I actually asked that question, and it was true that he actually lived across the state line into Kansas. But I did continue on to listen to his story and the thing that really caught my eye, or an ear, I should say, was something that...and it wasn't the first time that I had ever heard it. But he said that he had a quarter section of ground in Nebraska, right close to the border, and he paid over \$3,000 an acre...\$3,000 in property taxes on that farm. He had 160 acres right on the other side of the border and these farms were comparable. And I asked the question and he's...and I know the guy, I got to know the guy enough that I believe him when he says it, they're comparable, on the other side it cost \$880 for the farm, for 160 acres--\$880 in Kansas, over \$3,000 in Nebraska. The majority of that in Nebraska, the extra cost, goes to support schools, without a doubt. Ag land values are continuing to increase more so than other property, which enhances the problem places an increasingly heavy burden on farmers and ranchers to fund K-12 schools. From 2009 to 2010 the value of agricultural land increased by 11.75 percent compared to the total valuation increase of 4.32 percent. Now when you really think about that, ag land went up by 11.75 percent, all valuations increased by 4.32 percent, that ag land valuation was the largest driver in increasing, making that go to 4.32 percent. So if you would take that out, which of course you would realize, commercial and residential was way below 4.32 percent. For the two years before that, the value of ag land increases by 12.28 percent and 10.3 percent compared to 5.2 and 6 percent for all types of property. You may say that increase ag land values is a positive thing for farmers, but in the bottom line, it just doesn't help pay the bills for ag land farming. LB440 would help neutralize the effect of soaring agricultural land values and resulting decrease in state aid that burdens our rural communities in supporting K-12 school districts. I'm going to go off script here, which I do every once in a while, and it drives Kim crazy. But we looked at how state aid is going out over the years, and we went back a few years, and we went back ten years, and we looked at equalized districts and we looked at unequalized districts and where the aid all went. And I'm not a dummy by any means, I realize that the needs are increasing more and more in certain parts of the state than they are in others, but that doesn't mean that we don't have needs in all parts of the state. In 2001 school year, there were 226 equalized school districts, 53 unequalized. At that time, there were 20...of all school districts, there was 23.5 percent of unequalized to all school districts. It is slowly, if you look at a graph of this, it is slowly, and you know this, we're getting more unequalized, more unequalized. We are pushing 30 percent. I would say before this year is over, and you understand what LB235 and LB236 is going to do, you're going to be looking at probably 30 percent of all school districts will be unequalized. And I believe we have to have a conversation, not only on the needs side,

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which we do constantly. I think we do this every year. We tinker with the needs side, but for some reason as we look at where all the state aid goes, we're very fearful about looking at the resource side. And as we continue to go on dealing with state aid, and how we should best do state aid, I think we need to have a conversation. And I was leery to bring something like this up because there is a fiscal note to this and I understand that this is going to be very complicated or very much of a challenge to be able to do something like this. But I think we have to have the conversation about where we're headed. And when you see the amount of school districts that are going to be unequalized, whether it be LB235 or LB236, and if it's LB236, it's going to be worse yet. I think we need to have that conversation. And then, when you look at the amount of districts that now are unequalized and the ones that are, the things that probably is going to strike me if you really look at the numbers, you could take the ones that are closer to being unequalized and take the next 50 and you could wipe out their state aid. And how much money would we save? Not much. And when you really think of that, that's something you think about, for me anyway, because that means they're not getting a lot. And sometimes there's going to be school districts that's both good and bad, because if you're not getting state aid, you don't quite pay much attention, as much attention to what's going on in Lincoln, because it's not going to affect you as much. But I've got a feeling this year it will a little bit. But it is a double-edged sword. I think it needs to be a conversation that we need to address for our local schools. I mean, this is a two-prong conversation. Number one, is the property taxes paid off of ag land, and how much they support K-12 education. How many kids are out there in the farms anymore? And we're paying more and more and more in ag land valuation property taxes for our local schools. We have less and less and less kids out there, and that's...and we have more resources and we have less needs out there. So I think it's a conversation that we have to have. Hopefully, we'll have that conversation. And if there are any questions, I'd try to answer them. [LB440]

SENATOR ADAMS: Great. Are there questions? Senator Haar. [LB440]

SENATOR HAAR: Senator Heidemann, I've thought about this a lot. And people have put it in these terms that more and more ag...farming people are becoming land rich and cash poor. But the other side of that coin is, if and when that land is sold, it produces a lot more money in the sale. How do we deal with that (inaudible) issue? And this is part of the discussion we're going to have to have, too, with your...with your other bill, the taxation bill. [LB440]

SENATOR HEIDEMANN: Well, we used to have estate taxes. We don't have that anymore, so. [LB440]

SENATOR HAAR: Right and that's the other part of that, that we're getting rid of estate taxes so when that land is sold and there's a, you know, a large amount of money there, how does that all balance out? [LB440]

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SENATOR HEIDEMANN: Are you a fan of homestead exemption? [LB440]

SENATOR HAAR: Yeah. [LB440]

SENATOR HEIDEMANN: It's the same thing, because we're giving aid to an individual to keep them in the house, but when that house is sold, do we get any benefit off of that? It's the same thing. [LB440]

SENATOR HAAR: Well, except with homestead exemption, we put income limits on it and we put, you know, value limits to it. [LB440]

SENATOR HEIDEMANN: It's true, but when it's all said and done, we give money to people to keep them in their house. But when the end of the story is, they get to keep their house. We're getting off subject here, but it's the same type of thing. [LB440]

SENATOR HAAR: But it doesn't resolve that issue. And you're right, it may occur in some other places, but the thing of...okay, lowering the tax now because the value is going up, but because the value is going up when that land is sold or the house is sold and we're not taxing that part anymore. [LB440]

SENATOR HEIDEMANN: It can become part of the conversation. It isn't...you know, right now, you talk about property rich, cash poor. Things aren't as bad out there right now as they have been during other times, I will say. But we're going to get back there. And the burden of that is placed on farmers as comparable, I think is something that we need to look at. And if we're cash poor, part of the reason is because we pay so much money in property taxes. [LB440]

SENATOR HAAR: Sure. [LB440]

SENATOR HEIDEMANN: I'm embarrassed that some of our counties out in Senator Sullivan's way are some of the poorest in the United States. And if you look at it why they are, is because literally the property tax burden. [LB440]

SENATOR ADAMS: Senator Sullivan. [LB440]

SENATOR SULLIVAN: Thank you, Senator Adams, and thank you, Senator Heidemann and the conversation begins, doesn't it? It was interesting yesterday in the hearing I asked, I think it was the business officer for LPS because he had made the comment that the formula through the years has reflected the changing needs of school districts. I asked him, has the formula adequately addressed the changing needs of funding resources, which, am I right, one of the issues that you're bringing up? [LB440]

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SENATOR HEIDEMANN: Yes. [LB440]

SENATOR SULLIVAN: That being said, then we also continued the conversation because he made the comment when asked the question about land values, well, they're going up because farmers are...basically, because farmers are making lots of money and the commodity prices are good. But I don't know about your area, and maybe you can respond to this, are we seeing lots of absentee landowners in part because CD rates are so bad in all our banks that they're looking at other ways to invest their money? [LB440]

SENATOR HEIDEMANN: I don't know if they're absentee, but we're seeing a lot of retired farmers which used to move their land on when they retired and sold it. You don't see that anymore because you can't make money with CDs, so they might as well hang on to their land and get some. It's not bad out there right now as far as income coming in for agricultural purposes. But as we see commodity prices rise, so we see fertilizer, seed. I'm doing income taxes right now. It's not as...when you see what you paid for seed and fertilizer and everything else, it's not as good as what you would think. [LB440]

SENATOR SULLIVAN: And certainly the tax situation drives up what...for those absentee landowners what they need to demand in terms of rental income and that puts the squeeze on you then. [LB440]

SENATOR HEIDEMANN: Back on the farmer, yes. [LB440]

SENATOR SULLIVAN: So does the conversation need to take place along two lines, tax policy and then also how we fund our schools? [LB440]

SENATOR HEIDEMANN: I think it can be a wide ranging type of conversation. And I'm not for sure...you know, I did two bills and one goes to Revenue. In this bill I want to focus on trying to get more money for our local schools and, hopefully, that's what the conversation will be here. And I mean there is another conversation on the taxation side, and how much ag land valuations and property taxes support our local schools. But we have needs out there, Senator Sullivan, in our rural schools just as everybody else does, and I realize that we're not going to have the opportunities out there that the LPS and the Omaha schools ever will have. I mean, we're just not going to, and we accept that. But we still have needs out there. We want to educate our kids and we want them to have the opportunities. And that's what, hopefully, this conversation will be. [LB440]

SENATOR SULLIVAN: Thank you. [LB440]

SENATOR ADAMS: Senator Council. [LB440]

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SENATOR COUNCIL: Yes, thank you Chairman Adams and thank you, Senator Heidemann. Before I ask you the questions, I must make a couple of comments. First, I'll trade places any day with the Kansas landowner who is paying \$3,000 annually on 160 acres. My house sits on a sixth of that, no, less than...it's inconsequential what my house sits on, and I pay about \$4,000 a year in property taxes. So it...you know, the kind of sympathy barometer for me on the guy that's got 160 acres is not quite there. And then yesterday's hearing, we were hearing another bill and either I misunderstood the statement that was being made, but what I kind of took from it was that while the enrollments in rural Nebraska are going down, the needs are going up and there's more reliance on local resources. And your statement was, and correct me if I'm wrong, we have more resources and less need. So, I mean, what is the balance? I mean...so..or did you mischaracterize? [LB440]

SENATOR HEIDEMANN: Depending on, there's some school districts that might have less needs, but I, hopefully, I would say that the needs are at least stable. Unfortunately, our resources are probably outpacing the needs and that's what we're seeing. And because of that, then you have more unequalized districts. [LB440]

SENATOR COUNCIL: Okay. Now to my questions. LB440 provides a graduated reduction in the percentage of the value of ag and horticultural land over about a ten-year period? [LB440]

SENATOR HEIDEMANN: Yes. [LB440]

SENATOR COUNCIL: Okay. And my question is, first, it appears to be based on an assumption that ag and horticultural land values will never stabilize or go down. Is that an assumption? Is that, that the assumption is that ag and horticultural land values will continue to increase? [LB440]

SENATOR HEIDEMANN: I am not...no, to me that would be a misrepresentation. And I...well, right now we're seeing ag land, I think, being rising unrealistically. And eventually things will level out. We saw that in the 1980s and we lived through some tough times at that time in the ag community. And that wasn't good for us as far as being an ag community. Probably as far as state aid, if you see that happen again, we would get more state aid but it wouldn't be good for us. [LB440]

SENATOR COUNCIL: And I guess that's what I'm seeing, you know, with the graduated reduction with that reduction not being tied to any particular event or circumstance that we could get out to year five and ag land values aren't near what they are now, where the express intent of LB440 is to reduce the reliance on local resources. And then part of the discussion we've been having in the committee from day one is reducing state aid over the long term, it would appear to me that in that circumstance, we would be looking at dramatic increases in state aid. [LB440]

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SENATOR HEIDEMANN: I don't want (inaudible) but to say dramatic increases but there would be increases to state aid. And this is something that if you look at charts and graphs, probably, ag land has increased. Ag land has at least over the last years, I mean the trend is definitely up. Whether it's going to stay that way or not, compared to commercial and residential, I'm not for sure. I mean, and the other thing is, and there's people behind me testifying in support or in opposition to this bill, it's not my intent with this bill to reallocate funds. I mean, if we can't do this by...I don't want to hurt OPS, and I don't want to hurt LPS. This thought is, we need to find if it's \$3 million or a percentage point to do this, we need to find this. If we can't do that, then I think we need to seriously think about what we're doing. [LB440]

SENATOR COUNCIL: Okay. And I appreciate your candor in that regard, but when I look at LB440, I have to look at in the context of all of the various bills that have been introduced addressing TEEOSA and specifically those that the committee has heard already and see how they work in concert or if there's a disconnect. Because when we start looking at what, if any, changes are going to be made in TEEOSA, what the ultimate recommendation is going to be out of this committee for the amount of state aid for this biennium, you know, we're going to have to take into consideration all of these various proposals that have been presented. Yesterday it was eliminating certain allowances and adjustments. We didn't really hear one that talks about the reserves. We already heard one that affected what could be included in general operating expenditures. So all of those have to come together, in my opinion, in a fair and equitable way. And when I was looking at LB440, again this is just my reading, it's like, okay, kind of the assumption here is that agricultural and horticultural land values will continue to rise over the next ten years. Another kind of assumption, and I may or may not be correct in it, is that levy limits will stay current or be lowered, you know, to achieve this lessening of the reliance on local resources. And I...and you kind of said that. I don't want to misstate you. [LB440]

SENATOR HEIDEMANN: I don't know that you're going to see a lowering of the levy limits, though. [LB440]

SENATOR COUNCIL: But at least the assumption is that they're not...the levy limits aren't going to rise substantially. [LB440]

SENATOR HEIDEMANN: That thought is out there. [LB440]

SENATOR COUNCIL: Okay. Okay. I mean, I'm just saying that those are assumptions inherent in the proposal, is that you don't see these dramatic increases in levy limits while the valuations go down and then it defeats the purpose of your proposal, if that were to occur. Correct? [LB440]

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SENATOR HEIDEMANN: I think I understand what you're saying that you're...yes. Because if you're driving the valuation down but the levy lids go up, it would be a neutral effect. [LB440]

SENATOR COUNCIL: Okay. Thank you. [LB440]

SENATOR ADAMS: Senator Schilz. Nope. Senator, let me preface a couple of questions to you and they're broad philosophic questions and I think you and I both know the answers to them, well, wish we had the answers to the questions is a better way of saying it. Currently, we're...we have watched the bucket of state aid tip to the east, and that is in part because of the very thing that you're pointing out here. And we've seen this in my district and really all the way across the state where there's ag land, and the question that I've had as a state senator representing a predominantly ag district, we expect the increase, but has the increase been extraordinary and had it been inflated beyond what is appropriate compared to other classes of land? That's one issue. The other issue, of course, as you've already pointed out, is that the land value bumps up, the bucket tips, but also the needs are over here. This is where most of the students are at, we all know that. [LB440]

SENATOR HEIDEMANN: We're not going to argue that. [LB440]

SENATOR ADAMS: No. No. And one of the things that I thought about, and I don't like to build policy based on a wish. The day may come when we see those land values, maybe not...well, let's say flattened a little bit, like we saw in the '80s. And I can't imagine the bucket is going to tip this way because the students are not there, therefore the need isn't. But there may be a bit of righting of the boat, so to speak. But probably never to the level that we might expect. Here's my two questions, and one of the questions is on the needs side of the formula. And I asked Senator Fischer this yesterday. I've asked her a dozen times over the course of the time that I've been here and I've asked her sometimes in jest, but most of the time serious. What needs are we missing in our smaller rural schools? It agonizes me all of the time that we're missing something out there that we need to account for. And I know you're not in a classroom. Do you have any idea? And then I'll follow up with the next question. [LB440]

SENATOR HEIDEMANN: No, I'm maybe just generally speaking when you talk about needs. We realize that our kids will not get the opportunities that they do in LPS and OPS. They don't have theater, they don't have this or that. I mean, it's just not there. We don't have the resources to do that all. As far as basic education, I'd say it's there. I'm not going to argue that. I don't say that we don't struggle to do that, and I think we're going to continue to struggle to do that because when you have 10 to 13, 14 kids in a classroom and you have to...I call it a section, you have to have one teacher for that section where LPS and OPS can have 20. I mean, it's more economically feasible for them to do that. [LB440]

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SENATOR ADAMS: Right. You know that's...and you get it. And that's the reality of it. The larger schools, whatever large is, is going to have economy of scale. They may have 150 kids want to take French, and Auburn may have 1. [LB440]

SENATOR HEIDEMANN: But in our formula, there is no economy of scale adjustment, is there? [LB440]

SENATOR ADAMS: I think we do. Nine hundred up, nine hundred down for starters, as well as a raise. But that's a whole another...and quite honestly, one of the questions that I have over and over again asked superintendents, and particularly the ones on my State Aid Review Committee, what are we missing on the smaller schools that we need to look at in the formula? And we all struggle with that issue. Let me go to the resource side. We heard a bill in Revenue Committee the other day, I believe it was introduced by Senator Loudon, that was, just simply, to roll ag value back to 70 percent. You know, one side of me says, yeah, let's do it. I talk to my county assessors and compare commercial and residential and ag land and look at what's happened and it's disproportionate. The other side of me that's here right now trying to get TEEOSA down to numbers that your Appropriations Committee can use and the body says, oh, boy, wait a minute. Is the issue, in your opinion, the way that the state aid formula uses ag value or is it the way that we value ag land? [LB440]

SENATOR HEIDEMANN: Maybe both. I mean, Senator Loudon's bill, which I supported years back going from 80 to 70 was my priority bill. As I look at that right now, I'm trying to come at a different angle because of that because there are so many other entities that take advantage of our valuation. And if you talk to the people out in the rural areas, the majority of them don't have a problem supporting county government because we know that we need to have roads to bring our goods in and out. So we don't want to...I'm reluctant to cut them for everybody because we need those other entities out there and if we would keep ratcheting it down, you're going to hurt those other entities. And that's the reason that I'm looking at how I'm doing here to help the schools, but not hurt anybody else, and also the bill in Revenue actually it only affect K-12 education. [LB440]

SENATOR ADAMS: Do we...am I correct in saying that Kansas uses the income capitalization methodology for valuing land? [LB440]

SENATOR HEIDEMANN: Yes, actually all the surrounding states do. [LB440]

SENATOR ADAMS: So, I guess this leads to the question then, if we're going to have this much differentiation on an equivalent piece of farm ground, then maybe we're simply approaching the way that we value land wrong, which, therefore, has an impact on our school aid distribution formula. [LB440]

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SENATOR HEIDEMANN: If you would go to an income-based taxation purposes of farmland, where's going to be your starting point, is the question. [LB440]

SENATOR ADAMS: Yeah, and I don't know how to develop such a plan. [LB440]

SENATOR HEIDEMANN: And if your starting point is where you're at right now...we looked at this this summer. Don't think that we didn't because everybody does that way and you do get more, less revenue from that out of the Kansas model. But can we afford that? I mean, if that's where we want to head to... [LB440]

SENATOR ADAMS: Right. [LB440]

SENATOR HEIDEMANN: ...where would be your starting point? [LB440]

SENATOR ADAMS: That's right. And in terms of state aid, can we afford to do that? You're absolutely right. Senator, did you have a question? [LB440]

SENATOR CORNETT: Nebraska did an income base briefly the way it was originally drafted and I can't remember the year. It was found unconstitutional and that's an issue that we wrestled with in Revenue on how to draft that. [LB440]

SENATOR ADAMS: Probably would be a double-edged sword too. [LB440]

SENATOR CORNETT: It is, because when income goes up... [LB440]

SENATOR HEIDEMANN: That's the reason we was kind of leery because things are flying fairly high right now with agriculture and you wouldn't exactly want to start it right now. [LB440]

SENATOR ADAMS: Are there other...Senator Haar. [LB440]

SENATOR CORNETT: You might not. (Laughter) [LB440]

SENATOR HAAR: With the economy going up and down obviously raises, you know, problems with TEEOSA and all kinds of other things, but there was a time when housing was just going up like crazy. And then it was, you could say...so, I mean, if you went with this approach, would you also have some kind of clause built in so that if residential and commercial property gained value, that that would have an...an up and down as well or...? [LB440]

SENATOR HEIDEMANN: When you look at Lincoln and valuations increase, it's a district that encompasses mostly residential and commercial. So when that goes up, the

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majority of time that they either lower their levy or they can keep a steady levy, versus when you look at ag land it's more of a mixed residential, a little bit commercial. And then you have ag land, the percentage of that supports that local school out there and that rural area becomes disproportionate because ag land continues to increase quite a bit. Residential and commercial not so much. But if ag land ever decreased and the residential and commercial actually increased, percentagewise it wouldn't affect it very much, versus, you know, just Lincoln in itself. I don't know if I'm being clear here. Probably when residential and commercial goes up quite a bit, it doesn't make that much difference because that's the majority of the taxation, the valuation in that district. [LB440]

SENATOR HAAR: Well, this...I don't understand it all and I'm sure this is something we're going to be talking about. Could I have some of your figures, by the way? I like graphs and figures on how much ag land has gone up in (inaudible). [LB440]

SENATOR HEIDEMANN: We can get you those. [LB440]

SENATOR HAAR: Yeah, that would be useful for me. Thank you. Appreciate it. [LB440]

SENATOR HEIDEMANN: Okay. [LB440]

SENATOR ADAMS: Were there other questions for Senator Heidemann? Thank you, sir. [LB440]

SENATOR HEIDEMANN: I appreciate the conversation and more than anything I realize in the revenue picture that we're in right now this would be very difficult, but I think the discussion would be important. I'm going to waive closing. Thank you for the opportunity and for the time. [LB440]

SENATOR ADAMS: Okay. Thank you again, too, for the invitation to speak to Appropriations last week. I really appreciated that. [LB440]

SENATOR HEIDEMANN: Our job is tough in Appropriations, but I don't envy your job here in Education by any means. [LB440]

SENATOR ADAMS: Thank you, Senator. Proponents? [LB440]

JESSICA KOLTERMAN: Senator Adams and members of the committee, for the record, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I serve as the director of PAC in state government relations for the Farm Bureau here in the state of Nebraska. I appear before you today on behalf of the members of Nebraska Farm Bureau in support of LB440. We'd like to start by thanking Senator Heidemann for bringing this legislation. And it attempts to address a long-term issue of concern to our members the need to

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better balance the tax burden of paying for schools. As you may be aware, farmer and rancher population accounts for only about 3 percent of our state's population. However, historically, when it comes to school funding, the small segment of the population has been left to shoulder a significant portion of the property tax burden of funding school systems across our state. In many of these school systems, agricultural property accounts for over 60 percent of the school's valuation base. In some cases it's higher. While farmers and ranchers understand the correlation of paying for public services related to property such as road maintenance, fire protection, and NRDs, funding for schools has been different. Agriculture does not receive any more benefit from public education than any other property taxpaying segment, yet it's consistently asked to contribute more in many school districts. This is extremely difficult for our members to reconcile, particularly from the respect that property taxes levied are not in any way based on the ability to pay. Since 2005, property tax increases statewide on agricultural real estate have increased nearly 46 percent, almost twice the percentage increase as on residential properties. LB440 attempts to help with this issue by reducing the value of agricultural land in the state aid to schools formula, which would translate into greater aid for school districts that have come to rely so heavily upon agricultural land for funding. We think this measure would aid in alleviating some of the pressure on agricultural land as the funding sources for some schools. We believe this is a reasonable step in the right direction. We thank Senator Heidemann for bringing the bill and we urge the committee to advance. [LB440]

SENATOR ADAMS: Thank you, Jess. Senator Haar. [LB440]

SENATOR HAAR: Thanks for coming. Now Senator Heidemann said that with this adjustment he'd like to see actually more money going to the schools, which is a fiscal note. Would your organization support an increase in the budget to fund...? [LB440]

JESSICA KOLTERMAN: I don't know that I can answer that at this time. We would be willing to talk to the committee about alternatives. [LB440]

SENATOR HAAR: Okay. Thank you. [LB440]

SENATOR ADAMS: Senator Sullivan. [LB440]

SENATOR SULLIVAN: Thank you. And thank you, Jessica. You said 3 percent of the Nebraska's population are represented by farmers and ranchers? [LB440]

JESSICA KOLTERMAN: That's our understanding, yes. [LB440]

SENATOR SULLIVAN: Do you see that increasing or decreasing? [LB440]

JESSICA KOLTERMAN: No, decreasing. [LB440]

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SENATOR SULLIVAN: What's the average age of a farmer and rancher today? [LB440]

JESSICA KOLTERMAN: I think it's in the fifties now. [LB440]

SENATOR SULLIVAN: Oh, I'm surprised it's that low. [LB440]

JESSICA KOLTERMAN: It might be older. I don't know specifically. But that was the last, last discussion we had in our office we were thinking that was about what it was. [LB440]

SENATOR SULLIVAN: You indicated that farmland values have gone up. What has your association seen as far as the trends in rental rates for crop ground and the pastureland? [LB440]

JESSICA KOLTERMAN: Everything is going up with those types of issues. We did, for the bill that Senator Adams referenced in Revenue, we did some research on looking at the increases. And that's where we found the 46 percent over the last, I think, ten years, which seems quite substantial, so. [LB440]

SENATOR SULLIVAN: Thank you. [LB440]

SENATOR ADAMS: Other questions for Jess? Jess, when we look at that 3 percent, therein lies a good share of our problem, isn't it? It may not be the way the land valued or it may be. It may be the dysfunction of a formula that...I don't think dysfunction is all that bad, but certainly it may have a weakness or two. But we've seen such a decline in the ag population and so you see fewer and fewer people that are paying more and more of the bill, and it's more of an economic function of markets and all sorts of things. And I suspect there's no turnaround to that. [LB440]

JESSICA KOLTERMAN: I don't see the farmer and rancher population in Nebraska increasing dramatically in the near future, no. [LB440]

SENATOR ADAMS: Okay. Thank you. [LB440]

JESSICA KOLTERMAN: Thank you. [LB440]

SENATOR ADAMS: Are there other questions for Jess? Thank you. [LB440]

JESSICA KOLTERMAN: Thanks. [LB440]

SENATOR ADAMS: Next proponent. [LB440]

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PETE McCLYMONT: Chairman Adams, members of the Education Committee. For the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for the Nebraska Cattlemen and we are here today in support of Senator Heidemann's bill, LB440. I guess I want to start out my testimony by saying that because we have strong policy in support of education would be disingenuous just to come here and say, lower property tax as I've done for our members ad nauseam for the four years I've been on staff. So from that standpoint it's important that we still reflect the need for strong education. I think Senator Heidemann's bill is measured, it's patient, it's a good option to look at, because for you, especially you, Senator Adams and Senator Cornett, where you're on the Revenue Committee and you deal with the revenue side of things in this complex issue, there's so many different things, as Senator Council and Senator Haar talked about, you know, to balance it out with the city side of things, and that's a fair and needed conversation. But for us, this is a good opportunity as we had our board in last week. In talking with some of them on their values, just in this last year, the range was from basically zero here in this county to as high as 23 percent increase in other parts of the state. So some of the raises, for instance, on one of our members out by Brewster, his property tax went up \$25,000. So, obviously, to some of the questions beforehand talking about the valuations, the economy in general, really the '80s, the mid-'80s was a time when we saw things soften, but the prices have obviously escalated and that creates the whole levy valuation argument that we have to do. But I think Senator Heidemann's starting a good side...a conversation to look at both sides of the issue, not just, you know, valuations but also how we fund TEEOSA. So really not much more to add, just we're in support of it. And as Senator Cornett, you've done in your committee, we would be happy to work with you in trying to address this complex problem, but this is a good start. [LB440]

SENATOR ADAMS: Thank you, Pete. Are there questions? Senator Haar. [LB440]

SENATOR HAAR: Yes, Pete, thanks. The same question I asked Jessica. Senator Heidemann was talking about actually not shifting some of the money away from other schools to rural schools but to increase the funding for education. Would your group support that or do you think they're mainly talking about just the shift of the money that's there? [LB440]

PETE McCLYMONT: Well, I think that's...I think the shift is there, too, but I think you have to look at individual school districts and weigh each of those needs relevant to each school district. Because I'm from Phelps County, and Holdrege is good, Loomis is strong, Bertrand is not as strong, and so some of it goes to more ranching property towards Bertrand where they don't have, you know, the good crop ground. So from that standpoint, I think it's on an individual basis that would be part of that discussion. [LB440]

SENATOR HAAR: But overall we're talking about a budget amount. The fiscal note is

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saying, like this would increase state aid by \$3 million. So either we have to just...if this passed, we would have to reapportion the amount we're already talking about or actually increase state aid. Do you know what tack your organization would take on that? I'm talking about the overall, but the overall money. [LB440]

PETE McCLYMONT: Right. If I had that answer I would have come to you with that, so I can't answer that specifically. It's a good question though. [LB440]

SENATOR HAAR: Okay. Okay. Thank you. [LB440]

SENATOR ADAMS: Senator Sullivan. [LB440]

SENATOR SULLIVAN: Thank you, Senator Adams. With your background of working with all your producers across the state, I wonder if you could shed a little background on what you're hearing from them as far as particularly the pressure they're seeing with some of the property taxes. Do you have any idea how much of their, on average, ranching income goes to pay property taxes? [LB440]

PETE McCLYMONT: I've asked, oh, I'd say a dozen of our members here just in the last week, and it can be either the second or third highest expense. It can raise from, you know, 8 percent...I know one of our members from Sheridan County, it's around 14-15 percent. Obviously, when you get into a drought, when you have less calves and calves to sell, you know, it will be a much higher expense because you have less revenue coming in to as ranchers do attribute it back to per cap basis. I know you get into the Panhandle, and especially when it was in the drought, it could be in some years as high as \$75 a cow. The same member in Sheridan County, as I referenced in my testimony in Revenue on LB33, she figures \$52 per cow. And that's the hardest part, I think, to your good question, is if you're a feeding operation, you're a margin operator. Okay. You can plan. You may not like your property tax but it's about this big. But when you're a rancher and you have no ability to mark up your end product and your fixed costs to operator, then that figure can be an exorbitant amount in terms of the cash flow that you have to do to meet your needs of being viable and profitable. So from that standpoint, ranchers, to me, feel it the worst of anybody just because they're simply fixed cost to operators. [LB440]

SENATOR SULLIVAN: What does a calf sell for today? [LB440]

PETE McCLYMONT: A lot of money. I think your colleague, Senator Schilz, would know better. But it can be, you know, right now you're looking at...depending on how big and the quality, anywhere a feeder animal is looking at \$800 to \$1,000 depending on the size and the quality of the animal. [LB440]

SENATOR ADAMS: Other questions? Senator Schilz. [LB440]

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SENATOR SCHILZ: Thank you. Pete, welcome. Just a couple of questions and this kind of gets a little bit off track but you know we always hear, well, if you don't like the property tax, there's a simple way to deal with it, and that's sell the land, you know, and not be there anymore. And you, being a landowner in the past, and we talk about the average age of the farmer, the rancher, the landowner out there, how long have most of those folks owned that land? [LB440]

PETE McCLYMONT: Well, in all reality, it's probably in the family, which enables the next generation to come along, so. As Senator Haar, you referenced in your question, if you sell it, but, you know, first of all there's going to be capital gains, which will be extremely high. So I think if there's a commitment within the family to succeed on to the next generation, you know, then that's part of what I think you're asking. [LB440]

SENATOR SCHILZ: Right. Well, and exactly right, you've got the capital gains. Some of those...I mean, I know on the property that we have, some of that land that was bought was bought for \$250 an acre back in the '40s. The capital gains on that, plus if you sell it, the income tax on that alone makes it almost impossible to get out of the situation. So what you're stuck with is a vicious circle where you're forced to make a choice of paying that property tax and continuing with that burden, or selling it, and trying to figure out how to save what you've worked for your whole life so that it doesn't all disappear in taxes as well. And it's...as far as I can see, because of some of the figures that I've seen people run, it doesn't work out very well. I mean, there's just no real way to get out with anything that you had if you're a landowner that wants to move on to maybe do something else. Is that some of the same situations that you're seeing? [LB440]

PETE McCLYMONT: Exactly. I would agree. [LB440]

SENATOR SCHILZ: Thank you. [LB440]

SENATOR ADAMS: Other questions for Pete? Thank you, sir. [LB440]

PETE McCLYMONT: Thank you. [LB440]

SENATOR ADAMS: Other proponents. Proponents. Then let's move to opponent testimony. [LB440]

JOHN BONAIUTO: Senator Adams, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards. I did not come to this position as being an opponent easily. I think I had every box checked on the form except introducer, and at different points I really support having more districts in equalization. I, I...Senator Heidemann is a very thoughtful person and when you engage him in conversation, he makes you think about things in a different way. And so

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I can agree with him on what he's trying to accomplish. My hope would be it would work this way, and we would be able to get more money to our rural districts and keep more districts in equalization. My fear is, if we don't have more money in the state aid formula, we're going to spread a smaller pot or pool of money thinner, and it will take money from some of my members and give it to other of my members, and that doesn't make anybody happy. I was in Revenue and engaged the Revenue Committee in conversation on Senator Louden's bill. I probably will on Senator Heidemann's bill that just taking that piece and lowering land values is...it really...it doesn't solve the larger problem. I would hope that we can get to a broader policy because if we continue to do things the way we currently are, that at some point we may need to go back to that value. Senator Council really summed it up for me in her conversation with Senator Heidemann. We have the Retirement Committee, the Revenue Committee, the Education Committee, the Appropriations Committee, we have all these groups working on pieces of a solution, and all of that has to work in concert. And that is my worry with a bill like this. How does it fit in that broader solution? So with that, I will conclude my testimony. [LB440]

SENATOR ADAMS: Are there questions for Mr. Bonaiuto? Kate. [LB440]

SENATOR SULLIVAN: Thank you. What is the larger problem, John? Is it a matter of tax policy, is it a matter of revisiting how we fund public education, or do we need to state aid...change in how...and what the formula is? [LB440]

JOHN BONAIUTO: Well, yes, Senator. (Laughter) And it...we...the issue of needs and we've taxed, and I know that that's a hot button in allowing districts and boards to access their property value. And I remember when we had this discussion with the Revenue Committee in the late '90s when the Revenue Committee said, we need...we've got levies, they're all over the place. And the levies were...when you go back to that time and look at some of the school levies, they're shocking. And we were just on the verge of having, probably, a petition drive or an initiative to take the levy issue out of the Legislature's hands because people were so unhappy. So the Revenue Committee started to craft a way to compress the levy and that caused the state to take greater responsibility for state aid. And that works as long as the state has the resources and the ability to fund what that obligation is. And so I think that, we're back to having to look at tax policy and how we fund schools and all of those different pieces again. [LB440]

SENATOR SULLIVAN: Thank you. [LB440]

SENATOR ADAMS: Other questions? Senator Haar. [LB440]

SENATOR HAAR: If we had more money to...for the schools, with the current formula, those nonequalized or the schools that aren't getting state aid now, still wouldn't get

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state aid, isn't that correct? [LB440]

JOHN BONAIUTO: Senator, yes and no. Yes and no in that I think what we...as we have a smaller pot of money, we have fewer districts or districts that fall out of the state aid formula. The ideal situation is if we could have more or virtually all of the districts in the state aid formula, then I think that would be the way that we would have equalization work the way it was intended to work. Because I think you're going to hear or you're going to talk about bills that for those districts that fall out of the state aid formula or are unequalized, if they're allowed to access the value that they could access, even at the \$1.05 levy, they would have advantages over districts that were in equalization formula. So this is really...there are so many complex pieces and how all of those pieces work, I don't think there's ever a solution where you get to the point where you're not adjusting. And right now, we're adjusting a lot of different parts. [LB440]

SENATOR ADAMS: John, in all the school districts you represent, I'll bet you, not that this is a good thing, but it's up to the discretion of a school district, there are probably some of these nonunequalized school districts that bump you in the shoulder right now and say, I'm glad we don't get TEEOSA. We have our property tax base we can rely on. It may be too much by the taxpayer standard. I get that, but I'm looking at it from a school board position right now. Am I out of line in thinking that? [LB440]

JOHN BONAIUTO: Senator, you are right on target because the school board members that I talk to that are in the districts that have more local value, and have more control over their destiny, you could just tell that those board members feel a certain amount of relief that they don't...they like the fact that they don't have to depend on the state and are not anxious to have it a different way. So, yeah, you're right on target. [LB440]

SENATOR ADAMS: The taxpayer may not be happy but... [LB440]

JOHN BONAIUTO: No, that's true. But boards by and large are willing to deal with that at home. They know that if they don't respond to their patrons, that they could be unelected, so that is an issue. [LB440]

SENATOR ADAMS: Are there other questions for John? Seeing none, thank you, John. [LB440]

JOHN BONAIUTO: Thank you. [LB440]

SENATOR ADAMS: Other opposition testimony? Is there neutral testimony? Senator Heidemann has chosen to waive his closing so that will end the hearing on LB440, and we will proceed on, if Senator Fulton is present, with LB531. All right, let the record show that Senator Fulton is here to introduce LB531. Senator Fulton, the floor is yours. [LB531]

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SENATOR FULTON: Thank you, Mr. Chairman, members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n and I bring to you LB531. I bring this bill on behalf of teachers in Nebraska and have worked with the NSEA in introducing this bill to you. LB531 is intended to provide an additional means of protection for teachers during periods of budget constraint to ensure that any education funding cuts are made furthest away from the classroom. An additional element within LB531, which I'm certain we'll be talking about, is the reduction of allowable reserve percentage for school districts whereby the largest districts would reduce their reserve percentage by 5 percent, and the smallest districts would reduce their reserve percentage by 15 percent. With beginning teacher salaries in Nebraska among the lowest in the nation, it's especially important to those new to the profession that sufficient action be taken to ensure that necessary cuts to state aid have a minimal impact on teachers and those new to the profession in particular. In a lay-off situation, I'm cognizant that it is often that these newest teachers who are first affected. I'll just speak off my...and just share with you. The situation that this committee finds itself in, and the Appropriations Committee finds ourselves in, hard times. We have to make hard decisions. There is one argument that I have become very sensitive to, however, and it's one that perhaps you share my sensitivity. And that is, that the decisions we make here will automatically reduce...or will automatically ensure property tax increases. And that's not true. And I'm sensitive to that because of the way that I've learned, the way that our property taxes are collected, and so I'm communicating as I'm sure many of you, and I've heard it from the Governor also, that in these tough economic times, we should all be tightening our belt. And if that's the case, then I can envision scenarios in which teachers could get treated poorly. And so I went to the statute, I found this existing statute. I found intent language that existed, that exists statutorily, and that is where I am going with this particular bill. So I'll just open up to questions. I'm sure there may be some questions anyway. So thank you. [LB531]

SENATOR ADAMS: All right. Are there questions for Senator Fulton? Yes, Senator Council. [LB531]

SENATOR COUNCIL: Thank you, Chairman Adams, and thank you, Senator Fulton. And I read in one of the communications that I received on this bill, it contained a statement that I concur with, and I don't think there's anyone on this committee or in this legislative body that doesn't agree that when cuts occur, they should occur the furthest away from the classroom as possible. But that also raises for me a problem. And I'm just wondering whether you or if any of the proponents of the bill can speak to the problem is, what mechanism would be employed to determine whether or not a school district in reducing its budget did, in fact, keep those cuts the furthest away from the classroom? I mean, how do we do that? How do we hold them accountable, and I suspect that is why the language is written in the intent fashion as it exists today. So I need help in how do you manage that? [LB531]

SENATOR FULTON: Well, that's I...we could get in...okay, this is where I'm thinking through. I'll take you through my thought process. If we were to put in place what is and what isn't considered a cut in the classroom within the statute, that's something that would have to occur with this committee, so I chose not to. And I'll take that a step farther. That which was envisioned when the original statute was put in place with intent language, is what I would propose we follow. So at one point the Legislature saw fit to put this into the statute saying that it is the intent of the Legislature that any reductions, and I think we could build upon that. So that's something that I'm not going to do by putting forward a bill, something that I would work with if the committee sees fit to put this forward. That's another reality is that I could struggle to find language to put in place, but if the committee doesn't have any intention of putting this forward, then it really doesn't...it's wasted effort. So the answer to your question is that which precipitated the intent language in the first place is that from which we should build in order to put forward mandatory language. [LB531]

SENATOR COUNCIL: Okay. So let's assume for the sake of this discussion that the committee is ready to put forward mandatory requirements, where would you propose that the committee look for determining what is or is not a reduction that directly affects the classroom? And the reason I'm putting it in context, we had a hearing last week on percentage of expenditures that had to be directed to direct instructional services. And there was a wide variance of opinion on what would or would not qualify within that percentage. In fact, the proponent of that measure didn't think summer school fit within the definition of direct classroom expenditure. So I guess I need some help from the sponsor of this legislation, if you have some idea of what the committee could expect to look to, to fill out this mandate. [LB531]

SENATOR FULTON: Okay. If the committee sees fit to entertain moving this bill forward, what I would do, I would propose a hierarchy and I would start closest to the student. I think our policy in education, as it exists, constitutionally exists because we recognize the inherent...we recognize the future in our students. So I would start closest to the student and that means the teacher. And so at the top of my hierarchy structure, in trying to recognize and put flesh on to the skeleton of what I have included here, I'd start with teachers. And then I would move down the line from teachers maybe to the paras who help the teacher, and then eventually get down to administration. And so if one is going to cut...if someone...if a school district decides to lay off or to lay off teachers, then it needs to be explained why teachers are being laid off when indeed administration is not. If indeed that...if I could put forward a structure and we could encapsulate that structure with language to put in the statute, that's how I would propose doing it, and it's as simple as a hierarchy identify those professionals, those job categories that derive PSL within a given budget, and then assign a hierarchy to it. And I would start closest to the student. That's how I would do it. [LB531]

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SENATOR COUNCIL: Okay. And just one final comment. I apologize to the Chairman and my fellow committee members, I have a bill being introduced across the hall, but then my question for you to ponder, then who becomes the arbiter of that determination? For the precise example you gave, if a school district laid off two paraprofessionals instead of someone who fits within the classification of administrator, who would be the arbiter as to whether or not that layoff decision was justified or warranted and did not violate the language of...so I'm just...I always think practically. How do you manage it? No disagreement with the intent, but how do you manage it? And then I'm sure my colleagues will ask some of the questions on the reducing the reserves because as I have learned from the guidance of our learned Chairperson, the more one spends, the greater state aid, so I need some assistance on that. Thank you. [LB531]

SENATOR FULTON: Okay. Thank you, Senator. I would propose, should the will exist in this committee to move forward, I would propose that we be the arbiters. I recognize that there is the potentially of inclusion down the road of the judicial branch of government if we put forward an ambiguous bill, or put forward an ambiguous bill that would become law. And so what I just explicated here earlier is to...we put forward what we believe is appropriate for this law. That's how I would do it. And I'm not saying that I'm...that's my idea. So I chose not to do that in this bill for the reasons that I gave you before, but if indeed the committee wants to move forward, that's how I would propose we do it. We actually list them out. This is our priority. And, you know, if I could, Mr. Chairman, I understand that we walk a fine line here with respect to the separation of powers that exist between, you know, a school board and the Legislature. The reason that I was attracted to this in the first place was because I was hearing these arguments of, you know, you property tax abusers, you're going to cause property tax to go up by making these cuts. That's because of the unique situation we as legislators find ourselves in. We make an appropriation based on policy that's set through this committee, and as a full Legislature as to how much sales on tax dollars, state dollars, goes into the aid formula, the TEEOSA formula to complete our constitutional responsibility. So it's not as if we have no authority to exercise here. We do speak on behalf of taxpayers when it comes to educating children because taxpayer dollars that we collect goes into that formula. And that's why I think we would have some authority to spell out in the statute what we would like to see. So that's some of the philosophy behind my thinking too. [LB531]

SENATOR ADAMS: Are there other questions? Senator, I have a question for you. You know, I look at this and I'm sitting here and I'm going to date myself here and go clear back when I was a classroom teacher. And I'm going to subtract a bunch of years where frankly I didn't pay much attention to who was negotiating, what the number was, I just needed a paycheck on the 25th. I didn't care about retirement, health insurance. I stayed pretty healthy, etcetera. But in those latter years of teaching, and then into this position, I continue to hear the cry, and a valid one, a valid one that when you sit down

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at the negotiating table as teachers and you begin to negotiate with the board, be cognizant of that cash reserve that they're sitting on particularly if the teacher felt like...or the teacher group felt like they were being treated poorly. Now the teacher side of me, and still the Senator side today, says, yeah, that's right. But here's a new dilemma that I'm faced with and I'm going to share it with a member of the Appropriations Committee right now. (Laugh) As we look at reducing the requirement on reserves, I'm saying to myself, for the last two years we've told school districts, the ARRA money is going away. Be frugal, don't add FTEs, be careful when you negotiate, build your cash reserves because the day is coming. There will be another day somewhere down the road when schools are going to have to rely on their cash reserves to get them through difficult times and I...so I've got one foot on both sides of this, but from this position, I'm saying I'm glad they've got cash reserves. I'm glad the percentages were there and they're going to need them. Would you agree? [LB531]

SENATOR FULTON: I do, Senator. This is a...the fiscal note encapsulates some of what you're talking about here. And there is...let me propose. I think that there will be testifiers to follow after me who might propose this with more substance, but perhaps there would be an amendment that the Chairman and the committee would entertain. So if you have one foot on each side, then an amendment, perhaps, could cause both feet to move to the same side, and we limit this to a certain number of years. Recognizing that the economic climate that we find ourselves in, hopefully, is temporary. Then in order to protect children, to protect the kids that we're teaching, we express that in the protection of teachers within a given budget for a period of two years or three years or for four years, recognizing that when those reserves are spent down in the interest of hanging on to teachers, that, you know, then perhaps we could allow the reserves to move back up. That's ultimately what we've done in the Legislature. We hung on in 2000...when I first got here with a number of you, we provided tax relief but at the same time we built up our reserve. So if indeed this proposal that I've put forward is too much of a hindrance, then let's just...let's make it temporary. And that would be an amendment, of course. [LB531]

SENATOR ADAMS: Are there other questions for the Senator? Thank you, then. Are you going to stay around and close? [LB531]

SENATOR FULTON: I will, yeah, thank you. [LB531]

SENATOR ADAMS: Okay. Proponents? [LB531]

KAREN KILGARIN: (Exhibit 1) Good afternoon, Chairman Adams and members of the Education Committee. My name is Karen Kilgarin. I'm here representing the Nebraska State Education Association and our members. Do I need to spell my name? It's K-a-r-e-n K-i-l-g-a-r-i-n. NSEA supports LB531 and we want to thank Senator Fulton for its introduction. I would ask you to please refer to page three of the bill. Given the

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projected reductions in state aid to education, we do believe that this clarifying and strengthening language in Section 2 is very important. Any reductions in a school district budget that are made to comply with state-imposed budget limits shall affect classrooms only as a last resort. I think you would be hard-pressed to find anyone who disagrees with the premise that dollars spent on education should first and foremost be spent at the classroom level, and that is with good reason. That's where student learning takes place. LB531 makes a clear claim on available resources and requires those funds to be used with a laser-like focus to improve student achievement. We know that expert teachers are the most important classroom resources for improving student learning. Teachers make and have the biggest impact on student learning. Studies have shown that the most effective teachers produce student gains almost four times greater than the least effective teachers. Students with three effective teachers in a row make gains almost three times higher than students with three ineffective teachers. So taking steps to ensure that we recruit and retain those expert educators, and that we provide the classroom supplies necessary that will allow those teachers to teach, and our students to learn, must be our number one priority. Now according to the fiscal note, the impact of reducing the maximum reserves under LB531 will cause school districts to spend down about \$71 million in 94 of the 253 school districts. Along with the \$59 million in Education Job Funds, that \$71 million could significantly offset the projected state aid losses of more than \$100 million for 2011-12 and 2012-13. Of course, each district will be affected differently so it must be understood, and we do understand, that this is a broad approach. We also understand the need for reserves. And we would encourage the committee to consider an amendment to LB531 to make it apply for only the next two years. And then you allow school districts to build reserves for any future recession and potential state aid reduction or dip. The committee might also consider an amendment that would require a reduction in reserves for the next two years just by those school districts losing state aid and only to the extent of that state aid lost. I think a bill with these amendments will keep school districts from stockpiling reserves while they cut programs and/or staff. That, of course, is what we hope and want to prevent. I'd be happy to answer or try to answer any of your questions. [LB531]

SENATOR ADAMS: Senator Haar. [LB531]

SENATOR HAAR: Well, Karen, thanks for coming. And obviously, I support the intent of this bill. But I spent years being a computer designing logic and stuff like this and the kind of square that drives you crazy is the logic where it says, is this fair, yes or no. You know, and to go from there. And I think what you'll have to convince me is, how you could practically do this...the first part of it. The second part I understand how you could actually do that but the first part how you could, you know, enforce, not just as a goal, but actually enforce that kind of requirement. Do you have any ideas on that? [LB531]

KAREN KILGARIN: I do think that, in fact, one thing this legislation would do would just simply be to send a clear message to the public, to school districts across the state that

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the Legislature wants them to look at any cuts they have to make very carefully to ensure that they are, in fact, made with the least effect, least impact on students as far away from the classroom as possible, and after that, Senator, we have to trust our locally elected school board members. And we have to be vigilant as our local associations, our NSEA affiliates across the state, and parents, and PTAs, and talk with our locally elected school board members and say, you know, the Legislature has said this, we agree. We want to make sure you're looking very, very carefully at any cuts. But the Legislature sets the tone. And even without, how would you say, the hammer, even without a hammer in the legislation, you're setting the tone and I think that that's important and I think this legislation would do that. [LB531]

SENATOR HAAR: So you would be satisfied with the intent that wouldn't carry any...that wouldn't contain any way of carrying it out or any penalty or anything like that. [LB531]

KAREN KILGARIN: Well, I...we would prefer that there is some discussion about reserves. We understand that those reserves.... [LB531]

SENATOR HAAR: No, and I'm sorry, just the first part about the teachers, the expenditures. [LB531]

KAREN KILGARIN: I'm sorry. Oh, yes. Yes, with regard to the expenditures, I really do think it is just sending a message. I'm not sure you need a hammer. I think the hammer is the watchfulness of the citizens and legislators when they go home and talk with their school boards. But I do think it sets a tone that is a very important tone to set. And I do think that the language that's proposed under Senator Fulton's bill does...I mean, it strengthens that language. It's just a little stronger than what we have currently, Senator. But, yes, we would be pleased if the Legislature would consider at least advancing that part of this bill. [LB531]

SENATOR HAAR: That might satisfy the programmer in me. (Laugh) Okay. Thank you. [LB531]

KAREN KILGARIN: I think it would lead to some good discussion on the floor of the Legislature as well. [LB531]

SENATOR ADAMS: Are there other questions? Karen, then, let me ask and I know you're going to think that I'm taking a shot at my old organization NSEA, but the last several months, the last several months leading up to this dilemma that we're facing have been awful, and they're not going to get any better. Should we also include in that intent language that the intention would be to retain jobs prior to giving raises? [LB531]

KAREN KILGARIN: I think that again, as I said earlier, and I understand exactly where you're coming from, Senator, and I don't know if you've ever negotiated on the team, but

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certainly as a former mayor you understand that when you're at the table and you're bargaining, school districts as well as our local associations always take into account the economy and the fiscal situation of that district. Teachers do not want their colleagues to lose their job. They do not want to see risk. They do not want to see program cuts. And looking at the situation, knowing what those numbers are, I believe that our teachers are going to be very reasonable, and have been reasonable. There's always exceptions to the rule, Senator. I understand that, but I would say the vast, vast majority of our local associations look at where that district is, look at how it's going to affect the kids and their colleagues. They care about that school and you know this from...better than I. They care about their school and they want to make sure that they keep it as whole and complete and as quality, you know, as they can, so. [LB531]

SENATOR ADAMS: Okay. Are there other questions? Thank you, then, Karen. Appreciate it. [LB531]

KAREN KILGARIN: Thank you for your time. [LB531]

SENATOR ADAMS: Are there other proponents? Then we'll take opposition testimony. [LB531]

JOHN BONAIUTO: Senator Adams, members of the Education Committee. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards. In opposition to LB531, as you stated Senator Adams, we have as an association have been very clear with our members for at least the last two years that putting money in reserves will be critical to help them abridge the next two very difficult fiscal years. And so that part is a bit troubling in that this is not the time to be directing boards to ratchet the reserves down or your boards are going to look at their reserves and try to determine how to best stretch their resources. And we've got 253 districts, I believe, and with no two being alike, that solution is going to look a little bit different. And then we're going to put the Jobs money in the mix, and some of that money is going to need to be, will need to be spent maybe in the next fiscal year which could stretch the reserves a little bit farther into '12 and '13, but again, I think it's really hard to have a blanket solution like this. The part about dealing with where the cuts should occur, and that intent language, and I believe that's a discussion I've heard on the floor on more than one occasion. And there is intent language in law right now that really talks about when boards make reductions to look at those reductions being furthest from the classroom. And I can assure you that the boards try to do that. They understand that their teachers are the most important part of that school district. And to add something like this in law, whether it's the 65 percent solution that Senator Council referred to from Senator Pahls, or something like this, it really takes that discretion from the local board. I think that, again, with the difference in the districts, you know, this is great to encourage boards to look furthest from the classroom and that is what is in law right now. I think some boards...Rule 10 is going to play a big part. There are districts

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that they don't have staff to reduce. They need to keep the folks they have to maintain their accreditation. I think we're going to run up against those types of situations. So I would hope that the Legislature would not put language of this nature into law because words do matter. And I have...there's no doubt in my mind that, you know, at some point something would be challenged. There would be a challenge because this is very clear that shall affect classroom expenses only as a last resort, and there will be someone that won't want to interpret that. So with that, I will conclude my testimony. [LB531]

SENATOR ADAMS: Senator Haar. [LB531]

SENATOR HAAR: For somebody that hasn't read what the current one is, could you contrast the two, the current statement in the law and the one that's in here? How do you see them as different? [LB531]

JOHN BONAIUTO: I think the statement in law is not...it is not this direct. I think it is more that boards will look to make reductions if possible furthest from the classroom. I mean, there is not...this is pretty direct. This is "shall" and I think the intent language that was...that I recall, is a little broader. And it's not to the point where you have that specific statement in law. [LB531]

SENATOR HAAR: Could you just pull out the current one and print it out for me and... [LB531]

JOHN BONAIUTO: I think we can find that. The legal counsel has that. It is in the bill and so it's... [LB531]

SENATOR HAAR: Okay. [LB531]

SENATOR ADAMS: Are there other questions? Senator Sullivan. [LB531]

SENATOR SULLIVAN: Thank you, Senator Adams. John, do you know, are most school districts up on their maximum on their reserves? [LB531]

JOHN BONAIUTO: It's all...that's all over the board, I think, Senator. [LB531]

SENATOR SULLIVAN: Really. [LB531]

JOHN BONAIUTO: And the reserves now, again, we've asked districts to put money in the reserves. But I...you know, and they're well aware of their limits. And those are pretty high. So I don't know that districts, there may be some that are up against their maximum. [LB531]

SENATOR SULLIVAN: And what's been your experience in working with school boards

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and talking to them of the...do they have a process when they have to look at making cuts in their budget? How do they arrive and what's some of their decision-making processes right now? [LB531]

JOHN BONAIUTO: You know, they really want to maintain their instructional program. That is at the top of their agenda. They also realize that living on your reserves is a very short-lived proposition. That if you put money from your reserves into ongoing expenses, that will catch up with you. So you may prolong having to make difficult decisions, and I think that is what this is all about is, is if districts are relying on their reserves to keep staff and things do not improve, they may be able to work with fewer cuts for a period of time, or reductions, but those reductions will ultimately take place. And then as I say, I don't think any board looks forward to having to reduce their teaching staff. That is one of the hardest decisions. And I've talked to school boards that have gone through that and it is just...it's very gut-wrenching for them when they have to lose someone that is one of their own. [LB531]

SENATOR ADAMS: Other questions for John? Thank you, sir. [LB531]

JOHN BONAIUTO: Thank you. [LB531]

SENATOR ADAMS: Other opposition testimony? [LB531]

MARY CAMPBELL: Senator Adams, members of the committee, my name is Mary Campbell, C-a-m-p-b-e-l-l, assistant superintendent for general administration and government relations for Lincoln Public Schools. I think the simple message here is that timing is everything. And in reserves, the timing of them and what is in them can be very, very tricky and problematic for budgeting purposes and paying the bills. LPS uses a three-year planning model, and we try to build the reserves that we have that we need around that projection out into the unknown. And we do this with the overriding intent that we not have to make inner fund transfers or that we not have to be forced to go to the bank at any point. And some of that, obviously, relates to when does the money come and how does it come? In terms of property taxes, it comes in two big installments, first in April and then in August. In terms of school aid, as you well know, it comes in ten installments beginning in September. Of course, 86 percent of our budget is salaries and benefits paid on the 12-month basis. So you have an ebb and flow, but you certainly have some very big, important, every month demands. And we try very hard in the budgeting in this three-year planning process to in any given year never go negative more than one month in the year. That's our overarching of financial objective. Our reserves have historically over the last...I looked back about five years and they've again ebb and flow but come very close to at any given...at some given points to the maximum of 20 percent. And in fact, backing up a little I want to just...I've done this personally with some of you, but I want to publicly correct something that was distressing to me in the Governor's budget book. In his narrative, the two page narrative

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of TEEOSA, he pointed the finger at LPS and OPS for not having increased reserves in light of the, as we always call it, the cliff, post-ARRA funding. And I knew that wasn't...that maybe it was true, but not accurate. And so I pursued that with our finance people and that was the case that the Governor's figure for our reserves was captured in a moment in time, and that was an unfortunate moment in time in that we were sitting waiting for a very delayed, very late reimbursement payments from the federal government for our special ed, almost to the tune of \$6 million. So our good efforts to see that we were following what only made good common sense and was also strongly suggested, by none other than the Governor and others, you all as well, we had raised them. But we were in one of those ebb and flow moments of the reserves. Having said that, I think it also speaks to the proposed amendment that to have this reduction for a two-year period, which might be one of the trickier ones we faced in a long time, just seems very ill-timed. And so for those reasons, I would suggest that for...certainly, for our district, but I presume it would be the case for many other districts, too, that reductions in reserves at this time is not a good idea. And it's for that reason we would oppose LB531. [LB531]

SENATOR HOWARD: Thank you, Mary. Do we have any questions? Mary, I'll just make the comment. It seems like from what you've said, it would have been a more accurate picture if that information would have been included in what the Governor presented. That you had this in the offing. I think it would have been even more ironic if it would have been the state owing you the money. (Laugh) [LB531]

MARY CAMPBELL: If it would have been what? [LB531]

SENATOR HOWARD: The state owing you the money. Thank you. [LB531]

MARY CAMPBELL: Thank you. [LB531]

SENATOR HOWARD: Thank you for your testimony. Do we have any others who would like to speak in opposition? Last call. Anyone here for the neutral, to speak in the neutral capacity? Tony, I don't see anyone. Would you like to close? [LB531]

SENATOR FULTON: Thank you, Madam Vice Chair. Let's see, there were a couple of questions that were asked that I'll make some attempt at answering. Senator Sullivan asked about the number of school boards this might have some impact on. The fiscal note that was put forward, I don't remember specifically where I read it, but some of that information is included in the fiscal note. Senator Adams, should we forgo reductions in force in favor of forgoing raises. He asked that question. Hard question, and I'm...well, okay, I might deviate from my partners on this, but I would submit to you that we're looking into that with CIR reform. But that's something at least that encompasses funding from the state generally. So if that's something that we need to include in this bill to move forward, then at least it would be something that we could talk about. I'd be

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willing...I'd be open to it. The goal here is to tie the reserve percentages that exist in the statute to the Legislature's expressed will anyway that cuts be made furthest from the classroom. So at one time or another there was...there were specific numbers chosen and those are reflected in the statute. And so I'm making a proposal that says that if we are going to be laying off teachers, we need to do so after these, at least with the idea that these reserves have been spent down. So the two are tied, in my opinion. Now if the specific percentages cause some heartburn for cash flowing and planning purposes, then I offer a tool for this committee as the amendatory language that would reduce it or limit this to a two year...a two-year time horizon. Or if it would please the committee, I would even entertain not touching those reserves in the interest of moving this bill forward to make a stronger statement, indeed to have some statutory statement that we expect to see any cuts made furthest from the classroom. Now there is...if you're thinking through this as I would be thinking through it if I had to come up with a budget at the school board level, one could have concern that this will affect cash flowing. So if we bring these reserves down, there could be a period in the budgetary cycle where a school district becomes low, as such that there's no money in the checking account, so it becomes a cash flowing question, and to that concern I just point you to the language of the bill: "No district shall adopt a budget, which includes..." So this would be something that would be done during a budgetary cycle and expressed annually, okay, for a school district. So this is not a cash flowing mechanism. This is about budgeting. So please bear that in mind also. So if there are any other questions that I didn't get to, I can answer them here. Otherwise, the committee should know that I'm willing to sit down and talk with them and work as we usually do and hopefully move this forward. [LB531]

SENATOR ADAMS: Are there any last questions for Senator Fulton? Thank you, sir. [LB531]

SENATOR FULTON: Thank you. [LB531]

SENATOR ADAMS: That will end the hearings for today, and committee, we're going to Exec.