[LB325 LB356 LB361 LB521 LB523]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 26, 2015, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB325, LB356, LB361, LB521, and LB523. Senators present: Mike Gloor, Chairperson; Paul Schumacher, Vice Chairperson; Lydia Brasch; Al Davis; Burke Harr; Jim Scheer; and Kate Sullivan. Senators absent: Jim Smith.

SENATOR GLOOR: Good afternoon. We're going to start the hearing. Senator Mike Gloor, District 35. I'm Chair of the Revenue Committee. Welcome. We're glad to have you here today. We'll take the bills in the order listed on the agenda that's posted in the back of the building. We have some general rules I'd like to cover for those of you for whom this is a new experience. First is, if you have phones, electronic devices, please put them on the silent or off mode so that they don't interrupt the proceedings that are going on here. The order of presentation is this: The introducer of the bill will have an opportunity to present their bill; then we'll go to proponents of the bill; then those in opposition to the bill; then those in a neutral capacity; and then we allow the introducer of the bill to close if they should so choose. If you plan to be one of those speakers, you need to fill out one of the green forms that are in the back and present that when you come up here to the clerk. You do not need to testify necessarily to go on the record in being in support or in opposition to a bill. There are white sheets in the back of the room where you can put down your name and your stand on this particular bill, and it will find its way into the formal record. And I tell people that because quite frequently people wait around for the hours and hours we meet not recognizing the fact that they could in fact have their stand be known without having to testify. So keep that in mind. We have a five-minute rule. There's a light tree up here. When you start it's green; with a minute left it goes to yellow; and then when it hits red we ask you to stop. And people oftentimes get caught up and don't see it, so you can count on me giving you a polite reminder that you need to wrap it up once you've gotten to the five-minute rule. I also tell folks to please pay close attention to the comments made of the people ahead of you. We don't need to hear the same comment three or four times. So if you can put a different angle on it or you can always say "me too" or words to that effect, we'll find that...it'll find its way into the record. You can also do that for similar bills that are following each other to say I'd like my stand on this bill to be carried over to the next bill. That, again, for bills that are similar in nature. We have Mary Jane Egr Edson who is committee counsel for this committee; Krissa Delka who is the clerk on my left; and Kay Bergquist who is the research analyst who's on my far right. And I will ask the senators to introduce themselves starting with Senator Brasch.

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

SENATOR HARR: Burke Harr, Legislative District 8, which is parts of Omaha.

SENATOR DAVIS: Al Davis, Legislative District 43, north-central and western Nebraska.

SENATOR SULLIVAN: Kate Sullivan of Cedar Rapids representing District 41, a nine-county area in central Nebraska.

SENATOR SCHEER: Jim Scheer, District 19, which is Madison County and a little bit of Stanton County.

SENATOR GLOOR: Thank you. A couple of other notes, that is when you are testifying, we need you to give your name and spell it so that it's accurately written down in the record. We would ask you to try and speak into the microphone so that your intelligent, witty, and carefully-crafted comments can be adequately put down. And also if you would understand that senators will be coming and going. They have other bills and other commitments that they have to be involved in or present elsewhere. And so expect that there will be some movement of senators to and fro. And with that, we'll get started with our first bill, LB325. Senator Davis. And while he's moving up there, we have two pages today, Colin and Donnie. If you have handouts, by the way, we need 11 copies of those handouts so that everybody has a copy. And should you not have 11 handouts, now would be a good time to get Colin or Donnie's attention so they can make sure and run some copies for you. Thank you. [LB325]

SENATOR DAVIS: (Exhibit 1) Good afternoon, Senator Gloor and members of the Revenue Committee. I am Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. Today, I'm introducing LB325. LB325 restores property tax levy authority to fire protection districts under two different scenarios. The first is if the fire district is located in a county that in the previous year had a levy of 40 cents or higher, and the second is if the county did not authorize any levy authority to the fire districts in the previous year. Under current law which has been in place since 1998, fire protection districts must seek and obtain their levy allocation authority from the county in which the fire protection district is located. At least eight counties in Nebraska have denied fire districts any levy authority, forcing the fire protection districts to obtain funding authority by approval of the residents of the fire districts. This requires either a town hall meeting or a vote conducted by a special election or during the state's primary or general election. Two years ago, Senator Schilz introduced LB62 which would have restored levy authority to all fire protection districts in every county. My understanding is that since not every one of the 93 counties were pushing the fire protection districts out, forcing them to obtain their own levy authority from the electorate, there were concerns the bill was too broad. By limiting LB325 to only fire protection districts in counties with levies of 40 cents or higher or those that have eliminated any fire district levying authority, the only districts affected by this bill are those who are directly impacted. In 2014, 11 counties had levies of 40 cents or more. Of those 11 counties, 3 of them did not allocate any levy authority to fire protection districts. As a result, there are a total of 16 counties that would be impacted by passage of LB325 based on 2014 levy information. I am providing a handout listing of those counties. Without the changes proposed by this bill, fire district volunteers in the affected districts must conduct a separate election process every five years. The process involves educating members of the public about why their vote is needed to continue funding emergency fire suppression and medical services. The education component requires the organization of explanatory meetings, advertising in the local media, door-to-door campaigns, and everything necessary to secure a successful election to gain the authority to set a levy for fire protection and emergency services. The election commissioner must conduct an election, tally the ballots, and perform all aspects of election work, including the hiring of election officials to conduct the election and count the ballots. At the end of the election process, the election commissioner bills the fire district for the cost of conducting the election whether they win or not. In some districts, the election is held at the primary election simply because a failure at that time is catastrophic and a negative vote then will force the fire district into a reeducation mode before the general election in the fall. Why might someone vote against this election? Possibly because the voter is uneducated and believes he is actually voting for an additional tax since he can't believe that his fire district is not being carried somewhere else in the county budget. All this work takes hours away from the important work which the fire and rescue department is supposed to be doing, protecting the citizens from danger and providing aid and assistance in grave emergency medical situations. The men and women who do this work are all volunteers. So why do we expect them to volunteer even more work securing a successful levy? It is simply time to change the law. If you believe, like I do, that emergency fire protection services and emergency medical services are absolutely essential services in every part of the state, then I ask for your support in getting some relief for these impacted fire districts. I believe this bill is a reasonable solution to a problem that has existed for too long in several of our communities, and I encourage your support. Thank you and I'd be happy to take any questions. [LB325]

SENATOR GLOOR: Thank you, Senator Davis. Are there questions for Senator Davis? Senator Sullivan. [LB325]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you, Senator Davis. You may have some people coming up to testify, but my question to you is do you have evidence of what this has resulted in, in some of the counties in terms of either concerns over public safety because they've been ham-stringed with lack of resources or perhaps even a lessening of the involvement on the part of local citizens for fulfilling these roles? [LB325]

SENATOR DAVIS: Well, I'll just touch on the latter part of that question for a minute. I think the volunteers are fully engaged in what they do in their community and they will work hard to make sure that they have a successful election, and I think that has probably always been the case. However, is that really a task that they should be charged with, to go out and work elections? You know, we don't do this for school board budgets, for example. We don't go to the vote of the people to do that. We apparently think that's an essential service and that the school board that's elected has the ability and right to set that levy after they've had a budget hearing. I think this fire district situation is the same way, and we're talking much lower levies. Now you'll see that in some of the handouts that the cap might be a little higher than you would anticipate, but in reality very few of the districts are levying at any kind of authority like that. Does that answer your question? [LB325]

SENATOR SULLIVAN: Yeah. Sure. But I guess the other thing is because of this added responsibility, sure, they want to serve their communities, but we also have heard stories of difficulties in recruiting people to fill those positions. So I wonder if that is kind of exacerbated by this situation. [LB325]

SENATOR DAVIS: Well, I'm sure they feel that after they put in all their training, which they do every month, EMS and the volunteers and then, you know, as I think you remember in the 2012 fires, I remember talking to a fire department. They had been out I think 28 of 31 days fighting fire. So the last thing they really need to do is have one more task put upon them to just...to try to get essential funding. [LB325]

SENATOR SULLIVAN: Thank you. [LB325]

SENATOR DAVIS: So I do think it's kind of an insult to them to expect them to do that. [LB325]

SENATOR SULLIVAN: Thank you. [LB325]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Davis. [LB325]

SENATOR DAVIS: Thank you. [LB325]

SENATOR GLOOR: And we know you'll be staying to close. [LB325]

SENATOR DAVIS: I will. [LB325]

SENATOR GLOOR: Or at least staying. We'll move to proponents. Good afternoon. [LB325]

POLLY OLSON: Good afternoon. I'm Polly Olson. I'm from...oh, O-l-s-o-n, from Chappell, Nebraska, the Panhandle, Deuel County. I'm the Deuel County clerk, ex officio clerk of the district court, register of deeds and election commissioner. I'm also an EMT and EMS instructor, and I guess I'm just here to tell you a story. I've worked in the clerk's office since 1991. And I know that the budget has always had...we've had our limits. We've been close to those limits. In 2007, it finally came to our understanding that there was not going to be room in the county budget authority to allow those taxing entities to come under our levy. So this forced the fire districts to find other means to obtain their levy. They had in the past gone to town hall votes when we thought things were going to be changing. In 2007, Fire District 1, which was a rural district in Chappell, wasn't able to have any funding because they forgot to submit their request to the county and they had no levy. There was no levy authority for them that year. The rural board members, who are volunteers and most of them are farmers, are very conscientious of taxes, and in the past they had kept their levy request very minimal. They did not want to increase their levy. So they looked at other options and at that time, they decided that maybe it was time to merge, and we thought it was an ample opportunity for both communities in Deuel County to do that. So Rural Fire District 2, which was Big Springs, merged with the village fire district, which was great. And the same thing happened in Chappell. So now they have their levy authority. Well, they had their entity to ask for levy authority through a vote of the people. They wanted to put it in the primary elections because they knew that if they didn't, they would end up in the general and wouldn't know for a whole nother year. They wouldn't obtain any funds through the levy. The wording on the ballot was incorrect. These are volunteers. They try to decipher the statute themselves because any time you have to go further and get consultation fees and whatnot, it costs. It costs to have someone do their budget for them. They're volunteers. The fire, EMS are volunteers. They spend hours not just training, dollars for their training. Takes away from their family, takes away from time. They're using equipment from 1978. They're not overspending. They're not...I guess it's disheartening for them to have more hoops to jump through. When we look at the levy for them is maybe 3 cents at the most that they've had in the last...3 cents on the dollar, in the last maybe five years. They have separate levies. Evaluations are different because of one of our entities, Fire District 2, encompasses Deuel, Perkins, Keith, and Garden Counties. So it's...I would be thrilled if you would have the wisdom to foresee that it would make things less disheartening for the volunteers to help them to have their levy without going through the additional expense, time. They went door to door. They put advertisements in the newspaper. They tried word of mouth just because it was something they knew had to be done. I just ask that you ask yourself, have you ever served on a volunteer fire, EMS organization? Have you ever had need of their services? You know, it's not just fire, ambulance calls. We've been called to help find people with dementia, you know, that live at home. They're always willing to help and they're not asking for anything in return. Do you have any questions for me? [LB325]

SENATOR GLOOR: Thank you, Ms. Olson. Can you tell me, when there are funds available, what are the funds spent on? [LB325]

POLLY OLSON: Tankers, training, utilities of the facility, fuel, just the expenses to operate the equipment. [LB325]

SENATOR GLOOR: Is the equipment stored in a building that's owned by somebody? [LB325]

POLLY OLSON: Yes. The building itself is owned, like the city of Chappell owns the building which was built I believe in 1981, donated by the Buckley Trust. [LB325]

SENATOR GLOOR: Okay. Thank you. [LB325]

POLLY OLSON: Fire district pays for insurance, utilities, everything. [LB325]

SENATOR GLOOR: Okay. Other questions? Senator Schumacher. [LB325]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you coming all the way from Deuel County, Polly. [LB325]

POLLY OLSON: You're welcome. [LB325]

SENATOR SCHUMACHER: How long is the election good for if they do hold an election? [LB325]

POLLY OLSON: Five years. [LB325]

SENATOR SCHUMACHER: Five years, they got to do it every five years. And you began to tell us a little bit of a story about they didn't do something right on the ballot. What ended up happening in that election? [LB325]

POLLY OLSON: Very unique. The fire board members took out a loan themselves so that the fire district had money. [LB325]

SENATOR SCHUMACHER: And then did they get paid back that loan? [LB325]

POLLY OLSON: Yes. [LB325]

SENATOR SCHUMACHER: Did they have another election then to give themselves authority? [LB325]

POLLY OLSON: Yes. When they had the time that they could, I believe it was 2008, May of 2008. And this was a new law. You know, they looked to their constituents, they looked to the commissioners, they looked to anyone they can to get the answers. We, as clerks, are kind of forbidden to give legal advice under the unauthorized practice of law. We try not to...we don't want to give them misinformation by any means. But it felt...I got the impression from our rural districts, the fire board, that our commissioners were giving them the boot, per se, because we wouldn't let them be under the levy, which was not the idea at all. [LB325]

SENATOR SCHUMACHER: You just are up against your limit. Is that basically it? [LB325]

POLLY OLSON: Absolutely, absolutely. [LB325]

SENATOR SCHUMACHER: Would it be helpful if instead of giving perpetual authority we said that...extended the 5 years out to 10 or 15 years or would that just compound the problem? [LB325]

POLLY OLSON: I think it may create more because who's going to tell them and how will they remember? Here's the time frame. It's been ten years, we're on the eighth year. Oh, is it now or? Who's going to provide the wording for...I've been in the clerk's office since 1991 and I know what it was like before. And it just seemed to be much easier. These people that are on the board are rural. I mean, they're taxpayers. They don't want their taxes to go up and they did a good job of making sure that that levy didn't increase. The watched the property tax request even though the valuation went up. [LB325]

SENATOR SCHUMACHER: Thank you. [LB325]

SENATOR GLOOR: Other questions? Seeing none, thank you. [LB325]

POLLY OLSON: Thank you. [LB325]

JERRY STILMOCK: (Exhibits 2 and 3) Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State

Volunteer Firefighters Association and the Nebraska Fire Chiefs Association in support of LB325. Thank you to Senator Davis for introducing the legislation. In a pared down version of what the Revenue Committee has heard in the past, the testimony that Donald is handing out gives you a snapshot of the history of how we got to this position. Before 1996, fire districts had their own levy authority. Fire districts historically now and then levy at a very low, I'd ask you to consider, very low levy rate. The state was being pressed across the state for three statewide petitions that were going through, and the response by the Legislature in 1996 was to adopt LB1114 which became effective in July of 1998. With that passage then, there were a certain funnel group of miscellaneous districts that fell under either a city or a county. In relation to fire districts, they fell under the county's authority. And the legislation as written as it is today, instead of having independent levy authority by the board members of the fire protection district, they had to make a request of their budget authority to the county and the county then had the ability beginning in 1998 to say you get the amount that you requested, you get less than the amount you requested. And as we found out as you've heard Senator Davis and Ms. Olson testify, there are eight counties out there that historically, at least for the past 10, 12 years have said zero levy authority. And with that then, if you believe that state government or government as a whole should provide the basic necessities of protection, or services is a better word, and the priority are listed by you, but in sequence some arrangement, education, infrastructure, public safety, and perhaps others. But this is public safety obviously, and because of whatever circumstances, some that Senator Davis has related to you and some that related to you by Ms. Olson, some of those counties are saying zero levy authority. So what happens? The fire districts are then forced, and the fire districts aren't anything more than five board members and the volunteer departments that service that fire district. So in these eight counties, there has to be a vote. The vote under the law...and I think this is a good place to share with you what I think the vote under the law was intended to do. I'm in Blue Fire District and my board sends a levy request, a budget request to the county and says I need...and states, I need a penny. The county in which Blue Fire District is located says under the circumstances, we've looked at your budget, a penny is too much. We're going to put you at a half cent. What the legislation does back from 1998, it allows the local people to say, well, if you're not satisfied with that amount that the county has authorized you, the half cent even though you've requested a penny, you know, you have some options. You can use a town hall remedy, which you have to have a particular number participate. You have to go out and get those people. The town hall vote is good for one year. Or you can have an election on a ballot and the election is good for five years. So if I'm not satisfied with that half cent that the county gave me, senators at that point in time in 1996 said, well, we'll give you a remedy. You have the ability to go above and beyond that. But I don't think anybody ever envisioned that there would be zero levy authority to the fire districts. The item that the page is passing out now is some information directly from the counties. So as you get this, I just wanted to share with you right from the county. There's Webster County, Sheridan County, and Franklin County. And I'm going to go ahead and speak because the yellow light is on even though those on my left don't have the handout yet. So pardon me. But on the first page you see

Webster County, 2012 primary election. This is what I received from the clerk. And I've highlighted there the cost of an election, the primary election for Campbell Fire, Riverton, and Lawrence, $1,900, $1,100, $2,000. That's page 1 of the item that you've received. And I...the second page, same county, Webster County, 2012 general election. I've highlighted the fire districts and the expenses that they've had. Senator, my red light is on. I just had one more thought if I may and I'll be prompt if there's still time. [LB325]

SENATOR GLOOR: Go ahead and finish your last comment. [LB325]

JERRY STILMOCK: Okay. Thank you. On the subsequent pages are the actual ballots of Webster, Sheridan, and Franklin County. And, again, I've highlighted so you can go right to the item. For example, Guide Rock in Webster County, the request was 6 cents of levy authority. That Webster County at Guide Rock 6 cents. The actual levy in 2014, the last page of the handout has these eight counties and the fire districts in which they're located. So I've given you the information but I'm going to tell you what it says. For Guide Rock, Webster County, 2014, the election was for 6 cents, so they'd have a cap as to what they were going to request. The actual levy amount is less than a penny, .008749. The point being is the materials that you have for the elections versus what the actual levy amount are, are for the most part pretty small. I'd be happy to try to answer any questions, Senators. [LB325]

SENATOR GLOOR: Thank you, Mr. Stilmock. [LB325]

JERRY STILMOCK: Thank you for letting me complete, yes. [LB325]

SENATOR GLOOR: Questions for Mr. Stilmock? Senator Schumacher. [LB325]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Mr. Stilmock, for appearing before us. How do you, assuming this authority is granted, how is it exercised? How are the people who are on these boards that can levy these tax elected? Is it a general election? Is it a town meeting? How are we assured that the voters are represented on the board? [LB325]

JERRY STILMOCK: They are not elected on a ballot at the way you were elected, sir, and they are elected at I guess what I would call a town hall meeting where the fire district advertises in the newspaper and posts in the communities in which they're located, but mostly just advertising through the newspaper that the election is going to be held for voting the members in for the various board members that are up for reelection. That's how they're elected today. [LB325]

SENATOR SCHUMACHER: Thank you. [LB325]

JERRY STILMOCK: Yes, sir. [LB325]

SENATOR GLOOR: Are there any other questions? Seeing none, thank you. [LB325]

JERRY STILMOCK: Thank you, Senators. [LB325]

SENATOR GLOOR: Good afternoon. [LB325]

GARY KRUMLAND: Senator Gloor, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d. I'm representing the League of Nebraska Municipalities appearing in support of LB325. I guess our interest in this bill is that cities and villages across the state provide fire service, but in smaller communities it's very often in conjunction with the rural fire district. There's interlocal agreements. There's mutual aid agreements, sharing of equipment, sharing of buildings, and very often the same volunteers volunteer for the rural fire district as they do for the village fire department or the city fire department. So anything that provides stability and foreseeability and reduces cost for the fire districts helps those communities too. As you've heard, there's problems with getting volunteers in rural areas, and anything that adds additional burdens to the people who are already volunteering decreases the ability to get volunteers. So for that reason, we do support the bill. [LB325]

SENATOR GLOOR: Thank you, Gary. Questions? Senator Schumacher. [LB325]

SENATOR SCHUMACHER: Thank you, Senator Gloor. When the town fire department gets together with the rural fire department to run one fire truck or fire house or whatever, are the townspeople assessed separately? Do they have a separate tax or does this rural board get to tax the townspeople? [LB325]

GARY KRUMLAND: If it is a city or village fire department, it would be paid out of the city or village budget, probably out of the general funds. There is a procedure where the city department is disbanded and the property within the city becomes part of the rural fire district, and then the rural fire district's levy is just assessed to the property within the city. [LB325]

SENATOR SCHUMACHER: To your knowledge, is there any reason that the rural fire board, particularly in a case like that, isn't elected at a regular election? [LB325]

GARY KRUMLAND: That's probably beyond my, you know, knowledge, so. [LB325]

SENATOR SCHUMACHER: Thank you. [LB325]

SENATOR GLOOR: Seeing no further questions, thank you, Gary. Any other proponents? Anyone in opposition to this bill? Anyone in a neutral capacity? Seeing none, Senator Davis, you're recognized to close. [LB325]

SENATOR DAVIS: I'll try to be brief. But just to answer a couple of those questions, there was discussion about the village board and then the rural fire district, and this is what happened in the Hyannis area where I come from. The village had its own fire district and of course didn't have...really didn't have the levying authority to ever keep the equipment up, such a small town. So after we had a major explosion in 1989, there was a merger then that took place. And the fire district took over the property and the fire board started managing all of the assets. And so it was a good move for everyone. And we made resources available. We made manpower available. So it was a win-win for everybody. To your point, Senator Schumacher, I think probably that's election law as to how that would need to be changed, but in most of these fire districts, you know, they cut it pretty close to the bone. I remember in 2012 after the Niobrara Valley fires, Brown County and Keya Paha County had to step outside their levying authority because they had already burned through all of their cash in fuel trying to fight those fires. And so I went up to those town hall elections and I said it was a major production which, you know, they had to have the election people sitting there at table making sure we had all the valid signatures. Because it was in an emergency situation, they couldn't wait for another year. So, you know, everyone's sitting there tallying the...making sure we've got all the voters here and then there were ballots and judges and the whole election process was went through. Well, in that particular case in both of those counties, it was 100 percent...I think maybe in Keya Paha County one recalcitrant person voted no, but otherwise it was 100 percent. These people work really hard and this is a good bill. I wanted to, and I think Mr. Stilmock handed this sheet out, and so you can say why would anybody kick anybody out of the levy, and I think that's a really good question. If you look at Nuckolls County, you wonder why would you kick a fire district out of the levying authority. I'd like to know the answer to that if your levy is 19 cents, and the only thing I can think is the commissioners there don't want to be viewed as raising property taxes, so they're forcing the fire district out on their own in order to make it look like they're doing their job. And what they're ultimately doing is adding tax dollars to the fire district budget because they have to incur the expense of having the election take place, so. It's a good bill. I'd urge you to put it forward. It's not going to affect very many counties, and we need it. [LB325]

SENATOR GLOOR: Any questions for Senator Davis? Senator Schumacher. [LB325]

SENATOR SCHUMACHER: Just one follow up to something you just commented about. To the extent a county board wants to make itself look good, if we do this, would that encourage more county boards to say, hey, go use your own authority; we'll make it look like we've reduced your county taxes? [LB325]

SENATOR DAVIS: Well, remember, they have to be above 40 cents if we're going to do that. It could happen. [LB325]

SENATOR SCHUMACHER: Thank you. [LB325]

SENATOR DAVIS: Thank you. [LB325]

SENATOR GLOOR: Thank you, Senator Davis. And that will end the hearing on LB325. (See also Exhibits 4 and 5) We'll now move to LB356. Senator Harr. [LB325]

SENATOR HARR: (Exhibit 1) Thank you, Chairman Gloor, members of the Revenue Committee. My name is Burke Harr, H-a-r-r, and I am the senator from Legislative District 8, the Dundee, Benson, and Keystone neighborhoods in Omaha. I'm here on LB356. And I'm trying to find my opening. LB356 changes the provisions relating to assessments of certain rent-restricted housing projects. Under LB356, projects consisting of five or more houses or residential units that are financed in whole or in part with an allocation of federal low-income housing tax credits under section 42 of the Internal Revenue Code shall be assessed based on an income approach calculation for all rent-restricted housing projects. LB356 also creates a committee to be housed within the Department of Revenue and charged with developing a market-derived capitalization rate to be used by county assessors in determining the assessed valuation for rent-restricted housing projects. LB356 finally gives the Tax Equalization and Review Commission, TERC, the authority to make determinations of rent-restricted housing project valuation committees regarding the capitalization rate to be used to value rent-restricted housing projects. I would like to point out that this bill was previously introduced as LB358 (sic--LB348) in 2013 and voted out of committee on a 6-1 vote; Senator Schumacher was the lone wolf on that. This bill was debated and moved off of General File where it stalled due to a lack of time. We have...I have an amendment here. We had multiple meetings. I want to take this opportunity to thank NACO. We had a number of meetings with county officials during the interim, and they have continued to work with us into the session. When we started the discussions, there was a list of ten items that there was not agreement upon. Through good-faith negotiation by all parties, we have made numerous changes to the bill. I'm passing around an amendment, which the amendment actually becomes the bill. We have reduced the number of disagreements down to two main points. And I'm sure you will hear some of those on the opposition regarding those two points. The people following me are planning to walk the committee through the negotiations. Therefore, it would be best to address...have them address the questions. Finally, we received comments from former state Senator and former TERC board member Bob Wickersham. He suggested 25 technical changes to make the bill work more efficiently if passed. We have also incorporated those changes into the amendment. In closing, I would say you all received a letter today from Washington County assessor objecting to this bill. And I would ask that you take special attention to read it because the guy didn't read the bill. He put in a reference in there to NIFA. NIFA isn't mentioned in this bill. He looked at the bill from...previous legislation. He hadn't read this one. And if you look at the final paragraph of that letter, he says...and maybe what I need to spell out a little bit more, why we need this bill and not just what the bill does, but he objects because he says, hey, you might have two pieces of property that are identical, or as they say in My Cousin Vinny, identical. My Cousin Vinny, sorry. And they look the same from the outside. And you'd think it would be only equitable that these two buildings which are the exact same would be assessed at the exact same value. Well, except that one building has tax increment financing...has this tax credit on it, and the other one is market rate. And the one that has the tax credit has something called a LURA on it, which is a land use restriction agreement that says the rent won't go above a certain amount. And in return, you get this tax credit. That's how this process works. The other one is straight market rate. So what happens is let's say these two buildings are built at the same time and they're originally worth $1 million. Well, the market now says these buildings are worth, let's pretend like they're ag land so they've skyrocketed in value and now they're worth $2 million, okay? Well, except that this that has the rent restriction on it isn't worth $2 million because the income on there, you can't get that value out of it. And if you went to sell it, because it has this rent restriction on it you couldn't get $2 million because the rate of return wouldn't make the sale viable. No one would buy it. No bank would finance it. So that's the reason why, yeah, you have two buildings and they may look exactly the same and they may be exactly the same. But for policy reasons created on the federal level, we have decided to put a LURA on this and so they, in reality, are not worth the same amount. That's what we're trying to do in this bill is to take into account the fact that we have this artificial rent restriction. And it is artificial. But it's an agreement between two parties. So that's the purpose of this bill. With that, I would entertain any questions with the caveat that people coming after me know a lot more about this than I do. [LB356]

SENATOR GLOOR: Questions for Senator Harr? I see none right now, Senator Harr. [LB356]

SENATOR HARR: Thank you. [LB356]

SENATOR GLOOR: We'll go to proponents. [LB356]

VINCE LITWINOWICZ: (Inaudible) the boat on the dock, all right. Hi, I'm a proponent for...first, I've got to say I wear this do-rag because it supports Dive Pirates organization that takes veterans and wounded warriors and citizens to paid-for scuba vacations. And I say that because if you're in a wheelchair, you automatically lose a hundred IQ points (laugh) to some.

That's not a generalization. So I take the hundred that I have and use it for something that I can still do. So also I was wondering, do I qualify to have the light off? I don't think I'm going to speak more than the time. [LB356]

SENATOR GLOOR: Well, let's leave it on just so we have a measure of time. But I also need you to make sure you state and spell you name. [LB356]

VINCE LITWINOWICZ: Oh, yeah. Thank you. I say that mainly because of my mental illness. And so...okay, my name is Vincent Litwinowicz, L-i-t-w-i-n-o-w-i-c-z. And after hearing Senator Harr announce the...you know, at the very end of his discussion introducing the bill regarding the rate of return and property value based on that assessment, I'm going to say intrinsically that the value of the building is totally separate as it's being purposed for what it is. It has nothing to do with that. It has to do with the value of the people inside that are allowed to live there. And it's nice that some of these are necessary across the state, that we have these. And in particular, I think any city this size, it is my opinion, that has one of them in a location where we have where I live, which is right across the Capitol. There should be one place in a city this size that you can be...have such a nice place. I look out over and I see the Capitol as my view. And we need more of them in the state. So I would argue that...and I know...I'm trying to cobble my thoughts together because for some reason I know I'd rather face a fire than an audience. But the thing is...okay, personally for me, I'll use my personal story, I got disabled. I had a mental illness and I'll try to be quick about this. So I had to withdraw from the University of Michigan-Ann Arbor. I was an engineer. I worked for it. I worked hard for it. And then later on I came here to go for a doctorate. After...and then I got MS so I had to leave because they could have had somebody help me with my research, but I wasn't going to do that although I don't think that's necessarily bad. Anyway, I had cognitive problems also. So the point is there's this place for me that I could go to, and I know other folks in the building. It's kind of a cornucopia, some that have mental illness, but they're nonviolent. You can't have a felony or make more than $28,500 to live there. So it has great value. I know several people that...this is a little disjointed. So for me particularly, it's also an area that's safe because I don't know of any other area with this kind of affordability that I can stay in. If you go a few blocks south of here...and accessibility, I know some people...for me this is of particular value for disabled people as there's a lot of places to live that may have rent in the neighborhood that I can afford, but they have accessibility problems. And so it is important that...and another reason is that the places that do have accessibility, you know, if somebody is living in there already, you can't kick somebody out put a handicapped person in. So you have to have even more people available...spaces available than specifically for the number of people or the market that may be there for you that are mobility disabled. Okay. I still haven't...I tell you, when I was in school I had arrows all over my notes and I still haven't gotten any better. But there's the...yeah, I had...well, that might be good enough. I'm going to get better at this as I do more of it because this is my plan, to do more of this stuff where they apply to people like me and folks that I know. But I guess that will be good. It's not all I had but it's good. [LB356]

SENATOR GLOOR: Thank you, Vince. Are there any questions for Mr. Litwinowicz? Thank you. And since I've been at meetings where you've testified in the past, you're getting better. And good for you and I appreciate your taking the time to get here. [LB356]

VINCE LITWINOWICZ: All right. Take care. [LB356]

SENATOR GLOOR: Thank you. Other proponents. [LB356]

JOHN WIECHMANN: Good afternoon, members of the Revenue Committee. My name is John Wiechmann; that's J-o-h-n W-i-e-c-h-m-a-n-n. I am the president and CEO of Midwest Housing Equity Group. Midwest Housing Equity Group is a Nebraska nonprofit corporation. And we were organized in 1993 to create and help finance affordable housing throughout the state. Since inception, we've been fortunate to invest more than $425 million in this state. And that's helped finance well over 4,000 units of quality affordable housing. I'm here today to testify in support of LB356 introduced by Senator Burke Harr. LB356 addresses the assessment and valuation of rent-restricted affordable housing developments. I want to thank the senator for introducing the legislation and for recognizing that the current statutory framework could be improved. If I may, I'd first like to just take a minute to frame the issue for you. As a general matter, section 2.3.1 of the International Association of Assessing Officers guidance states that: "The workings of a property tax system should be visible to taxpayers." "Mass appraisal values and the general methodology underlying them should be available and explainable." When valuing any property in the state of Nebraska, the assessor's job is to determine actual value. Under Nebraska law, actual value means the market value of real property in the ordinary course of trade. Assessors would typically use the cost approach, the comparable sales approach, or the income approach to value real property. Current law provides that county assessors, when valuing rent-restricted properties, are required to perform an income approach valuation. So they're already performing an income approach valuation. But what the existing law does not require is that it does not require them to use that valuation. Instead the assessors are permitted to use any other generally accepted mass appraisal technique. And again, that would typically be either comp sales or the cost approach. Now the result of this is that we get unpredictable and inconsistent taxation of affordable housing developments. One county may vary its methodologies from year to year, and different counties may use different methodologies in the same year. Contrary to the guidance, the values and the methodology are not available or explainable. And the workings of the property tax system don't seem to be visible to the taxpayers. Now this is not the fault of the assessors. We are not here blaming the assessors. They are working within the existing and I would say weak framework given to them. This unpredictably, this inconsistency, I think, has many negative implications for our state and our citizens. With respect to existing properties, we face the increased risk of foreclosure. As Senator Harr talked about, the rents are restricted. You can't raise the rents. So if taxes go up, that falls back on somebody to fund that difference. But it's not going to be the residents of the property because as a policy matter we've agreed to restrict it as to keep that housing affordable for them. New development also becomes almost impossible because when I sit down with our partners and I try to underwrite a new development I can't because I don't know what number to put in for the property tax amount. I don't have the predictability. I don't have the uniformity. I don't have the consistency. So that stymies development. It stymies job creation. And in fact it adds additional burden to the state because now the ability to leverage existing resources will be reduced. It will result in fewer housing units. So how do fix the problem, right? How do we eliminate this uncertainty? How do we eliminate this unpredictably? How do we create a methodology that is available and explainable? By requiring the use of the income approach when valuing affordable housing developments, that's exactly what this bill does. To me, this is a win for everybody involved. It does not impose any additional work on our assessors. They're already required to perform an income approach valuation. It should save the counties money because it reduces the time spent on appeals. I think right now there's well over 300 appeals just on this limited type of property. It reduces...it also helps create new tax revenues for the counties because now you'll encourage development and perhaps get more tax revenues from what was once vacant land. And it should also reduce the burden on the state government by maximizing existing resources to create more affordable housing. I'd tell you, too, that I would argue the income approach best reflects the market value of rent-restricted properties in the ordinary course of business. I mean I think all income-producing property is probably best valued using the income approach. Would you buy a business based on the value of the building it was located in? Or would you buy a business based on its income stream. I think most people in the ordinary course of business, they buy and sell businesses based on the income stream, not in the building that it happens to be located in. I also want to point out that LB356 is not a one-size-fits-all approach. The neat thing about the income approach: If you have higher rents in a county or lower expenses in a county, that's going to translate to the bottom line and that's going to create more value resulting in a higher valuation. So we do pick up variances between the counties and even between properties. And again, this doesn't introduce a new philosophy to our state. The Legislature has previously recognized a legitimate state interest in providing affordable housing to Nebraskans. That philosophy is embodied in the Nebraska Affordable Housing Act. It is in the public interest to assist in the provision of safe, decent, affordable housing in all areas of our state. I would gladly answer any questions, although contrary the senator's kind words, my better half would certainly tell you I'm not knowledgeable about much of anything, but happy to try answer any questions. [LB356]

SENATOR GLOOR: All right. Thank you, Mr. Wiechmann. Are there questions? Senator Sullivan. [LB356]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you for your comments. Do you know what's going on in other states? [LB356]

JOHN WIECHMANN: I do...well, that's overly broad. I can tell you for certain that we've modeled this statute and this approach off of Iowa's statute and regulations. At one point, our group had retained a law firm in Omaha, Kutak Rock, to do a 50-state survey. And they had determined that 30 other states were also performing...also were using the net operating income approach to value rent-restricted properties. [LB356]

SENATOR SULLIVAN: Thank you. [LB356]

JOHN WIECHMANN: Yep. [LB356]

SENATOR GLOOR: Senator Schumacher. [LB356]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony today. As I understand what you said, the reason that the two identical buildings should not be valued the same is that one has got a rent restriction on it, is that...? [LB356]

JOHN WIECHMANN: I would say that's right because if you assume...if you believe as I do that income-producing properties are best valued using the income approach then... [LB356]

SENATOR SCHUMACHER: And how did it come to be that there's an income restriction on Senator Harr's two identical properties? [LB356]

JOHN WIECHMANN: You bet. So the properties that are rent restricted, that had the land use restriction agreement filed against them, the landowner agreed to do that in exchange for providing affordable housing. And the federal government, in exchange for that agreement, provided tax credits to the property. [LB356]

SENATOR SCHUMACHER: So there was consideration paid for by the government for the imposition of this ceiling. [LB356]

JOHN WIECHMANN: Yeah, what they do is they give you the tax credits. The tax credits are then, for lack of a better word, sold to socially responsible investors. [LB356]

SENATOR SCHUMACHER: Socially responsible investors? [LB356]

JOHN WIECHMANN: Yeah, yeah. [LB356]

SENATOR SCHUMACHER: Okay. Please explain. [LB356]

JOHN WIECHMANN: Sure. This is a pretty esoteric asset class, right. There's a finite amount of these federal tax credits out there. I mean there's just not that many rent-restricted housing projects in the state or across the country. I could give you at some point the study that Harvard does every year, their housing center that talks about how the need for affordable housing is something like 50 percent unmet. So it is a rather esoteric investment. It's not like calling up your broker and saying, oh, I'd like to invest in the S&P 500 today. I mean there's not a large amount of these investments. So if you're going to spend the time to learn about them and decide that you're comfortable making that investment, I think if you're a corporation that makes widgets or bank and you're going to spend the time to learn this asset class make an investment in it which in turn will provide capital to help house folks, working-class folks of low and moderate income, yeah, I would tell you in my view, yeah, that is a socially responsible investor. [LB356]

SENATOR SCHUMACHER: So you go find an investor who's interested in this kind of industry. [LB356]

JOHN WIECHMANN: Yes. [LB356]

SENATOR SCHUMACHER: Okay, and you say we need X million dollars to build a building. [LB356]

JOHN WIECHMANN: Yes. [LB356]

SENATOR SCHUMACHER: And you build...the investor says fine. I'll build the building and I get some tax credits back. [LB356]

JOHN WIECHMANN: So that's more or less correct. There's going to be a developer in there as well because again, the bank is going to or the insurance company or the factory that makes widgets, they're not (inaudible) they're taking time to learn about the asset class. But they're not going to develop it or build it. So a developer and one of whom you'll hear from after me, will submit an application to the state agency. That's what I love about this program too. It's a federal resource, but it's allocated by the state. It's kind of a federal resource, local control: classic Reagan program. The developers will apply to the state agency for this finite resource. The state allocates it out to those properties that they believe best meet the needs of the state. And then the developer will then come to me as a, for lack of a better word, a nonprofit syndicator. We go out and we find...developers are in the business of building and finding real estate, building properties. We're in the business of finding those socially responsibly investors. That's why we're a nonprofit. [LB356]

SENATOR SCHUMACHER: The finite resource, that's the federal tax credit. [LB356]

JOHN WIECHMANN: Yes, sir, that's the federal tax credit. [LB356]

SENATOR SCHUMACHER: Okay, so they've got a bundle of credits the investor can take against his income tax, good as cash. [LB356]

JOHN WIECHMANN: That's right. And they will pay...and of course, they will pay for that because it does have value. They also pay for some tax losses such as depreciation and interest expense on some of the debt. [LB356]

SENATOR SCHUMACHER: So now you've got the money. You've got the financing. You build the building. [LB356]

JOHN WIECHMANN: Yes. [LB356]

SENATOR SCHUMACHER: Okay. Does the guy who gets the tax credit, he doesn't hang on to the building, does he? [LB356]

JOHN WIECHMANN: Well, because it's owned in like a...again, for lack of a better word, it's owned in a partnership structure. So the developer will be a general partner. The investor will be the limited partner because the credits can't really be...really, they can't at all be sold. They have to be allocated under federal partnership tax law. And I'm sorry if that's too...I didn't mean to get that far into the weeds. But you can't sell them. You have to stay an owner of the property for 15 years. If you don't stay in that investment structure in that partnership, you risk having your credits, the one thing you're going to get because you're not going to get cash because there's not going to be much cash because the rents are restricted... [LB356]

SENATOR SCHUMACHER: But wait a minute, stop right there because the credits are worth cash because you don't have to pay cash to the government on your taxes. [LB356]

JOHN WIECHMANN: Oh, yeah, yeah. I think that's right. [LB356]

SENATOR SCHUMACHER: They're as good as money. [LB356]

JOHN WIECHMANN: It's a credit. So a credit is the same as a dollar of cash. [LB356]

SENATOR SCHUMACHER: So the bottom line to all this, the investor is paid up front in credits/cash for his investment. And now he's agreed to keep things lower than market. [LB356]

JOHN WIECHMANN: So one thing I just want to clarify, the investment comes in up front because that...it's not an operating subsidy. It funds the capital cost of construction. Again, because the rents are lower and restricted by law, you can't put as much debt on them. In a typical market rate deal, you might put 80 percent debt, 20 percent equity. This is basically the exact opposite. [LB356]

SENATOR SCHUMACHER: So the investor gets his money up front. [LB356]

JOHN WIECHMANN: No. [LB356]

SENATOR SCHUMACHER: His credits up front. [LB356]

JOHN WIECHMANN: No, his money comes in up front. The credits flow over a period of ten years. So if you get a $1 million of credits, you'll get $100,000 of credits over the next ten years. [LB356]

SENATOR SCHUMACHER: Okay. And those are coming in. So he's coming out ahead of the private sector developer because he's getting credits. But his downside is he's agreed to keep the rents down. [LB356]

JOHN WIECHMANN: The property owner...the developer is actually the one who agreed to it. But yeah, the investor invests in the partnership, so he is certainly aware of the rent restriction, the LURA, absolutely. I mean that's a fair statement. But I want to maybe anticipate this. We're not saying that these things don't have any value. We're not asking for a property tax exemption. We're simply saying that the value of the property should reflect the fact that it is not the exact same as property A over here that's market rate with no restrictions. And to your point, I think what you might be asking is are we going to do anything to capture the value of these credits which do have some value. And I think the answer is yes, you kind of do actually through the cap rate that's in the statute because an investor, like you correctly said, is going to make a return on this. They are going to make a return. I do not disagree with you. That is a true statement. And so that is why we don't have a cap rate of zero because what does a cap rate do, right? A cap rate is a function of value, of converting an income stream into a value, into a purchase price. And so the cap rate we put in there, the band-of-investment technique that we put in there, the band-of-investment technique, first off, picks up the value or the rate of return on debt and the rate of return on equity. And then it weights it according to the general capital stack. The bill provides 80 percent equity, 20 percent debt, which from the assessors perspective you like because the return on the equity, at least in current markets, is going to be better than a return on debt. And if we go back to the early '80s, I don't know what that's going to be like. But I was four, so I'm not sure I'm in a position to speak to that. So the band-of-investment technique will pick up a cap rate that people would expect from a reasonable rate of...a return that investors would expect on an investment in this type of property. So we do grab it, I think we absolutely do. And I think you look at the information the committee that we established can gather, that's certainly one thing they could gather. So last year my organization bought 100 percent of the tax credits in this state. And historically we've bought somewhere between 40 percent and 75 percent. It varies year to year. But I have no problem telling you that we sold...the return that our investors made was 11.15 percent on a pretax basis. So that would factor into the cap rate. And in fact, if you look at the capital asset pricing model formula we have in there, you'd actually end up with a projected return higher than that equal to about 12 percent because it's based on the rolling cumulative average of the S&P 500. [LB356]

SENATOR SCHUMACHER: So if we applied that same principle to farmland, what would farmland be worth an acre. [LB356]

JOHN WIECHMANN: I'm not in agriculture. I couldn't tell you that. But what I could tell you is I want to distinguish from farmland, I don't think the farmers put a rent restriction agreement on their property. [LB356]

SENATOR SCHUMACHER: They feel they don't have any rent. (Laugh) Thank you. [LB356]

JOHN WIECHMANN: But I'm not...yeah, I'm sorry. I can't speak to ag land. [LB356]

SENATOR GLOOR: Senator Davis. [LB356]

SENATOR DAVIS: I assume that these partnerships end at some point. [LB356]

JOHN WIECHMANN: They do. [LB356]

SENATOR DAVIS: Can you elaborate on how you wrap them up then? [LB356]

JOHN WIECHMANN: Absolutely. So we talk about the credits flowing for a period of ten years. There's something called a compliance period which is 15 years. And that's the recapture risk is...the federal code essentially allows you to claim the credits on an accelerated basis. So it's a 15-year credit that the code lets you claim over 10. At the end of the compliance period is typically when the partnership will wrap up. The investor will leave. However, the LURA is going to be on the property for at least 30 years in what's called an extended-use period. Congress decided that although the credit period was 10 years and the compliance period was 15, they wanted the properties to remain affordable for at least 30. So the investor will leave after 15 years. The credits are all gone after ten. [LB356]

SENATOR DAVIS: And the investor leaves with nothing, right? [LB356]

JOHN WIECHMANN: Yeah, I mean they'll do a residual value analysis much like we're talking about here and try to decide if there's any value. You know, is there any meaningful value in the property again, much like an assessor would do. And if there is some value then...and if there is for some reason a lot of cash flow and a lot of net income then the developer, the general partner would have to pay them a sum to go away unless the general partner is a nonprofit, in which case the Internal Revenue Code wants to incentivize nonprofits owning these property. And there's a prearranged exit price that's basically equal to $100 plus the nonprofit has to assume in its own name any of the existing debt on the property, which as we talked about will be really low because of the capital stack. And then you're 15 years into a typical 30-year amortization. So what a great way for the property to remain affordable and stay in compliance with its restricted use agreement. And I would say one of the things we want to give under this is the...you know, we'll give the assessors every year...hey, is the land use restriction agreement still in effect? If it's gone, if it's been terminated, if it's off the books, tax it like you do everything else because it's no longer a unique parcel. It's no longer serving a public policy goal. I mean tax it the same as soon that land use restriction agreement is gone. [LB356]

SENATOR DAVIS: So at the end of that period then, at the end of the 30 years, the developer owns the property free and clear and he can charge whatever he wants to rent. [LB356]

JOHN WIECHMANN: He could charge whatever he wanted to. Now that's 30 years, you're probably going to need to recapitalize the property. I mean it's going to need some work. But, yeah, that's right. I mean once the...and again, it could be longer than that. Some states including Nebraska give you...you'll score better, you're more likely to get an award if you agree to like 45-year restrictions. But yes, that is...whenever the length of that is, minimum of 30 up to 45, burns off then, yeah, it will be your property. And at that point we would say tax it as any other property. [LB356]

SENATOR DAVIS: So then can it go back into the program again at that point. [LB356]

JOHN WIECHMANN: You can. Actually you can go back into the program after 15 years. The fact is they're going to need to be recapitalized after 15 years one way or the other. I mean you don't want a bunch of slum... [LB356]

SENATOR DAVIS: So you cash out your first 15-year guys, bring in a new set of limited partners that take credits for the next 15 years. [LB356]

JOHN WIECHMANN: Subject to available resources because there's only a finite amount of these credits in the state. And again, as we talked about...and in Nebraska, it's right around $4 million, $4.5 million. It's $2.30 times the state's population. One thing we don't have is too much housing for folks of low and moderate income, especially as you get into the out counties. The one thing we hear and that we're proud to do is we are a lot of times some of the first money into some of these towns because market rate developers won't show up, and we will show up. And once we put the money in with our developer partners and the thing gets built and leased up, then you've kind of got proof of concept that there is demand for this housing. And then you can encourage more market rate, more moderate and higher income housing to be built. [LB356]

SENATOR DAVIS: And so how are the rents set then? [LB356]

JOHN WIECHMANN: The rents are set as function of area median income. And this will depend on your arrangement with the state agency in your application for credits. But the rents will not be more than essentially one-third of 60 percent of area median income. The definition of rent burdened in this country is if you have to put more than a third of your income towards your housing cost. [LB356]

SENATOR DAVIS: So what would that be in Lancaster County? Have you got any idea? [LB356]

JOHN WIECHMANN: I couldn't tell you, in Lancaster County. [LB356]

SENATOR DAVIS: Or where are you from? [LB356]

JOHN WIECHMANN: I'm from Omaha and even then a family of four's AMI is, what, right around $60,000. So I would take 60 percent of that; $6,000 is 10 percent; $36,000, take a third of that, $12,000; divide that by 12, about $1,000. So what, maybe a three bedroom is going to rent for $1,000 or less. And that's total back of the napkin. There's going to be some developers here who can tell you specifically what rents they're charging on their property. So don't take my...I was a poli sci major. (Laughter) [LB356]

SENATOR DAVIS: So one last question, how do we know that all these apartments are rent-controlled apartments. [LB356]

JOHN WIECHMANN: By looking at the land use restriction agreement on the property because if you can't...okay, so let's say you just choose to just straight up violate the terms of the land use restriction agreement. So you've got several watchdogs there. One, you've got me and my investors because if that happens, they're going to lose their tax credits. Those credits are not automatic if you go noncompliant on your units. The second thing you have is a state agency. They're doing the exact same thing. They're also monitoring these units every year for noncompliance. They do tenant inspections. They do file reviews. It's very detailed. So those are the two biggest ways you have to ensure that the land use restriction agreement is actually being followed is you've already got a state agency enforcing it. And the IRS enforces it. [LB356]

SENATOR DAVIS: Thank you. [LB356]

SENATOR GLOOR: Seeing no further questions, thank you, Mr. Wiechmann. [LB356]

JOHN WIECHMANN: Thank you very much. [LB356]

SENATOR GLOOR: Can I see a show of hands of people who want to speak to this. And are those people in support and opposition both? If you want to speak in any way to this, put your hand up, please. Okay. Thank you. Continue with proponents. [LB356]

CLIFFORD MESNER: (Exhibit 2) Senator Gloor, members of the committee, my name is Clifford Mesner, C-l-i-f-f-o-r-d M-e-s-n-e-r. I'm an attorney and real estate developer from Central City. The bulk of our work has been in low-income housing tax credit projects, but we also have done private subdivision development, spec housing, student housing, and some commercial development. LB356 only impacts the low-income housing tax credit projects that we have done. This program designed during the Reagan Presidency allows Nebraska to build millions of dollars worth of new housing every year. I'm going to discuss the developer's perspective. As a developer, the biggest problem we face with the current process of valuation is that it does not give us a predictable and uniform result. For us, it is not a question of how high the taxes are. It is a question of being able to predict what the taxes will be. Let me give you an example. We built three tax credit projects just north of Highway 6 in Sutton, Holdrege, and Hastings. The units are identical. They are all rent restricted for a 45-year period, yet the taxes in

Sutton were more than three and a half times higher than the taxes in Holdrege. That creates major problems for us as we try to move forward and figure out how to do a project in Hastings. What will the taxes be there? Will they follow the Sutton line or will they follow the Holdrege land? While developers are mostly concerned with the predictability of the taxes, I think it's important for the Legislature to understand who ultimately pays the real estate taxes on these projects. Most but not all of our projects are done in conjunction with a Nebraska housing authority that receives a net cash flow from the projects and ultimately becomes the owner of the project under an option to purchase. These projects are a major part of the new housing in Nebraska. As a result, Nebraska has to find a way to make these things work. Often they have to provide some gap financing in order to leverage the tax credits, otherwise the federal money is lost. The amount of money needed for the state is directly related to the cost of operating that project for the first 15 years. The more it costs for real estate taxes, the more the state of Nebraska has to put into the project to make it work. This also translates into the amount of money the project can afford to borrow from conventional financing. So for example, the Hastings project that we built, if the taxes were the same as they were in Sutton, we actually needed another $28,500 a year to pay the taxes. That meant that the state would have to put another $310,000 in to make the project cash flow. If the taxes are lower, as they were in Holdrege, the state doesn't have to put that $310,000 in because we can go to a bank and borrow the money and fiance the thing privately, which is a better use of state funds. The Nebraska Investment Finance Authority and the Nebraska Department of Economic Development attempt to get the best return on the use of the federal credits and the use of Nebraska's money that's used for gap financing. Communities that have higher taxes use more state resources and are not as competitive as the communities that keep real estate taxes lower. This often dictates where housing gets built more than where housing is actually needed. For example, in Grand Island we have done four projects in the same subdivision. The taxes from the first project to the fourth...the rents from the first project to the fourth project have gone up 1 percent. The taxes on the exact same property with a 1 percent rent increase have gone up 25 percent. As a result, we can no longer afford to do projects in Grand Island so we have moved down the road to other communities that maybe don't need the housing as badly as Grand Island does. Frankly, Grand Island right now is crying for more housing. But the lack of understanding of how these tax credits...how the taxes impact the project has forced us to move to other communities. So we're asking that you adopt LB356. It will be beneficial in two regards. First and most important to us is it creates predictability and uniformity as to what the taxes are from county to county. Secondly, we believe that by reducing the cost of the gap funding it is a better use of Nebraska's limited housing dollars. Thank you. I'll be happy to answer any questions you might have. [LB356]

SENATOR GLOOR: Thank you, Mr. Mesner. Senator Scheer. [LB356]

SENATOR SCHEER: Between the communities, you talk about the taxes being much higher than one another. Is that a result of mill levies that are different within the communities or just simply the valuations? [LB356]

CLIFFORD MESNER: It's just simply the valuations, how they chose to value it. They mill levy doesn't have that big an impact. In that particular case we actually are charging higher rents in Holdrege than we are in Sutton and yet Sutton has the higher taxes. The problem that we normally faced is that most assessors go back to cost of construction approach. And the cost of construction in Grand Island has gone up 25 percent. As we came out of the recession, the cost went up but the taxes don't. So now we have two projects on opposite side of the subdivision, one that's working out great and one that's being stressed all the time. [LB356]

SENATOR SCHEER: Okay. Thank you. [LB356]

SENATOR GLOOR: Senator Sullivan. [LB356]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you, Mr. Mesner. Can you tell me a little bit more about the rent structure. I think it was mentioned by a previous testifier, but how the rents are set and then at what point does a rent increase kick in? [LB356]

CLIFFORD MESNER: The rents are set...the beginning standard is that we have to deal with 60 percent of area median income. If we use certain funds, a portion of the unit will have to be at 50 percent of area median income. Sometimes the agreement with NIFA actually lowers that down to even lesser amount. So for example, our project in Grand Island, two bedrooms are renting for $450 and three bedrooms are renting for $500 on our senior-only project. That is by agreement with what we have with Nebraska Investment and Finance Authority. The actual cap on that if you just use the 30 percent would probably be $75 to $100 higher than that. [LB356]

SENATOR SULLIVAN: And so then incrementally, at what point do you raise the rent? [LB356]

CLIFFORD MESNER: We have the ability to raise the rent a couple percent a year if we want. Our pro forma shows that we can go 2 percent a year and we try and raise them a little bit just to cover additional costs. But we always have to stay below that cap that we've set. And that cap is based on area median income. One of the problem we have frankly is that area median income hasn't moved. Area median income has stayed the same. The cost of construction has gone up. And that makes it more and more difficult to make these things work. It's frankly the same problem we face when we try and do work force housing because we try and do a lot of work force housing in the state and it's really a problem. It's just an issue of the cost of construction has outpaced the wage. And it's the same thing reflected here. The area median income hasn't gone up. That means the rents don't go up even thought the cost of construction does. [LB356]

SENATOR SULLIVAN: And these credits remain the same. [LB356]

CLIFFORD MESNER: As a percentage of construction, yes. So you get more credits because your cost of construction has gone up. And since you're getting a credit based on the cost of construction, the credits do go up when you start. And that's been the saving grace. [LB356]

SENATOR SULLIVAN: Okay. Thank you. [LB356]

SENATOR GLOOR: Senator Schumacher. [LB356]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony. In the way this is structured we've got, best I can detect, several hats. We've got the investor. And he's the guy that ends up with the credits, is that right? [LB356]

CLIFFORD MESNER: Correct. [LB356]

SENATOR SCHUMACHER: Okay. And how long is he involved in the project? [LB356]

CLIFFORD MESNER: He's involved with the project really for the first 15 years. [LB356]

SENATOR SCHUMACHER: Okay. [LB356]

CLIFFORD MESNER: And after 15 years it's sold off to a nonprofit, usually a housing authority for us. [LB356]

SENATOR SCHUMACHER: And for the first ten years he gets an increment of credits each year. [LB356]

CLIFFORD MESNER: Correct. [LB356]

SENATOR SCHUMACHER: And how much percentage of his investment do those credits amount to? [LB356]

CLIFFORD MESNER: Ninety percent is the general rule. [LB356]

SENATOR SCHUMACHER: So 90 percent of what is coming back in credits from the government, is that right? Did I understand that right? [LB356]

CLIFFORD MESNER: Right. [LB356]

SENATOR SCHUMACHER: If he puts $1 million in, his credits will give $900,000 back, is that right? [LB356]

CLIFFORD MESNER: Correct. [LB356]

SENATOR SCHUMACHER: Okay. And does he get then any of the rent proceeds during that time? [LB356]

CLIFFORD MESNER: No, no. Typically in the typical arrangement he does not. He also gets the depreciation on the building. [LB356]

SENATOR SCHUMACHER: Okay. [LB356]

CLIFFORD MESNER: And his return comes from the tax credits and the depreciation. The first project we did 15 years ago we did with Midwest Housing Equity Group. And when I went through it the first time, I was looking at it and I was trying to figure out how we got the rest of the money back to them. And they said we don't want it. [LB356]

SENATOR SCHUMACHER: Okay. [LB356]

CLIFFORD MESNER: And that money goes to the housing authority. All the excess...the net operating income goes to the housing authority, all they get is the credits and the depreciation. [LB356]

SENATOR SCHUMACHER: So basically, he gets nine-tenths of his money back in credits. Then on this $1 million building, if he depreciates it out and he's in a 35 percent bracket, he gets $350,000 there. And then he gets a residual ownership in the building at the end of the period? [LB356]

CLIFFORD MESNER: No. [LB356]

SENATOR SCHUMACHER: He's out of it. [LB356]

CLIFFORD MESNER: He's out of it. In the case, the project that I was just telling you about, we're closing on it right now. The investor gets back on 16 apartments, all bricked with one-car garage. His total return is $100. That's all he gets is $100. So he has to get his money out of the credits and the depreciation. I think in that particular case, we sold the credits to them for 92 cents on the dollar. So if they put $1 million...if it was $1 million there, we expected them to put $920,000 into that project 15 years ago. And they would get $100,000 a year for ten years plus whatever tax benefits they can get off of depreciation. And then they get $100 at the end. [LB356]

SENATOR SCHUMACHER: So basically their return on investments is the 90 percent tax credits plus the depreciation on the building. [LB356]

CLIFFORD MESNER: Exactly, exactly. [LB356]

SENATOR SCHUMACHER: Okay. So then we have the second hat being the developer. And that would be you. [LB356]

CLIFFORD MESNER: That would be us. [LB356]

SENATOR SCHUMACHER: Okay. And your job is what? You've got the $1 million that the guy put up, and you go contract with somebody to build a building. [LB356]

CLIFFORD MESNER: Right. What we do is we go in, when a community contacts us, we go in and design a project. We find the investors. Then we hire an architect, engineer, construction people. We go in, sign the construction note with the bank so that we take all the risk on construction. And when we turn it over to the group, which is usually a housing authority as a manager and the investors as the silent partners, when we turn it over to them it's a turnkey operation completely done. [LB356]

SENATOR SCHUMACHER: Now you said that you'd take a note out of the bank. So that's to get additional financing to add to the first $1 million. [LB356]

CLIFFORD MESNER: No. That's just for the construction. We take all the risk of construction. We sign the construction note. [LB356]

SENATOR SCHUMACHER: And then the developer buys you out once you're done, is that how you pay off the note? [LB356]

CLIFFORD MESNER: We are the developer. The investors and the housing authority buy us out when it's all done. [LB356]

SENATOR SCHUMACHER: And they're in fact then the owner and the landowner of the property. [LB356]

CLIFFORD MESNER: Yes. [LB356]

SENATOR SCHUMACHER: Okay. So you're out, and the investor for the most...the only residual exposure the investor has got is if this thing falls through, they've got to cough up the credits? [LB356]

CLIFFORD MESNER: That's correct. [LB356]

SENATOR SCHUMACHER: Okay. And your complaint is that there's...you're not...when you figure out your math when you go to sell to these investors as to what they...well, they wouldn't even be on the line anymore. They're out of the picture. [LB356]

CLIFFORD MESNER: It doesn't matter to the investors. It really matters to the housing authority. When we talk to the housing authority, we need to be able to say to them this is how much the taxes are going to be. And frankly to be honest with you, the housing authorities don't care after year 15 because these things may come off the tax rolls after year 15. What they're worried about is will this thing cash flow in the first 15 years, or will it bankrupt the housing authority. And the important part is just being able to tell them what those taxes are going to be. [LB356]

SENATOR SCHUMACHER: And so those taxes, as far that investor with getting the 90 percent plus the depreciation, he really doesn't care. [LB356]

CLIFFORD MESNER: He doesn't care. He's taken his return off the tax credits and the depreciation. [LB356]

SENATOR SCHUMACHER: And that figures out to I think the testimony was about 11 percent. [LB356]

CLIFFORD MESNER: It varies. I wouldn't challenge that. Actually it's kind of ironic if you think about it, the tax loss is passed through. So the higher the taxes, the greater the loss, which means the greater the write-off that the investor gets. So you've got that odd situation where your local housing authority is having pay money in to the county in order for the investors who left this project ten years ago to get a better return on investment. It's really...it's backwards. We tend to be more worried...to be blunt about it, we're more worried about our housing authorities than we are our investors. Our investors have protected themselves up front. They know where they are. Our job, we represent the housing authorities. We bring the investors in because their money is good. [LB356]

SENATOR SCHUMACHER: I could probably go on for some time but I'd probably get shot. (Laughter) So thank you very much. [LB356]

SENATOR GLOOR: Senator Davis and then Senator Scheer. [LB356]

SENATOR DAVIS: Just a couple. You know, this is a hard thing to understand... [LB356]

CLIFFORD MESNER: Yes. [LB356]

SENATOR DAVIS: ...from the surface here. But Senator Schumacher alluded to this so...and you said you go take the loan, you as the developer. The collateral you have behind you is the investors I assume. [LB356]

CLIFFORD MESNER: And our own personal balance sheet, yes. [LB356]

SENATOR DAVIS: And your own person balance sheet. So then is that a construction loan or a permanent loan? [LB356]

CLIFFORD MESNER: Construction note. [LB356]

SENATOR DAVIS: Construction. So how is the thing financed from there? [LB356]

CLIFFORD MESNER: When it's time to take out the construction note, we end up taking the money from the investors. Sometimes we take a bank loan. We take as big a bank loan as the project can afford. And then the rest of the money comes in, in the form of gap financing or soft money which would include money out of the Nebraska Affordable Housing Trust Fund, perhaps money from HOME funds which are federal HUD monies that are allocated to the state of

Nebraska. Sometimes we use money from the Federal Home Loan Bank of Topeka, their affordable housing program. You can use TIF, whatever it takes to kind of fill that gap. That's always the kind of tricky part of... [LB356]

SENATOR DAVIS: But what gap are we filling? I guess I'm not getting that. What gap are we filling? [LB356]

CLIFFORD MESNER: If the credits provide 90 percent and they're sold to the investors at 90 percent, now you've got 81... [LB356]

SENATOR DAVIS: You said...I think said earlier, you know it might have been $1 million worth of credits that you'd sell for $920,000. [LB356]

CLIFFORD MESNER: Yeah. Okay, so you'd get $920,000 off of that. That leaves an $80,000 gap. If we can borrow that money from the bank, that's the first choice. That's the logical way to do it and the way it should happen. If the project doesn't cash flow, we don't get to borrow that money from the bank. We have to find some other way to use it, which ends up being community dollars, state dollars. Sometimes the communities will put money into it. Sometimes they ask the state to put money into it. But there's a gap there that has to be financed. [LB356]

SENATOR DAVIS: Or did you say TIF financing sometimes comes into it? [LB356]

CLIFFORD MESNER: Sometimes we use TIF financing too. And part of what we're trying to do by reducing the taxes is to make it cash flow so that that gap gets smaller or disappears. The first projects that we did, all we got was we sold the credits and we got a bank loan and that was it. We can't do that anymore. There's a bigger gap there now. [LB356]

SENATOR DAVIS: So what happens when you go to the assessor and say these are being assessed in this way in this town and these are being assessed this way in another town? [LB356]

CLIFFORD MESNER: It really varies. You know, frankly I think the assessors are looking for some kind of guidance. It is not the assessors' fault here. The assessors are trying to do the right thing. But we just don't have any uniformity. Some assessors are looking at it one way and some assessors are looking at it another way. Some assessors use one cap rate. Some assessors use another cap rate. And it does...it causes trouble for us. [LB356]

SENATOR DAVIS: But the assessor is an elected official doing the job that he has been selected to do by the county voters, correct? [LB356]

CLIFFORD MESNER: Right, right. And our experience has been that the assessors try pretty hard, but they're looking for some guidance. The other problem is the assessors are trying to explain it to county board members. And the problem is a lot of them just don't have any experience in this. Senator Sullivan, I think you have nine counties in your district. I think that only four of those counties even have a tax credit project; the other five don't. And those four counties only have one project. So it really becomes a strange bird to the assessor when you bring it into them. They don't have the experience dealing with it. They don't see it all the time. And they are swamped with people who are bringing complaints to them that their taxes are too high, and all of a sudden you're coming in and you're trying to show them a whole different way of life. And it's just very difficult for them. It puts them in a very difficult spot. And even if they agree with you, then they have to turn around and explain it to the county boards. So I think they're looking for some guidance. [LB356]

SENATOR DAVIS: Thank you. [LB356]

SENATOR GLOOR: Senator Scheer. [LB356]

SENATOR SCHEER: Thank you, Senator Gloor. I want you to look at something a little differently. [LB356]

CLIFFORD MESNER: All right. [LB356]

SENATOR SCHEER: A typical project would be how many dollars and how many units would it produce? [LB356]

CLIFFORD MESNER: My wife is in the back of the room. She's going to say I said this wrong. Our typical projects are in small towns. Our typical projects are probably going to be $3 million projects. [LB356]

SENATOR SCHEER: Okay. [LB356]

CLIFFORD MESNER: Probably 16 to 18 units, something like that. [LB356]

SENATOR SCHEER: Okay. So you've got a $3 million investment. The people that you're renting to normally all have special needs or are reduced income. So you're... [LB356]

CLIFFORD MESNER: Reduced income. [LB356]

SENATOR SCHEER: So the amount that you're charging rent is how much below market normally? [LB356]

CLIFFORD MESNER: That probably varies a lot from community to community. In Grand Island, I would say our rents are probably half of what markets are. [LB356]

SENATOR SCHEER: Okay, fair enough. We'll use Grand Island then. [LB356]

CLIFFORD MESNER: In smaller towns, they're closer. [LB356]

SENATOR SCHEER: So you're getting half the rent that typical people would on this. Would that $3 million project with 16 units at 50 percent of the rent cash flow? [LB356]

CLIFFORD MESNER: No. [LB356]

SENATOR SCHEER: So without the project, we would have no housing for these folks. [LB356]

CLIFFORD MESNER: That's correct. [LB356]

SENATOR SCHEER: Okay. Thank you. [LB356]

SENATOR GLOOR: Any final questions? Seeing none, thank you, Cliff. [LB356]

CLIFFORD MESNER: Thank you very much. [LB356]

WARD HOPPE: My name is Ward F. Hoppe, W-a-r-d F. H-o-p-p-e. I go by Fred. I'm a builder, a lawyer, a developer from Lincoln, Nebraska. I represent the Nebraska Realtors Association. And I'm here both individually, representing the Nebraska Realtors Association, and representing a coalition of eastern Nebraska builders, the Home Builders Association of Lincoln, and the Metro Omaha Builders Association who...we all support this bill. First of all, I want to answer some questions that came up earlier a little simpler ways. Tax credits provide equity for these low-income housing developments, equity into them. The taxpayer is the owner of the real estate, not the investors in the real estate. The taxpayer and the money for the taxes has to come from the cash flow of the operation of the project. I want to give you some examples. I build and have units in Grand Island. I personally am a low-income housing tax credit developer. I have tax credit developments in Grand Island, three of them. I have several projects in Lincoln. My differences, and I'll put them in comparative terms. In my cheapest operation for the payment of taxes in cash dollars, I pay 10 percent of my rents. That's in Grand Island. In Lincoln, under the assessment methods they use, for one of my project for 2015 they've changed the valuation so that I'll be paying 41 percent of my gross income to pay taxes. So if you talk about that, if you look at 41 percent, I have to collect rents for almost five months before I can pay a bill besides the tax bill. Now that's my worst, 41 percent. But Lancaster County...my numbers vary as far as percentage of income to rents: 27 percent on town homes that are next to the apartments that are 41 percent, 31 percent for some single-family homes, 23 percent for some single-family homes in a different part of town, and varying from 16-23 percent for some scattered site units across town. In Lancaster County, there's no recognition of a land use restriction agreement when they're taxing units. I have units that I'm restricted to rent for $750 next to units that I have that are market rate. And I get, essentially for the same product, I get $1,200. And they're essentially taxed the same. Well, on $1,200 I can pay the tax; on $750 I can't. One of these days I'm having a crash. It just doesn't work. Then someone asked a question what's a typical project? There isn't a typical project. I've got projects that have 60 units of apartments. I've got projects that are eight single-family units spread out. So a typical project really is a misnomer. There are all different kinds. The things that are typical about them, that are identical about them is they all have land use restriction agreements. And one of the things about land use restriction agreements...and somebody asked a question about how do we know whether they're in place? Part of this bill requires us to file a report every year that tells you that the land use restriction agreement is in place and tells you what the income and expenses are for the units. A problem with the land use restriction agreements and the way these things are set up is they virtually never sell for 15 years. So there's no comparable market data to gauge these next to any other projects or next to market rate units or anything else. So it's a dramatic problem for us because...well, particularly in Lancaster County because they try and value them at market rates that do sell...with market units that do sell without restrictions. So I point that out. [LB356]

SENATOR GLOOR: Mr. Hoppe, I need to ask you to start to wrap up your statement. [LB356]

WARD HOPPE: Okeydoke. The consistency across this state is extremely important. As I pointed out, 10 percent Grand Island, Hall County, 41 percent Lancaster. And that's a repeat, so I'll open myself up for questions. [LB356]

SENATOR GLOOR: Questions of Mr. Hoppe? I don't see any right now. Thank you, Fred. Good afternoon. [LB356]

JIM O'HARE: Hello. My name is Jim O'Hare, J-i-m O-H-a-r-e. I'm with Horizon Bank and a member of the Nebraska Bankers Association which supports this bill. We are headquartered in Waverly, Nebraska, and have locations in McCook as well as Superior. Today I'm testifying for, in support of LB356. We've been making loans to and equity investments in rent-restricted housing developments since 1992. We've invested in communities throughout the state, over 166 different projects to date. They range from Falls City, Nebraska, to Alliance, from Imperial, Nebraska, to Sioux City. We made both construction and term loans. The properties range in size from 10 units as high as 200 units. And as you know, many Nebraska communities are really struggling to maintain their populations and to keep an economic viable community. These communities and their leaders routinely speak of their need for quality affordable housing. Historically, a lot of the housing has come from low...from the low-income housing tax credit program. Many times tax credit deals will be the first development to take place in many years. It can spur additional development in the...for developers in market rate housing. We feel strongly about the need for these housing credit projects and their ability to help sustain many Nebraska communities. However, it is a great economic...this is a great economic development tool that is under threat. As others have testified today and the property valuations are not consistent; they're not uniform or predictable. It makes it extremely difficult for banks to underwrite these credits and to lend these projects. Property taxes are typically one of the largest expenses for a housing credit development. It's not that we don't approve of taxation. The problem is the taxation process is not consistent and predictable. Unlike a market rate development, the variable increased taxes cannot simply be passed on to tenants in the form of higher rent. And they shouldn't be. The whole idea behind the program is that hardworking people have an affordable place to live. The rents are restricted by federal law in order to keep the properties affordable. This is what the sets the housing credit deal apart from the ordinary apartment complex. As a provider of both debt and equity capital, we are strongly...endorse the solution set forth in LB356. The use of the income approach to value these rent-restricted housing credit properties will provide a consistent, uniform, and predictable taxation system that community banks need to continue to provide financing of the resources for housing throughout the state. Thank you. [LB356]

SENATOR GLOOR: Thank you, Mr. O'Hare. Questions? I don't see any questions. Thank you. We continue with proponents. [LB356]

MICHAEL FALLESEN: Chairman Gloor and members of the Revenue Committee, my name is Michael Fallesen, spelled F-a-l-l-e-s-e-n. I am vice president of affordable housing development with the Seldin Company. I'm here in support of LB356. My principal responsibility at the Seldin Company is to lead the development and acquisition efforts related to affordable housing. Seldin

Company currently manages 60 tax credit projects in six states. In total, this represents about 4,300 apartment units. In Nebraska alone, we manage 37 tax credit projects consisting of over 1,800 apartment units all throughout the state. I've been involved in the affordable housing industry since 1996. One of the greatest experiences of my career has been to manage the low-income housing tax credit program at the Nebraska Investment Finance Authority. But now I'm on the private side developing these projects. So I see this issue both from an allocation perspective and from a development perspective. I can tell you that our experience in other states, Iowa in particular where we have the rest of...I referenced 60 projects. I would say there's another 25 projects in Iowa. We don't have this problem in Iowa and that's because they have legislation there that provides specifically for--and this bill is modeled after--for the income approach to value. The land use restriction agreement is the key component to this. And oftentimes in my discussions with county assessors as I look to do projects in other communities is making sure that they understand just exactly what you're all here asking questions about. The income restrictions that NIFA imposes are actually the federal government imposes as a result of the low-income housing tax credit program does require, as you've heard today, income targeting at or below 60 percent of the area median income. But NIFA in their allocation process, actually gives more points to those projects that skew their rents well below 60 percent of the area median income. There are projects and land use restriction agreements that I've seen in our office of projects that we manage that have rents that are targeting about 38, 40 percent area median income. Because those rents are restricted, obviously that reduces the project's net operating income. And that net operating income should be factored into the project's value. I had a whole host of things I wanted to say, and in the interest of time I don't want to go into that because many of my friends and colleagues here have talked about that. But I just want to give you one, I guess, story that I recently experienced and I'll keep it very short, is doing a project in a rural community, sitting down with the community, sitting down the assessor, doing the concept of that project, going in and making sure that they understand that this would be a low-income housing tax credit project. We felt we had an understanding that taxes would be...that the assessment would be based on income approach. So we go into that project understanding and working with our investors to close the deal, get it done. And then when the project was placed in service and the assessment comes out, it's not what was agreed upon. So really I think the theme of what you've heard today, and this is where I'll end, is we need predictability in this industry. Predictability is the key so that we can do good deals not only for our own portfolios, but for the communities and the clients and the tenants that we serve. So with that, I'd be happy to open it up to any questions that you might have. [LB356]

SENATOR GLOOR: Thank you, Mr. Fallesen. Questions? Senator Schumacher. [LB356]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Of the three hats--investor, developer, and the owner/landlord--which one do you wear? [LB356]

MICHAEL FALLESEN: We wear the...we are the owner and a property manager. We are not an investor. [LB356]

SENATOR SCHUMACHER: Okay. So you don't get in on the tax credit things. [LB356]

MICHAEL FALLESEN: No, we do not buy the tax credits. We are developer, general partner or managing member, and the property manager. [LB356]

SENATOR SCHUMACHER: You have all the hats except that of the investor. [LB356]

MICHAEL FALLESEN: That is correct. [LB356]

SENATOR SCHUMACHER: And the investor, you give him or her or whatever, the credits, you give them the depreciation. Do they have an interest in your company or in the project, a shareholder or...? [LB356]

MICHAEL FALLESEN: They have a...yes, they do have an interest in the limited liability companies that we create and which we serve as the managing member of. [LB356]

SENATOR SCHUMACHER: And the only thing they get paid out of that from this whole deal is the income tax credits and the depreciation and $100. [LB356]

MICHAEL FALLESEN: Correct. Yes, that's been the testimony and I would support that. [LB356]

SENATOR SCHUMACHER: Okay. And you make your money, you get rents from the people and you pay your taxes and expenses. And you live off then anything above that. [LB356]

MICHAEL FALLESEN: That's correct. [LB356]

SENATOR SCHUMACHER: And how long does it take? Do you pay off the bank right away? Or do you take the $1 million, let's just say, on the project from the investor, does that end up to pay off your construction loan with the bank? [LB356]

MICHAEL FALLESEN: That is correct. [LB356]

SENATOR SCHUMACHER: And that happens early on, within the first year or so. [LB356]

MICHAEL FALLESEN: Yes. The tax credit equity flows into the project from the investor in increments based on a certain schedule that is determined in an agreement with the investor. And that equity comes in to pay off the construction loan which then flips to a permanent loan at the end. [LB356]

SENATOR SCHUMACHER: And that's...so the building that you ended up building, is there a loan against it then? [LB356]

MICHAEL FALLESEN: Yes, sir, there is. [LB356]

SENATOR SCHUMACHER: So you've leveraged some of that $1 million you got from the investors with a loan, is that what you did? [LB356]

MICHAEL FALLESEN: Yes, I guess you say it was leveraged. Yes. [LB356]

SENATOR SCHUMACHER: And what usually is that ratio? Is it, I mean, the investors come up with half and you take half out in a loan? [LB356]

MICHAEL FALLESEN: Debt to equity is the question? [LB356]

SENATOR SCHUMACHER: Yeah, equity to the loan. [LB356]

MICHAEL FALLESEN: Yeah, I would say that a ratio of debt to equity on a capital stack of a typical project would be 70 percent equity, 30 percent debt. And that debt is comprised of hard debt and soft debt. We've talked about the Housing Trust Fund program. We've talked about tax increment financing. I would all consider those...well, TIF would be a hard debt, but Trust Fund HOME program would be soft debt programs. And so as...see, we're really trying to leverage up our permanent mortgage to close that gap that Mr. Mesner talked about. And the fact that we have such high property taxes and assessments being be so high limits our ability to leverage up that mortgage and produces a gap. [LB356]

SENATOR SCHUMACHER: I don't think I have a complete picture of it yet, but thank you for your testimony. [LB356]

MICHAEL FALLESEN: Sure. [LB356]

SENATOR GLOOR: Seeing no further questions, thank you, Mr. Fallesen. [LB356]

CHRIS LAMBERTY: (Exhibit 3) Good afternoon, Senators. I'm Chris Lamberty, assistant director of the Lincoln Housing Authority. Last name is L-a-m-b-e-r-t-y. I'm here representing both the Lincoln Housing Authority and over 100 other housing authorities across the state of Nebraska. Several other housing agencies are with me here today in support of LB356 including St. Paul, Fremont, Grand Island, and Hastings. Public housing authorities are public bodies created by local communities whose purpose is to provide affordable housing in that community. That's what we do. And we are...I want to emphasize a couple things that we're interested in, in this bill. As public bodies, housing authorities want to make sure that there's an adequate supply of affordable housing in our communities, and we want to make sure that it's treated in a fair and equitable manner. And in this instance what I mean by fair and equitable is that its assessment value is based on the actual rent that we can collect and the actual population that we're serving. Right now there's a shortage of housing across Nebraska in a lot of communities. That might be in a wide range of incomes, but at public housing authorities we see it acutely as a shortage of affordable rental housing. This bill would remove a major barrier to developing new affordable rental housing and beginning to meet that shortage. I want to just briefly touch on Lincoln as an example, but I know it applies to a number of other communities in this state. We have right now a very tight rental market in Lincoln, particularly for affordable rental property. There are very few vacant apartments that are of the lower affordable-rent variety. It's tough to find an affordable rental unit right now in reasonably good condition in Lincoln. As a housing authority, we operate what's called the Section 8 voucher program. It's a federally funded program that helps very low-income persons and families with their rent. They go rent a property and we assist them and pay for a portion of that rent. The program does not work if we do not have units that families and persons with disabilities can rent. And right now that's a big problem for us in Lincoln and in a lot of other communities. It's becoming a big problem finding anything to rent that's reasonable and affordable. One metric that we use to measure that is the number of landlords that participate in our program. And a few years ago we had over 1,000 landlords that were in our program on a monthly basis in our voucher program. And right now we're down closer to 700 and it's declining. What's happening is people are choosing not to participate in our program and rent to very low-income person with a voucher. That's a reasonable businesses decision by a landlord because, as a government agency running a government program, we have some extra paperwork and we do inspections and we do things that, you know, if you don't have to do you don't do. If you can rent your units without going through our clients you will. But the bottom line is we needed more affordable rental housing. We don't have enough in our communities. We don't have enough in Lincoln and in a lot of other places. And we need it intentional...intentionally affordable rental housing that has long-term use restriction and is going to be there and not react whenever the market gets tight. This bill would remove some major barriers to getting that done so that we can house the families that we were created to serve. So I would urge your support. Thank you. [LB356]

SENATOR GLOOR: Thank you. Any questions of Mr. Lamberty? I don't see any. Thank you. [LB356]

CHRIS LAMBERTY: Thanks. [LB356]

SENATOR GLOOR: Any additional proponents at this time? We'll move to opponents. Any opponents of this legislation? [LB356]

TOM PLACZEK: Good afternoon, Chairman Gloor and other members of the Revenue Committee. My name is Tom Placzek, T-o-m P-l-a-c-z-e-k. I am the Platte County Assessor and I'm the legislative representative for NACO. First off, I'm going to surprise some of these proponents of this bill by saying that I actually agree with a lot of their points. I believe that we do have a problem with this particular type of housing, that it's inconsistently applied across the state. So on that regard, I think we do need to do something. I do believe we should recognize the rent restrictions. I do believe we should recognize the fact that they may have a...possibly have a higher vacancy rate because of their income restrictions. I also recognize that they have higher expense ratios because of their...the compliance and auditing requirements that are upon them because of these particular...the federal government, and I believe the state has required of them. Where we differ is I don't believe that the...using the Iowa formula is the gold standard. I believe the Iowa formula, based on a conversation I had with a certified general appraiser in Iowa, was that this was written by developers for developers. The cap rate over there in Iowa is approximately 2-2.5 percent higher than the market...the typical market would be. And I believe that's a problem because these projects, while they have the restrictions and the bad parts of the development, there's also the good part. And the good part is the tax credit and the ability to actually do the project. It reverses the debt-equity ratio by at least...you know, instead of 80-20 debt to equity, it's probably 20-80; or maybe it's only 10 percent that they have debt. To me, that gives them a greater advantage and I believe that at the very least, I as an assessor, if I was to do this property I would use a cap rate that is similar to what the market is on other apartment complexes. I would recognize the rent restrictions. I would recognize if there's a vacancy problem. I would recognize that there are higher expenses. Now I don't agree that we should have a state-based cap rate. The cap rate is not the same in Omaha as it is in Ord, as it is in Nehawka or Chadron. It's different across the state in different markets. So I don't think we need to go down that road with a state board and all these people involved in it. I just don't think that's a good idea. I believe Platte County can set rates based on Platte County's information. If we don't...and in most cases we do get the information. We're supposed to get this in October from these organizations and in most cases we get them. The ones that don't provide it to us, we address it as if it's any other apartment complex, which I believe most of the proponents would not have a problem with that. I don't...there's a couple other things in here that I think are bad. One is provides for the suspension of tax payments while a property is under appeal. Wow, that's a great deal, isn't it? Nobody else gets that. I don't think that language should be in there. It seems like there was something else in here too. Let's see, rent restrictions...I guess what I...oh, there was some language in there talking about a sales comparison approach, that you would have to have five sales. Well, that's fine. You're not going to have five sales. These properties don't sell. If you had one in a county you're probably lucky. So you know, I think that's kind of a...it's crazy to even have the language in there. It's not necessary. I do believe that if the information is not provided to the assessor--income, expense information--that we should be able to use any professionally approved mass appraisal valuation technique. Now the income approach probably should be used. It's an income property. And I know a lot of assessors across the state don't like using it. They're not familiar with it. They don't do it very often. But it is what it is. It's an income-producing property and that's how we should approach it as long as we got the data. So just summarize, I'm for a lot of this stuff. I just think we should have...county should be able to set its own cap rate based on the market. And that could almost be the bill (laugh) quite honestly. I mean it's about that simple as far as I'm concerned. Not all assessors agree with me because they don't want to do that. But I believe we need to put this behind us, get it done. And get rid of a couple of these things in here. But use the market rate and recognize some of the restrictions. End of story. That's all I have. I will take any questions that you may have. [LB356]

SENATOR GLOOR: Thank you, Mr. Placzek. I want to make sure I'm clear though, are you here representing yourself or Platte County, or are you here representing NACO and the assessors? [LB356]

TOM PLACZEK: NACO and the assessors. [LB356]

SENATOR GLOOR: So your comment about generally being in support of the income method, even though not all the assessors are, you are saying NACO is in support with some hiccups along the way. [LB356]

TOM PLACZEK: Right. We're opposed to the bill as it's currently written. But we recognize some of the facts that are in there need to be done. But we are against the suspension of the payment of taxes... [LB356]

SENATOR GLOOR: Cap rate concern, yeah. [LB356]

TOM PLACZEK: The cap rate, we don't want a cap rate board. We don't want...you know, that should be best handled on the county level. I think if we did...if everyone was required to do the income approach with that data and recognize that, the restrictions in that, I think you're going to see a lot of tightening up across the state of projects. Now you will have some differences because the rents that you get in Ord might be different than you're going to get in Omaha. So that may change things. They're going to have...so this isn't like you can just set one rate for everybody across the state. I just don't think that works to be quite honest with you. So I'm against the bill as written, and I'll let the rest of my statement stand. [LB356]

SENATOR GLOOR: Okay. Other questions? Seeing none, thank you again. [LB356]

TOM PLACZEK: Thank you. [LB356]

SENATOR GLOOR: Anyone else in opposition? [LB356]

WILLIAM KAISER: Senator Gloor, members of the Revenue Committee, thanks for allowing me to speak today. My name is William Kaiser, W-i-l-l-i-a-m K-a-i-s-e-r. I am a general certified real estate appraiser. I do independent appraisal work ad valorem. I've specialized in ad valorem for numerous counties throughout the state and I've been involved in numerous judicial proceedings as an appraiser consultant pertaining to subsidized or rent-restricted housing projects going back to the early '80s and as recent as 2010. The 2010 proceeding went all the way to the Nebraska Supreme Court. The case was Schuyler Apartment Partners v. Colfax County Board of Equalization filed June 11, 2010. Its number is S-09-644. And I would suggest that members read that decision or have legal counsel read it and give an opinion on it. The decision in that proceeding went to the county. The Supreme Court made numerous comments as to 77-113 as it is in the statutes today. One of them was that...I'm not going to say...it did not conform with the uniformity clause in the Nebraska Constitution. It was more an opinion that it was not workable or it was not a process or a statute that could be followed by appraisers in counties. It just did not pertain to the valuation of the rent-restricted buildings. I would mention there are other types of rent-restricted apartments throughout Nebraska. I think farm home has a program. There's another program, 236. The farm home programs, if you go through about any small town in Nebraska you see a little sixplex that has a T-shaped footprint. That is a rent-subsidized apartment complex in most situations. I have been involved with appraisal of those. I have been involved...I've been consulting on a district court case in Brown County. In this case, the property owner asked that the property be valued in fee simple utilizing market rents. The assessor had used contract rent which I think they're asking for per this bill. And that resulted in a higher opinion of value than market rates. In these small towns, it's difficult to rent properties let alone receive much money. If you have some type of a contract for subsidized-type rental where the tenant pays a very small portion and the government pays the rest, the owners do receive more money. I'm going to try and hurry up here. I guess my concern with the legislation is in my 30 years of appraising property, the...I've always been instructed by legal counsel and in one case, a district court case involving a post office that had restrictions on it placed on by the government, the rents were not sufficient to pay the taxes on the building. The post office in Columbus actually went for back taxes. And again, I guess I'll wrap this up. My concern is that if this is...turns out to be unconstitutional by the uniform clause or something, I mean you're going to go through a lot of...the Department of Revenue is going to have a huge burden put on them by this bill...the assessors are. And I mentioned the 300-some cases right now. I think you would probably see more. As far as an Iowa approach, I think the agricultural landowners in Nebraska would love to see the Iowa approach to assessing and taxing ag land used in Nebraska also. Any questions? [LB356]

SENATOR GLOOR: Any questions for Mr. Kaiser? I don't see any. Thank you. [LB356]

WILLIAM KAISER: Thank you. [LB356]

SENATOR GLOOR: Continue with opponents. Good afternoon. [LB356]

JEFF QUIST: (Exhibit 4) Good afternoon. Chairman Gloor, members of the committee, my name is Jeff Quist, J-e-f-f Q-u-i-s-t. I am chairman of the Washington County Board of Supervisors and down here to testify in opposition to the bill as presented. My thoughts are that this bill creates an unequalization in assessing income-producing properties. You know, you have your regular apartment complexes out there. Now you're going to create a rent-restricted class at a different rate. I think this opens ourselves up to more challenges as far as equalization goes. My question, and I think Senator Schumacher has hinted around it, where are the tax credits recognized in the income stream? It's kind of like it's all of sudden just kind of pushed off to the side, that it isn't important. And it is important for the folks that are investing in these. It kind of seems like this legislation creates another bureaucracy with the board that comes up with the cap rate. The assessor from Platte County talked about cap rates being different in different parts of the county. I would believe that that would be correct. Trying to set something overall over the whole state, I think that's problematic. There was also talk of the band of investments. Are we talking about just a return of the investment or are we talking the return of the investment and the return on the investment? Another thing that comes to mind is we do have other types of properties that tend to be income restricted, like our farmland that is CRP. They tend to be long-term contracts that are a fixed rate. Taxes are still going up on those. It depends on the agreement. You have some long-term rental agreements for retail buildings. You also have long-term fixed rents on farms. They're being squeezed also. Everybody is getting squeezed on property tax. But we're kind of creating out this special little entity with this. It seems to me like the folks that are the benefactors here are asking the state to reduce the market risk. And anybody that's making an investment would want to reduce the risk if they can do that. So there again, we're getting back to the this equalization issue. And there again, lastly are the expenses, typical and reasonable, that you're seeing that are being entered into the income expenses ratios. And those would be some of the things to consider what goes in to the whole process. Let me look back through my notes here. Oh, it also tends to narrow the revenue sources for the counties. There again, it creates more pressure on other sources, other entities that are paying taxes in. I might add that there, in some areas, some cities, communities, there may be a need for low-income properties. I'm not necessarily saying that there isn't. But I think we need to be careful with what we're doing here. Should there be a subsidization to these rents that maybe don't cash flow quite as well? Maybe. Maybe there's some kind of a Section 8-type entity that could come forward and help with those rental rates. I don't know that that's the whole answer. But as I see it right now, as the bill is presented I think it creates a lot of unanswered questions right now. So with that, I'll close and try to answer any questions. [LB356]

SENATOR GLOOR: Thank you, Mr. Quist. Questions? I see no questions. [LB356]

JEFF QUIST: Thank you. [LB356]

SENATOR GLOOR: Thank you. [LB356]

LARRY DIX: Senator Gloor, members of the Revenue Committee, my name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in opposition to LB356. Senator Sullivan, you probably didn't think there was anything much more complicated than TEEOSA, but maybe we've found something. Every time I hear this and we've been doing this I tend to think it's been ever since I've been executive director. So we've been up here a number, 12 years. And I would tell you we're getting closer and closer to agreeing each and every year. I thank Senator Harr for bringing this and certainly for his willingness to work with us. One of the things that I did note, I think we had six people testify in support of the bill. I think when you sort of boil that down, five out of those six talked about the consistency and the fact that we need to look at these housing units, specifically these Section 42 IRS housing units and use the income approach, at least that's what I took out of that. I think every one of them mentioned that as opposed to the cost approach. We had an assessor that was on the opposite side of the issue saying I think we should use the income approach on that. And so we're getting very, very, very close on that. And we know that that when you look at...the Department of Revenue has an administrative code. And it recommends that these properties are best valued using the income approach. That's their recommendation. It falls short of saying you must use it, but it says that that is the recommended version of it. And so that's administrative code titled 350, chapter 51. So of all of this, like I said, I think we're getting a little bit closer. The opposition has been stated. But I do want to point out...I can't remember if you guys, are you using the green copy of the bill or the one that Senator Harr? And I can use either one, whichever one. Green copy? Okay, because there's not a whole lot of difference between those two. If you'll look on...when you go through here and you look on page 6, let's concentrate on that, there was talk about suspending without penalty or interest. And that is on page 6 on line 25 and line 26. Now that would be unique treatment for this type of property only. We do not see that for anybody else that gets a unique treatment that we suspend taxes on. So that really is problematic from us. And if you look above in that section, that Section 10, it gets a little confusing that, if I start on line 8: "If the county board of equalization, based on such facts and circumstances, concurs with the county assessor, then the county board of equalization shall petition the Tax Equalization and Review Commission to consider the county assessor's utilization of another professionally accepted mass appraisal." That's a little bit different than we see anywhere else. That's a very different manner of how we take property to TERC. Typically it's the property owner that makes the determination after the county board of equalization has acted, that they take the property on to TERC. And so that's where we're seeing some opposition in here. Then if you look at on page 3, of course, we create a Rent-Restricted Housing Projects Valuation Committee, which is a whole nother sort of layer of folks to analyze this. As I said before, I think we're getting a lot closer. If we can analyze, if we can get to the income approach I think the folks that were here supporting the bill are going to see some more consistency across counties. We're not going to see one county using the cost approach, the next one using the income approach. So we're getting closer on it even with that recommendation that it should be used. It just doesn't say that it must be used. We always caution that because we don't want to tie the hands of our assessors and start to force them down a path of identifying all kinds of different property that must use income approach versus cost approach versus another analysis. So we look at this very, very narrowly. We look at this as Section 42 IRS Code only. So we want to make sure we don't open the door to anything else out there. So with that, I'll stop. I'll answer any other questions anyone may have. [LB356]

SENATOR SCHUMACHER: Senator Scheer. [LB356]

SENATOR SCHEER: Thank you, Senator Schumacher. Thanks for running through that, Mr. Dix. You had the three or four exceptions that you took to the bill. If those are gone, do you have a problem with the bill? [LB356]

LARRY DIX: If we go through and we take out those three or four exceptions. The other one that I would add is... [LB356]

SENATOR SCHEER: Well, now you've... [LB356]

LARRY DIX: No, no, no. Well, not that I covered but the previous testifier covered. [LB356]

SENATOR SCHEER: Okay. All right. [LB356]

LARRY DIX: And that was the Iowa model that's written into the bill. As long as the county assessor, like he does on other income approach, establishes the market value using the income approach, if the committee would say we have to go down this path of using the income approach, county assessors can set the cap rate based on their experience in their county, yeah, we're...we'd be good. [LB356]

SENATOR SCHEER: Just out of curiosity, why are so many county assessors, if it clearly states that's the best one to use, why are they not using it? I mean why are we here today? If they had been doing what was gently suggested to them... [LB356]

LARRY DIX: Yeah. [LB356]

SENATOR SCHEER: ...we probably wouldn't be here today. And not that you're wasting my time, I'm not implying that. But truly we wouldn't be here if they had been doing that. [LB356]

LARRY DIX: When the assessors look at this, it's one of three methods that they can use. And it's the same way...it would be the same way, Senator Scheer, on a restaurant... [LB356]

SENATOR SCHEER: It may be, but it clearly, as you pointed out, it clearly states this is the best one to use. You can use any of them, but it says this one is the best. [LB356]

LARRY DIX: Yeah. [LB356]

SENATOR SCHEER: So why wouldn't they use it? [LB356]

LARRY DIX: It's their discretion. They're the elected official. It doesn't say they shall use. [LB356]

SENATOR SCHEER: Well, so again, we're in one of these deals: Don't tell me what to do. Even though it's the best, it's the right thing to do, don't tell me what to do. [LB356]

LARRY DIX: I'm just saying that is what it says. It doesn't say shall. [LB356]

SENATOR SCHEER: And I understand. [LB356]

LARRY DIX: We argue on all kinds of bills between the two words, the shalls and the mays. [LB356]

SENATOR SCHEER: I understand. But too many times this happens where it really becomes the part of some official somewhere. It really gets down to: Don't tell me what to do. Even though it may be the right thing to do, don't tell me that I have to do it. And I just, for the life of me, don't quite follow that mentality that we cause problems just to cause problems. [LB356]

LARRY DIX: Well, I wouldn't say that...I would never say that an assessor is doing it to cause problems. [LB356]

SENATOR SCHEER: Well... [LB356]

LARRY DIX: I would say that an assessor is an elected official to uphold the law, to value property. [LB356]

SENATOR SCHEER: Well, I understand. They're using their own discretion. I understand that. [LB356]

LARRY DIX: Yeah, yeah. [LB356]

SENATOR SCHEER: But we have sort of a unique circumstance here that some guidance has been given, they just have chosen to ignore. [LB356]

LARRY DIX: Right. [LB356]

SENATOR SCHEER: So that is bothersome to me. [LB356]

LARRY DIX: Yeah. [LB356]

SENATOR SCHEER: But I appreciate your comments in relationship to it. [LB356]

LARRY DIX:: And I think that's why we're here, because we're pointing that out. No one else pointed that out. [LB356]

SENATOR SCHEER: I understand. [LB356]

LARRY DIX: If you remember, that came from us. [LB356]

SENATOR SCHEER: I understand. I appreciate it. Thank you. [LB356]

LARRY DIX: Okay. [LB356]

SENATOR GLOOR: Senator Schumacher. [LB356]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Are you satisfied that the formula that's in here adequately accounts the income stream that comes from those credits, that that's part of the income and is adequately reflected in the valuation that would result? [LB356]

LARRY DIX: The credits...also, Senator Schumacher, in the--let me refer to it--the Title 350, it talks about how those credits can be used and when they should be used, when they should not. So that's why I would rather refer to the Title 350 document than I would placing this formula in state statute. [LB356]

SENATOR SCHUMACHER: I mean, but whatever we come up with, how are we supposed to account for that income stream, which is money that's coming from the federal government, that's going back and funneling its way through to the investor or, I suspect, indirectly to the developer/landlord. Some way that's got to be accounted for as part of income. [LB356]

LARRY DIX: And I think those are accounted for probably in the cap rate. What it states: "Any low-income housing tax credits authorized under section 42 of the Internal Revenue Code that were granted to owners of the project shall not be considered income for purposes of the calculation but may be considered in determining the capitalization rate to be used when capitalizing the income stream." [LB356]

SENATOR SCHUMACHER: Why wouldn't you use it initially? [LB356]

LARRY DIX: I'm just reading what's currently in Section 350. [LB356]

SENATOR SCHUMACHER: That seems to be the big difficulty here is somehow this tremendous infusion of income from the federal government does not want to be taken into account in this process. [LB356]

LARRY DIX: Right. [LB356]

SENATOR SCHUMACHER: Thank you. [LB356]

SENATOR GLOOR: Other questions? Seeing none, you shall be dismissed. Thank you. [LB356]

LARRY DIX: Thank you. [LB356]

SENATOR GLOOR: Anyone else in opposition? Anyone in a neutral capacity? Senator Harr, you're recognized to close. [LB356]

SENATOR HARR: Thank you, and I will try to be brief. You know, the deal is here, guys, if no one wants to do this, we're not going to have more affordable housing. They still take on...if we have this problem with property tax, we have a risk of foreclosure. So we're trying to create some certainty here. I'm going to start by addressing your issue, Senator Schumacher. I think we sometimes get confused with equity and value. We don't turn around and tax on Nebraska Advantage, the tax credits that you get there. So to give you an example, you take land, a piece of ag land, 160 acres and it's irrigated land. And then you have a utility easement that runs through the middle of it and now you can't do an irrigation system on there. The utility pays the farmer for the decrease in the value of the land from...the payment is no longer...it's not taken against the value of the land, but they'll pay him for that. And it's not as though when you pay your property tax, they ask are you getting something for making this dry land over irrigated land? Something similar to that and I can go into more detail with you on that. As far as what the first two opponents...well, no. It would be the second and third opponents said about this bill, I didn't write the bill. I want to make that clear. I know that's going to surprise a lot of you. And the issue with the payment of taxes. I think that was in there because of the frustration that these people feel right now with so many cases in front of TERC. You know, I know one developer currently has 60 and probably will bring 22 more after the new valuations. And so what we're trying to do is to create some certainty. Can that part be taken out? Sure, you bet. That's part of any negotiation of a bill. The Washington County individuals were worried about the different rates for...the unconstitutionality. Let me just say I have an AG Opinion that addresses that. And it says, the AG says he believe this that's in the bill is constitutional. So can you take that to the bank? Probably not, but it's a good indication that this probably is constitutional. So I'm not sure how much water that carries. The county-to-county issue brought up, it's a valid one. And you are going to have different cap rates though in different counties when you apply the formula based on the different rents. So there will be variations even underneath this formula. I can't go out of my way enough to thank NACO for their hard work on this. My real only objection to Mr. Placzek is that he's only going to do this for a year. You know, every time he comes down here he seems to provide clarity to bills and addresses the issues in a clear, fair manner. The fact that NACO says it's okay to go with the income approach, that's a big step, folks, and I want to thank them for doing that. You know, the fact that they say LURAs, we have to take that into account, that's a big step. I want to thank them for that. So I understand their opposition. I want to thank them for continuing to work with us. This bill probably isn't ready today because I think we owe it to NACO to come to an agreement with them because they've negotiated with us so well. So we'll continue to work on it. I want to thank you for your time today. I know I learned a lot. I hope you did too. With that, I'd entertain any questions you may have. [LB356]

SENATOR GLOOR: Any questions? Senator Harr, where did the amendment come from? Who was at the table working on the amendment? [LB356]

SENATOR HARR: Well, Senator Wickersham was part of it, and then individuals from NACO and then individuals from the first five testifiers...or six. [LB356]

SENATOR GLOOR: Okay, so it's all...it addressed a lot of issues, but clearly not all of the issues. [LB356]

SENATOR HARR: Yeah. We're really down to two or three issues, which is what I said in my opening, and we're still working on that. The regs that Larry Dix, Mr. Dix from NACO brought that weren't brought up before, that's a step forward. If maybe we just looked at those and we have a better idea, we just maybe "statutorize" what those regs already say. That might be a good compromise. We're still working. [LB356]

SENATOR GLOOR: Okay. [LB356]

SENATOR HARR: Okay. [LB356]

SENATOR GLOOR: Thank you, Senator Harr. And that shall end the hearing on LB356, and then we will move to LB361. Welcome back, Senator Harr. [LB356]

SENATOR HARR: Thank you, Senator Gloor...Chairman Gloor. [LB356]

SENATOR GLOOR: Hang on just a second. I'm sorry. I want to read into the record both with Senator Davis' LB325, we had proponent letters of Jack Andersen, Sheridan County Commissioner; opponent, Jay Rempe, Nebraska Farm Bureau. (Exhibits 4 and 5) For the last bill, Senator Harr's LB356, we had proponents, Ute Wojtalewicz from the Housing Authority of St. Paul; Rick Ruzicka from Hall County Housing Authority, and Gary Hilkemann, Norfolk Housing Authority. (Exhibits 5-7) [LB325 LB356]

SENATOR HARR: (Exhibit 8) And I'm passing out one more from Judy Peterson, one more letter from the Central Nebraska Housing Developers. [LB356]

SENATOR GLOOR: For LB356? [LB356]

SENATOR HARR: For LB356. [LB356]

SENATOR GLOOR: LB356, fine. Okay. I would ask those, if you are leaving, would you please try and leave a little quietly so we can continue with our hearings. Thank you. Senator Harr. [LB356]

SENATOR HARR: Thank you. Thank you, Chairman Gloor, members of the Revenue Committee. My name is Burke Harr, H-a-r-r. I reside in Omaha, Nebraska, and represent LD...Legislative District 8. I am here on LB361. This is a rather simple bill, especially in comparison to the last bill. This will clarify language in the statutes that permit sanitary drainage districts, sanitary improvement districts, special improvement districts, counties, cities of all classes and villages to levy special assessments for improvements made by political subdivisions that benefit individual properties. The bill amends statutes relating to the collection of assessments to clarify that the collections are, in fact, special assessments. Under the Nebraska Constitution, Article VIII, Section 6, cities have the authority to levy special assessments. This bill is in response to an 8th Circuit decision in 2002 involving the city of Tecumseh. The court held that in Nebraska any statutory authorization to levy special assessments must be strictly construed against the municipality. It must be clear that the charges are special assessments. Because of the court decision, LB361 amends statutes that a levy...that levy a special assessment to clarify the language of statutes to make it clear that the statutes contain the proper language to meet the original intent of the statute. Without a special assignment designation, the lien on the property loses its priority and makes it difficult or impossible to collect. Special assessments are levied against a property when the local government takes action to specifically benefit the property. Examples are when a street is paved, a water line is extended to provide water to a property, or even such cases as where a property is not properly cared for and the city comes in and mows it. The property is charged or assessed based on the benefit that that individual property receives. Special assessments are also levied when a city has to remove nuisances or clean up property when the landowner fails to do so. This often occurs when a property is abandoned or absence...or an absentee landlord fails to maintain the property. Nebraska law, Section 77-209 provides that special assessments shall be a lien on real estate on which assessed and shall take priority over all other encumbrances and liens thereon except the first lien of general taxes. LB361 amends these statutes to clearly state that when a property is charged for special benefits, it is a special assessment. This preserves the lien priority. The idea for this bill originated from 2011 Urban Affairs Committee interim study, LR203, on abandoned and vacant buildings. LB361 is similar to LB574 introduced in 2013, but includes the Revenue Committee amendments. After the hearing, the committee advanced that bill without dissent to General File. Similar to the last bill, it ran out of time. Retaining a priority on special assessments will help cities and other political subdivisions to collect these special assessments in which individual property receives something from the state, and instead of having the state pay, or the political subdivision pay for that, the taxpayers, the individual who receives that benefit will. Without the priority the taxpayer as a whole end up paying for the costs and benefits for that one property. I will be waiving closing. I have to attend my child's parent-teacher conferences, but I would entertain any questions anyone may have. [LB361]

SENATOR GLOOR: I believe I speak for the committee when I say we applaud your choice of priorities... [LB361]

SENATOR HARR: Thank you. [LB361]

SENATOR GLOOR: ...but we will see if anyone has any questions. [LB361]

SENATOR HARR: It's not until 5:15, so I have a couple minutes. [LB361]

SENATOR GLOOR: I don't see that that changes anybody's wish to ask you any questions. Thank you, Senator Harr. [LB361]

SENATOR HARR: Thank you. Appreciate it. [LB361]

SENATOR GLOOR: We will move to proponents of the bill. Thank you, Gary. Go ahead. [LB361]

GARY KRUMLAND: (Exhibit 1) Senator Gloor, members of the committee, my name is Gary Krumland. It's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB361. And I do want to thank Senator Harr for introducing this bill and sticking with it for a couple of years now. This bill does change some language in a whole series of statutes that's more of a technical correction, but because of a court case we think it is needed to make it clear that what was intended as special assessments are...remain special assessments. What I've handed out is the court case. It's an 8th Circuit case and if you look at the second to the last page, page 9, second paragraph, the court said that in Nebraska any statutory authorization to levy special assessments must be strictly construed against the municipality. So they're looking at it very closely and then farther down it says that, in this case the municipality tried to collect sewer bills in a way the law allows it to collect as other taxes, but doesn't say special assessments so it doesn't have the priority of a special assessment. And as Senator Harr mentioned, in 2001, the Urban Affairs Committee did a interim study on vacant and abandoned property because it's a real concern across the state. And one of the issues there are collecting special assessments because a lot of times the city will have to go in and clean up abandoned property and try to collect from the property owner. And in that study they discovered this court case and started looking through statutes, and the committee staff and the Bill Drafter's staff went through and identified a whole series of statutes throughout the code book. Some of them had been in the works for, you know, decades, you know, many maybe 100 years old, but they may not have the specific language that says special assessment even though they clearly are special assessments. So what the bill does is basically go through and change all of those statutes to make it clear that it contains the magic words so that they can be collected as special assessments. This bill has been before the committee a couple years. It's been reviewed by interested parties, by the Nebraska Bankers Association, by bond counsel. A lot of these statutes that originally were thought to be included were taken out because they really didn't fit the definition...the traditional definition of what special assessment is. And that is those situations where a project that's done like a street project, a water project, where the property specifically benefits from the project, and so you assess the property to help pay for that project, or the other situation is if there's a nuisance situation where the property is not taken care of, a nuisance is declared, and the local government has to go in and clean up the property and incurs a cost, they can file a lien against the property and collect it as a special assessment. And so those are the kind of statutes that this covers. It doesn't change any of the law, but it just makes it very clear that in those situations they are special assessments, they have the magic words in there, and they would maintain their priority. So, be happy to answer any questions. [LB361]

SENATOR GLOOR: Any questions? Senator Schumacher. [LB361]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you, Gary, for your testimony. This wouldn't apply to a situation, for example, that a tree is growing between the sidewalk and the street that's on city property and the city decides to trim the tree. [LB361]

GARY KRUMLAND: No, and actually if you look at the case, the case had to do with collecting back sewer bills. And they were saying that's sort of like a special assessment, we want to get the priority. Those kind of statutes, though, are not included in the bill. So it doesn't include the example you gave or just like a water bill or something that's past due. It has to be what we traditionally consider to be a special assessment. [LB361]

SENATOR SCHUMACHER: Yeah, or fixing a sidewalk in front of a house. [LB361]

GARY KRUMLAND: Yeah, that's not included. Those statutes aren't. [LB361]

SENATOR SCHUMACHER: That's not what this is about. [LB361]

GARY KRUMLAND: I will say, not fixing a sidewalk, but sometimes sidewalks are built under a special assessment district where you declare a couple blocks and you create a special assessment district for sidewalks. In that situation, then each property is assessed based on the benefit of the amount of sidewalk they, you know, receive. In that case, it probably...it would fall under here, but that's the traditional special assessment district. [LB361]

SENATOR SCHUMACHER: Thank you. [LB361]

SENATOR GLOOR: Seeing no further questions, thank you. Any other proponents? Are there any opponents? Anyone in a neutral capacity? Senator Harr waived closing and we'll end the hearing on LB361. Thank you all. We'll now move on to LB521. Senator Sullivan. [LB361]

SENATOR SULLIVAN: (Exhibits 1-3) Thank you, Chairman Gloor and fellow members of the Revenue Committee. I guess I know how to clear a room. (Laugh) I'm Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, representing the 41st Legislative District but also here today to introduce to you LB521. Creative or not, this is my message to you to provide property tax relief through state support for our public schools. I would recall first of all for you the Tax Modernization Committee. A few of us were involved in that effort and one of the recommendations that came out that committee, which was really the first bullet under the recommendations for property tax relief. And it was: "Increase the state aid commitment to schools to offset property tax use and reduce property taxes as a share of total state and local taxes." So what I'm attempting to do with LB521 are three objectives. One is to provide additional property tax relief; secondly, to provide additional state support for all our public school students; and then thirdly, to provide and to communicate a way to taxpayers on their property tax statements how that property tax credit really results in property tax relief for them. The large component of LB521 has to do with what we lovingly refer to as TEEOSA. And admittedly that is very complex as was alluded to earlier in testimony. But it does in reality provide a very important mechanism for effecting change in shifting financial support from property taxes to state dollars to fund our schools. When TEEOSA came into being via LB1059 in the early '90s, it set as a target that we...because we talk a lot about the balance here between state taxes and property taxes. And in LB1059 the target was to provide state support to the tune of about 45 percent for our support of public schools. I would like the pages to pass this out if you could, please. That target was never reached in LB1059. It started out at a disadvantage then. We came close, actually exceeded that 45 percent target you will see in what's being passed out by the pages right now. In the latter part of the '90s, we reached a level of 47 percent state support. But we did that with two mechanisms. We provided...we put in some levy stipulations. And we also added an additional $110 million in state support. From that time on in the latter '90s, the state support continued to go down until then in, oddly enough, during the Great Recession we reached a level of 46 percent state support for our schools. But as you will see on the sheet that I've just passed out, we achieved that through the federal dollars that came to us from the ARRA monies and EduJobs. And from that time on then we have continued to diminish our support to where it stands today where you see the little asterisk of a little over 40 percent. So again, I come to you today trying to achieve a little bit better balance. And many of the components that I'm going to talk to you about today do relate to TEEOSA. I thought about giving you this...and Senator Scheer would remember this. But this is the handout "TEEOSA made easy" that I often pass out, certainly to the Education Committee, but then sometimes when we have a briefing on TEEOSA with the whole body that some senators show up for. Should we get to the point where we wanted to delve into some of these features more specifically in committee, I will stand ready to provide that to you. But I have enough handouts today that I thought perhaps it was best not to load you up with that. But I will go through briefly some of the components of LB521 that deal specifically with the state aid formula. One of them is to replace what currently is in there as referred to as our allocated income taxes, replacing that or eliminating that with a 10 percent distribution of statewide individual income tax receipts. And that would go out as state support for all the formula students. Now I thought about still playing around with the allocated income tax. But I changed my mind in that I think that first of all it's important to state that the state is providing support for all our students no matter where they are, I like to say that state support for all our students irrespective of their zip code. And if we were to provide a continued or, in my mind, overreliance on income taxes generated by local residents, we might get in a little bit of a dilemma and particularly put those nonequalized districts on a little bit of a wild ride because, think about it, it's quite probable that in years when it's hardest for farmers to pay property taxes when we see a downward slide with commodity prices, that's also the time that the aid for school districts would possibly be going down, which causes levies to go up. So hence, I though it was more appropriate to look at relying more on statewide income tax receipts, and thereby under LB521 I'm proposing that 10 percent of the statewide individual income tax receipts be distributed to all school districts based on a per-formula-student basis. So that's one of the components of LB521. The other one has to deal with apportionment. And just to define briefly what apportionment dollars are, those are the dollars that we get from all the income of sale, lease, and rental from school lands. Right now, those apportionment dollars are distributed to school districts based on the census students: those students that are in a district whether they go to public or private schools. I'm changing that to recommend that the apportionment dollars be distributed to school districts based on the formula students again, more accurately describing the cost that a school district has to educate those students in their school districts. Now you also note on the fiscal note, that is the one-time request to move $11 million out of the Cash Reserve. I'm doing that because...and I can't really explain it any further than to tell you that in doing this change with apportionment dollars and the timing of when the State Treasurer has to send out those payments to districts from that pool of apportionment dollars, it requires a...we need those extra dollars to substantiate and support the timing of those payments. So that's one of the reasons...that is the only reason I'm asking for those $11 million of Cash Reserve funds. Another aspect of LB521 has to do again with a detail in TEEOSA called the allowances. The allowances in the formula recognize unique circumstances, that a district has particular extra costs be they relative to poverty, transportation, or a variety of other things. However, it's important to note that districts that are nonequalized don't ever receive that support from the allowances. So what I'm changing...and if you recall two years ago we had somewhat of a difficult time in a discussion that had to do with the teacher education allowance and the instructional time allowance because we changed the way that allowance was handled. Fifty percent of that allowance went out as aid to all school districts. Those two allowances go away after this year. But the other allowances remain: summer school allowance; focus school allowance that's particular to the Learning Community; poverty allowance; LEP, that's limited English proficiency; transportation allowance; distance education and telecommunications allowance; and elementary site allowance. All of those I'm saying under LB521, 50 percent of those allowances would go out as aid and thus would go also to nonequalized school districts. Another component of LB521 is lowering the local effort rate, the LER. Currently it's at $1. I'm recommending that it goes down to 95 cents. The easiest explanation of that, because that's basically the amount the formula calculates that should be exacted by the local property taxes by a district. If you lower that local effort rate, it puts more state support into the formula. And this will equate with more state support going to equalized school districts. Another thing I'm doing in LB521 is I'm eliminating what, in my estimation, are mechanisms in the formula that allow districts to, quite frankly, artificially inflate their levies. And those two mechanisms are the minimum levy adjustment and the averaging adjustment. The minimum levy adjustment is at 95 cents. It basically says, school district, if you are levying below 95 cents you're going to get dinged and you may not get as much state aid. And in our research, and I can show you some...a graph if you're so interested, but basically we have seen that districts, many, many districts, equalized school districts stay very close to that 95 cent levy because they don't want to lose state aid. Same way with averaging adjustment, averaging adjustment pertains to districts with at least 900 students, and to levy at a certain amount in order to be eligible for that averaging adjustment. Again, I'm eliminating the criteria to qualify for that, and in so doing, again, our research has shown that typically when the averaging adjustment came into being, which was about 2007, it appears to us that districts have kept their levies at a certain level in order to qualify for averaging adjustment. So under LB521 I'm recommending the elimination of those two criteria because then there will not be the opportunity for districts to levy at a certain amount in order to qualify for that. And lastly as far as the components of LB521, this last one deals specifically with the Learning Community, but it's here because it deals with revenue. The have told me that they lose about $3.2 million by being a member of the Learning Community. So I've got a component in here that calculates their aid so they do not lose, as being a member of the Learning Community, that $3.2 million or so. So those are the TEEOSA components of LB521. The next part has to do with the property tax credit. And what I'm recommending...well, first of all before I go to that I wanted to make just a couple of comments about the components of the TEEOSA formula that I'm changing with LB521. It's certainly not coming up with a new formula. I am just looking at certain components' levers, as you often refer to them as, to first of all provide additional dollars of state support for our schools to the tune of about $100 million. That total amount provides benefit to all school districts. So oddly enough, I had very much of a companion bill that I've presented to the Education Committee already. And I heard opposition to it. But I have to say that there are some that with the current formula, they will tell you that it is working exactly as it's designed to do because it is built on what's called an equalization philosophy. And any time we move away from that, quite frankly, I've found that there is opposition. I'm not eliminating the equalization portion of this, but I am putting less emphasis on it and indicating that there is value in providing state support to all our school districts because admittedly you have heard as well as I have that of the 245 school districts, we have probably almost two-thirds of them that don't receive any equalization aid. But I'm saying, okay, I recognize that there is a place for equalization. But there is also a place for identifying that there are statewide educational priorities that our state needs to support for all school students no matter where they are. So that's really the nuts and the bolts of why I'm going forward with those changes in LB521. Now the other thing that has to do with the property tax credit, and Senator Davis isn't here and I'm not sure if I got this from him or not, but what I'm proposing is not a change in whatever dollar we have in the property tax credit. Right now it's at $140 million. We're poised to maybe make some changes and increases to that. But whatever is in that amount, I am proposing for the benefit of giving a visual image to taxpayers of how that property tax credit plays out on their property tax statements, giving them an opportunity to see how that might look. So again, Pages, if you would pass this out for me. It's not my tax statement, and as I said, I think maybe Senator Davis may have shown us this. But I give it for you just...and I haven't done anything to it at this point because what I'm proposing to do with LB521 is to have the property tax administrator come up with some rules and a description of how in this case TEEOSA or the school funding will be impacted by that property tax credit. You see the tax credit down at the bottom of the box where the totals are. But if we were to run the property tax credit through the school formula, there would be a drop in the tax rate and there would be a drop in the tax shown paid. Now one could say that this is just for perception, this is just for points of illustration. Yes, I admit that. But right now, what does a taxpayer look at when they look at this property tax statement. I venture to guess they don't look first at the tax credit. They go first to what the tax rate is for the individual political subdivisions, and they look at the tax paid for that particular political subdivision. I've purposely identified that we do this for purposes of school funding because, quite frankly, it is the largest one that is identified on a property tax statement. So, yes, it might be for just purposes of illustration. I'm certainly open to different ways of approaching it. But the bottom line is again, it's just a way of showing to the taxpayer how that property tax credit plays out and how it possibly impacts the property tax rate and the amount that they pay for school funding. So that in essence is what I'm attempting to do. I would also pass out one other thing. That pertains to an amendment that needs to be handled to correct a drafting error that would have required the dedicated income tax dollars to be distributed under both the current method and the new method. And I don't want that to happen. I just want it under the new amendment. So that's what clarifies that. So that's what you have in LB521. It's...yes, some of the details are complicated. Maybe some are just for illustration, but it's my attempt to not only provide some semblance of...an approach, I should say, not some semblance, because it does provide property tax relief. Now when I mentioned earlier that it was $100 million is a little over for the fiscal note, so $100 million going in for additional state support. Does that equate with an exact $100 million decrease in property taxes? I don't know, and I can't guarantee that. What it does do with the different components of LB521, it gives more flexibility to districts to vary their levies. I also realize that in this state, we value local control. So it does give also an additional element of responsibility to the local school boards to make some decisions with some added flexibility to actually result in some lower levies for their taxpayers. Thank you. [LB521]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Scheer. [LB521]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Sullivan, have you any guesstimate how many additional schools might get some equalization based on this? [LB521]

SENATOR SULLIVAN: No, I don't. I'm guessing that there might be a few more, but I didn't do that calculation, Senator Scheer, so I can't tell you. [LB521]

SENATOR SCHEER: Okay, okay. Thank you, Senator Gloor. [LB521]

SENATOR GLOOR: Senator Schumacher. [LB521]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Senator Sullivan, this is the first time I've seen the numbers laid out in this clear a pattern for our cost of our educational system. And I just ran an inflation calculator. If we just adjust 1990 to 2015 in inflation, the $1.2 billion in 1990 would calculate out to roughly $2.2 billion for total expenditures. We're actually at $3.4 billion, a considerably greater expense rate than inflation. Do we have that many more students? What is the driving force of that dramatic increase in education expenses? [LB521]

SENATOR SULLIVAN: I can't say that we have that many more students. There has been obviously a shift of where those students are, that may account for some it. Are there higher needs? Salaries go up. There are more challenges with the students in poverty. You could say some of the other mandates that we have laid on school districts all the way from providing things all the way from meals to some of the policies that we have to deal with. So I think it's a whole variety of things. [LB521]

SENATOR SCHUMACHER: But I mean that's a tremendous increase. We should be able to say, look, at some point this is the driving cost. And you know, if it's technology, examine whether or not it's really needed, whether it's pensions, whether we've got something out of whack there.

We're at just with inflation we would be at $2.2 billion. We're at $3.3 billion. There has to be a driver in there someplace for those expenses. And I think we need to know where that is or try to figure out what that driver is. And if it's pensions, if it's technology, if it's mandates, try and address that because that's way out of whack with anything else in our society. [LB521]

SENATOR SULLIVAN: Well, your point is well taken. And I can't give you a really good answer on it. I think that you go around to different school districts, and particularly out in rural Nebraska, it doesn't appear to me that they're being wild-eyed spenders. Some of their facilities are in not very good shape. We've had some concerns expressed for such things as administrative costs. And we've tried to at least lay those out so those are more transparent. Your point is well taken. We probably need to take a closer look at all aspects of how we are funding education but also what we are funding education for. [LB521]

SENATOR SCHUMACHER: And then the other thing, on the Tax Modernization Committee, we both sat on those. We heard the protest about property taxes. But the income tax people weren't silent either. And in fact, a lot of them think we should go down dramatically rather than up. Doesn't this begin to take us out of the great gray glob where we can kind of hide with the B students and put us out where we kind of start to stick out, we crest 7 percent in our upper brackets? [LB521]

SENATOR SULLIVAN: Well, that probably does. But...and as I will tell you when I introduce LB523, in good faith I did not think I could lay this out to you and just expect that if we would even consider something like this that we were going to sacrifice other programs. So I felt compelled to do that. [LB521]

SENATOR SCHUMACHER: Okay. Thank you, Senator. Tough questions, tough times. [LB521]

SENATOR GLOOR: Senator Sullivan, you and I have had conversations to Senator Schumacher's point about inflationary aspects, about my concern, way of local control specifically school boards having a hard time saying no when they're at ground zero and seeing the needs of students, feeling the pressure from parents in the community about spending on education. But this in fact does shift some significant responsibility/dollars back to the hands of school boards with the hope that we'll find some degree of property tax relief in here. But I'm still not sure. I mean, that's my theme and I'm sticking with it. It's a concern of mine. [LB521]

SENATOR SULLIVAN: That's the conundrum we find ourselves in. And not only that, even the discussion among school districts when they look at school districts out in our area with very low levies and high cost per student, and their higher levies and low cost per student. So it's a conundrum to be sure. [LB521]

SENATOR GLOOR: Certainly. Thank you. Other questions? Senator Scheer. [LB521]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Sullivan, to Senator Schumacher's point, school districts haven't been immune to what a lot of people or industries have been to the extent of, is it above inflation rate? Well, yes, but so has, for example, healthcare costs over the last 20 years to the extent that it's been well above the cost of inflation. But having said that, local districts still are capped at a 2.5 percent increase per year, so there is some limitations that they're already under. Having said that, I think there has been a...I'll ask you, has there been an attempt, a visible attempt and intent by school districts and the state to try to better compensate teachers in the state than perhaps they were 30 or 40 years ago? And the fact of the level of their commitment and amount of time that it takes for teachers to educate students at this point in time. Education is not the same as it was 30 years ago. And I know there's still a great many people that view teachers, it's an 8:00 to 3:30 job and no weekends, no holidays, and you get from May 25 until September 4 off. And that's really not the case anymore. So I think some of these additional costs are reflected in that. [LB521]

SENATOR SULLIVAN: Well, I think you're probably right. And I suppose at the end of the day we could have the debate all day long about the quality of education and the costs that surround it. And to that end, one of the things that's coming out loud and clear is businesses speaking to the education community. We need this. We need that. We need better prepared workers. So at what price does that come? And what do we want to achieve and what price are we willing to pay to achieve that? [LB521]

SENATOR GLOOR: Senator Schumacher. [LB521]

SENATOR SCHUMACHER: One quick follow up, I know Humphrey, which is in my district, gets picked on because it has a low levy rate, it may be even the lowest one in the state. But one of the things that happens there is that a high percentage of the kids are educated in the parochial school system. Is there anywhere that we can begin to weight that to find out, you know, that really they're educating the majority of the kids in the parochial school system so it's not quite fair to say that they're not really kicking in a lot toward education. And in addition to that, is there any big comparison been made with has the parochial school system seen this dramatic increase in cost? [LB521]

SENATOR SULLIVAN: I can't answer that last question. Now I'm doing a couple of things with...you're right, Humphrey often is held up as kind of the poster child for low levies. But also getting a considerable amount of state support because of the...they have a lot of students optioning into the school district. That was one of the things I failed to mention in my testimony, that I'm lessening the impact of that net option funding. So some of the things that I'm offering in LB521 won't be as favorable to Humphrey. [LB521]

SENATOR GLOOR: Seeing no more questions... [LB521]

SENATOR SCHEER: But it wasn't written directly because of that. [LB521]

SENATOR SULLIVAN: No, no. [LB521]

SENATOR GLOOR: Thank you, Senator Sullivan. Can I see a show of hands of proponents for this legislation. Opponents for this legislation. Neutral capacity. Okay, we'll start with proponents. Good afternoon. [LB521]

JON HABBEN: Hello, Senator Gloor, members of the committee. I appreciate the opportunity to speak to you. My name is Jon, J-o-n, Habben, H-a-b-b-e-n, Nebraska Rural Community Schools. I wanted to testify in support of this bill just as I did in support of LB522 in the Education Committee. There's a couple of premises that I think are extremely important. One is the idea of a combined effort. I know there are a number of specific do this, do this in separated bills. And I think we can all understand why they have been introduced. And we all have a sense of their impact. But I think in the bigger picture when you step back a little bit you begin to see that when we look at TEEOSA, we look at the resource side and the needs side. And we've had a tendency to focus a great deal on the needs side. And it has been very contentious at times over the last...well, maybe over the last 20 years because quite honestly it's been rewritten a few times and tinkered with a lot. But I think what we're seeing now in this session--and I think it's, from my perspective, it's very much appreciated--the idea that we are looking at the resource side, those revenue pieces, and we are looking at the needs side. And we're trying to figure out what is the package that will not solve perfectly, that's probably never going to happen, but solve as much as possible the issues that face us. Now I don't have this material to hand out to you, but take a look at the certifications for 2015-16 TEEOSA. Take a look at where the money goes and where it doesn't go. All those things in parentheses are negatives. All those things in the percentage change column, all those things without a percentage is where the money went, take a look at that and you get a sense of why this is a larger issue than moving one piece. It cuts across 245 school districts. There's no question about that. But you'll also notice that there's a 400...$40 million increase from last year to the certification. And if you take the Learning Community, Douglas County, LPS, add those numbers up and you get well more than the $40 million increase. That has to come from someplace. Well, then go look at all the negatives. Look at where all the parentheses are and you see where it came from. What we're finding here, and I know this is the Revenue Committee and I don't want to get tangled up on the needs side, but what you're finding is it's not just a needs side discussion. It is also a resource side discussion. Those ag land values have done something dramatic to this formula. They've done something dramatic to the outcome. Go look at those numbers and you can see what it is with increased...what was it last year, 30 percent increase in ag land values average across the state relative to the more limited increases in valuation in other places. We need work on the revenue side. And I think what Senator Sullivan and Senator Davis, too, in LB280, I think what they're trying to do is to look at a little bigger picture. And they're trying to say if we are going to address these demands for reduction over here, we've got to work on this in a sense that replacement funds, or are we just going to cut off an arm and watch it bleed? What is our balance? Are we trying to get the three legs of the stool leveled out? How is it we go about it? Where do we shift because remember, the shift has been occurring ever since ag land values started to spike because it shifted the cost of education in rural significantly to the tune of well over $300 million since '08-09. That shift has already taken place. So when we talk about it's, oh, my gosh. We're shifting to income tax. I guess it all depends on how you're defining the shift and where it is moving from. With that, I'll close. I appreciate you listening. I'll answer any questions. Thank you. [LB521]

SENATOR GLOOR: Thank you, Mr. Habben. Questions? Seeing none, thank you for your testimony. [LB521]

JON HABBEN: Appreciate it. Thank you. [LB521]

SENATOR GLOOR: Good to see you again. [LB521]

JOHN HANSEN: Mr. Chair, members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union. We are in support of this bill today and salute Senator Sullivan for bringing it forward and for a lot of the very same reasons we supported Senator Davis' LB280. But to Senator Scheer's point, when I testified last time, there are fewer things I don't like in this bill but I still support it. This is a thoughtful effort in order to try to bring some kind of a comprehensive effort to a very complicated issue that is crying out for remedy. And I agree very wholeheartedly with the comments of the previous presenter, Jon Habben, because there has to be a package. And if there's going to be property tax relief and it's going to be sustainable and it's going to move us to a more fair system, there's going to have to be a package of some sort. And this bill caught our eye as a place that was thoughtful, was a good place to start and that I sincerely hope that this committee is able to put before the body for discussion a package that gets us toward a more fair and balanced tax system and some real sustainable property tax relief. And so with that, I'll end my testimony and thank you for your attention and consideration. And I'll be glad to answer any questions if I could. [LB521]

SENATOR GLOOR: Are there any questions for Mr. Hansen? Thank you. [LB521]

JOHN HANSEN: Thank you all. [LB521]

SENATOR GLOOR: Good afternoon. [LB521]

ELIZABETH ERICSON: (Exhibit 4) Good afternoon. My name is Beth Ericson, E-r-i-c-s-o-n, and I am a school administrator at York Public Schools. And today I'm representing York Public Schools and STANCE. The 15 member schools of STANCE would like to thank Senator Sullivan for her continued leadership. We are supportive of her efforts in trying to look at ways to provide more money for public education in our great state. We see LB521 as a mechanism to push along the much-needed discussion on how to provide, eliminate, and change provisions relating to property tax levies and credits and state aid to schools. Many of our schools are looking at an overreliance on property taxes due to the current level of state funding that we have access. Senator Sullivan's willingness to take on this issue is very much appreciated. We're excited to learn more about the details of potential changes as this proposed legislation progresses. Of special interest is the possibility for a transfer from the Cash Reserve Fund. Our membership remains committed to assisting in any way possible, so please feel free to contact us for any local data or experiences from any of our member schools. I thank you for your time today. [LB521]

SENATOR GLOOR: Thank you, Ms. Ericson. Is STANCE representing the... [LB521]

ELIZABETH ERICSON: The 15 schools: Beatrice, Blair, Chadron, Crete, Columbus, Fairbury, Gothenburg, Holdrege, Nebraska City, Norris, Seward, South Sioux City, Wahoo, Waverly, York. [LB521]

SENATOR GLOOR: Are the representatives though representing the school board, the administration, the school board and the administration? [LB521]

ELIZABETH ERICSON: Right. I can speak for our local organization, that York Public Schools is representing both the school board and the administration, that that was approved at our local school board meeting. [LB521]

SENATOR GLOOR: Okay. Thank you. Any other questions? Senator Brasch. [LB521]

SENATOR BRASCH: So is it this entire group or just the York school? [LB521]

ELIZABETH ERICSON: It's the entire group. [LB521]

SENATOR BRASCH: The entire group, very good. [LB521]

ELIZABETH ERICSON: But I'm the special education director and curriculum instruction and assessment director representing our school as well, so dual. [LB521]

SENATOR BRASCH: Very good. No other questions. [LB521]

ELIZABETH ERICSON: Thank you. [LB521]

SENATOR GLOOR: Senator Schumacher. [LB521]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your testimony. I'll ask you the same question I asked Senator Sullivan. What...calculated for inflation, if I'm reading this state total school disbursements chart, if we start with 1990, adjust for inflation we'd have $2.2 billion for the figure. We actually have $3.3 billion, quite a bit higher than inflation, same thing for state support. We had $458 million in '90. We're at, if you adjust that for inflation, it would be $818 million. It's instead $1.2 billion. What is driving that higher than inflation rate of expenditures... [LB521]

ELIZABETH ERICSON: Sure. [LB521]

SENATOR SCHUMACHER: ...all of which I think probably were approved by local school boards? [LB521]

ELIZABETH ERICSON: Right, absolutely. I cannot speak for the state as a whole, but I would be glad to share any data or information from our STANCE group or from York Public Schools. I know that we're wanting adequate educational funding for all schools. [LB521]

SENATOR SCHUMACHER: What's your impression of driving it? Is it bigger buildings? Is it more communications costs? This is so far out of whack. Is more kids in school? [LB521]

ELIZABETH ERICSON: Right. [LB521]

SENATOR SCHUMACHER: Something has got to be saying, whoa... [LB521]

ELIZABETH ERICSON: Absolutely, right. I know there are a variety of reasons and I can certainly look closer within our own district. As a special education director, I know that many of those costs for special education have risen but the Legislature has helped us with some of those. So I would have to go back to our superintendent and get those numbers exactly for you for York Public Schools and for the STANCE group and would be glad to do that for you. [LB521]

SENATOR SCHUMACHER: One of the advantages to sky-high property taxes is that now the local boards that are approving this have got some pushback from the property taxpayers. And the answers to why this is so high should be easy. But apparently they're not self-evident. And it may have been just too easy to say yes. [LB521]

ELIZABETH ERICSON: I can speak...locally, I would be glad to share our information. But we are just continuing to want adequate funding for all districts. [LB521]

SENATOR SCHUMACHER: But if we shift that here and it's very easy for the spenders to say yes, then we lose some of the control and it becomes another number on a sheet in a committee. And you say, well, if that's what's they need then that's what we've got to subsidize. If the local control is out of control then that almost has to shift control to here and that runs into our philosophy problems of where this control should be. So thank you for your testimony. [LB521]

ELIZABETH ERICSON: Thank you. [LB521]

SENATOR GLOOR: Senator Scheer. [LB521]

SENATOR SCHEER: Thank you, Senator Gloor. You made an interesting comment. You said you were for adequate for education. Do we have adequate funding for education now? [LB521]

ELIZABETH ERICSON: We continue to promote the adequate funding. No, I don't believe that we do. [LB521]

SENATOR SCHEER: Then if we don't, what is you perception of adequate funding? [LB521]

ELIZABETH ERICSON: You know, that we are able to fund the whole school, that's it's not parts, that there aren't holes within the whole system, that we're able to fund the entire school.

And really we believe that Senator Sullivan has some great ideas to help make that happen for us. [LB521]

SENATOR SCHEER: Well, I appreciate that, but what are the holes? I mean if you...you said, no, we're not adequately funding. So what is it that we're not funding or where are we not funding? [LB521]

ELIZABETH ERICSON: Sure. Within our district we have areas that we are tightening and...for instance, at our school we are down six and a half teachers at the high school from where we were ten years ago. We have absorbed several positions within our school district to help make ends meet and help to not raise that property tax levy. All the while we have gotten caught in significant cuts to state aid. Dr. Mike Lucas, our superintendent, shares a document that shows an increase of only a 1 percent spending over numerous years that I'm sure he'd be glad to share that with you as well. [LB521]

SENATOR SCHEER: Just out of curiosity, what has your student enrollment done over the last five or ten years? [LB521]

ELIZABETH ERICSON: Right. Our student enrollment took a dip about ten years ago, and then it has increased again to right over 1,200 students. So we have...we took a dip, lost some students to option enrollment locally, and then have increased that again. [LB521]

SENATOR SCHEER: So are you about the same? [LB521]

ELIZABETH ERICSON: We are about the same as where we were... [LB521]

SENATOR SCHEER: About the same as you were ten years ago. [LB521]

ELIZABETH ERICSON: ...uh-huh, before we lost several students. [LB521]

SENATOR SCHEER: Okay. Thank you, Senator Gloor. [LB521]

SENATOR GLOOR: Thank you, Ms. Ericson. [LB521]

ELIZABETH ERICSON: Thank you very much. [LB521]

SENATOR GLOOR: Other proponents. We'd now take testimony from opponents. We'll now take testimony from those in a neutral capacity. [LB521]

VIRGINIA MOON: Good afternoon. Senator Gloor and members of the committee, thank you for letting us testify here today. My name is Virginia Moon, V-i-r-g-i-n-i-a M-o-o-n. I'm here representing the Nebraska Council of School Administrators. And hopefully maybe I can help to answer some of your questions, Senator Schumacher. School districts spend 85 percent plus of our money on people. And as those costs have grown, if the costs, you know, if that outpaces inflation it probably has to do with the fact that teacher salaries have risen, not only teachers but all the other employees that we have, the cost of healthcare benefits have raised exponentially over the course of the time frame that you're talking about there. And so we might not be able to answer that question without some research, but we can be sure that that inflation has come about because of money to people: teachers, paras, bus drivers, all of those sorts of things. When you had asked the question about adequate funding, I think that varies drastically from one district to the other. And in this ebb and flow of how TEEOSA works and how the ag valuations have grown so quickly so that there's a number of districts that are really struggling. And I would say that I spent years as a school superintendent. And I know that from my colleagues who have had to go through those years when the funding has been tight where we've had to make cuts. My most recent one we had to make an $800,000 cut in a $10 million budget. That's hard to do, and it's people. But I can tell you exactly how school superintendents approach it. And I'd guess it's pretty similar across the board. We start out by delaying maintenance. Then we cut major purchases like textbooks and those sorts of things. And the next thing we do is we take...we don't update our technology. All of those are things that we just have to hope that somewhere along the line there's a grant or ARRA funds or something that take care of that. Then we start to cut services. We clean our buildings less often. We have fewer and fewer paras to help support our teachers and those sorts of things. We push our vendors. We bid contracts. We do all those sorts of things. Now not every district has to do that because some districts are not in that squeeze that happens. I think that...and then finally we start to cut teachers. We buy out our most expensive teachers, our long-term teachers and we don't replace them if we're going to budget cut. So I think that many, many superintendents in school districts around the state have had to go through those exercises and would feel very...they would feel that they have been frugal and safe with the taxpayers' money. And I don't know where that inflation comes from, but I know it comes from people. The one thing that we can't do, we have to...we're often asked to act as a business, to operate as a business. And we know how to do that on the cutting side, but we can't do any of the things that businesses can do to raise their income. We can't stop providing the service. We can't get new clients or customers, unless we steal them from another district which isn't a very good idea. We can't create a new market. We can't go international. So there's none of those things. So I guess what I'm here to testify today is that we appreciate several of you around this table that have certainly talked about replacement income for replacement revenues for school districts because you are our only source to take care of that adequate funding that our previous testifier did...you're the only persons that we can come to, you and the other legislators are the only people that can help us to provide income. The only income that school districts can get outside of what you provide for us is grants which are very unstable, and some of us have a foundation that can raise a few thousand dollars to help us with some projects as we go along. So we appreciate very much your thoughtful discussion of this. We are not trying, I don't think, anywhere in the state to be lavish, extravagant spenders. We just want to do the very best we can for the students that we serve. With that, I'd be happy to answer questions. [LB521]

SENATOR GLOOR: Thank you, Ms. Moon. Senator Scheer and then Senator Schumacher. [LB521]

SENATOR SCHEER: Thank you. Thanks for coming, Virginia. [LB521]

VIRGINIA MOON: Thank you. [LB521]

SENATOR SCHEER: Something you said gave me another thought that may not be pertinent to this bill. But just curious, your thoughts, if we go back to when the state aid was first started and shortly thereafter, a year or two later, then the budget limitations as far as expenditures and receipts and so forth were put in place. The schools that are having difficultly, how many of those do you think were almost penalized at that point because they had been very frugal going up to that point, some districts not so much. And so you start with different perspectives because some were already pretty tightly in a position, where some had a lot more than other districts simply because they had moved that direction over the years. How much do you think that comes into play now 15, 20 years later? [LB521]

VIRGINIA MOON: You know, I don't think it comes into play as much as it did at that time. There were some high-spending districts because at that time there were no levy limits. I probably served in one of those districts that high valuation and where...was able for many years to spend however they wanted to. And so at the time that the levy limits came in it was a pretty big shock. State aid came in to fill in those holes. But I think over the time of the levy limits and the spending limits, we've probably...and the allowable growth rates and all those things, we're probably a lot more similar now than we were at that time. That change was drastic. [LB521]

SENATOR SCHEER: So you think it has equalized over the... [LB521]

VIRGINIA MOON: I think it's... [LB521]

SENATOR SCHEER: ...or close to. [LB521]

VIRGINIA MOON: You know, we've had...pretty much in the school business, many of us have had 15 years of very rickracky kind of funding. And so we've had to learn to adjust to that. Probably the people that are newest in this environment are the high-valuation districts, the rural districts with a lot ag land because this is the first time they haven't...they have maybe had more money...or the availability of more money than maybe they'd had in the past. But I think those older...the things from the past, and I wasn't here when the first...I was in Kansas at the time that this started. I would guess that most of the districts have leveled out considerably. It is the very unstable nature of how the formula works. And it does work, but you just have to be ready for it. [LB521]

SENATOR SCHEER: Okay. Thank you. Thank you, Senator Gloor. [LB521]

VIRGINIA MOON: That was about as secured an answer as you can get. [LB521]

SENATOR GLOOR: We do that pretty well ourselves. [LB521]

VIRGINIA MOON: Okay, good. [LB521]

SENATOR GLOOR: Senator Schumacher. [LB521]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your testimony. You say that, well, most of our money goes to people. But our economy is 70 percent service industry now. Most private sector places, most of their money goes to people rather than capital equipment or something like that. So education is not unique. And yet the inflation rate here in cost is just tremendous compared to the inflation rate in the rest of the economy. And I guess what I'm a little bit grappling for is we should be able to...people in administration should be able to say, look, this is where the cost is and this is why we are so far out of step with the private sector. And it's health cost. Or it's we need more iPads, and iPads make us 1,000 percent more efficient, or more bandwidth because, you know, everybody has got more bandwidth. We should be able to know almost immediately this is the driving force behind the inflation which is clearly out of step with the rest of the world. [LB521]

VIRGINIA MOON: I think it's still going to go back to people. In many businesses in the private sector, they've cut their staff. We really haven't been able to do that and still provide the service that needs to be provided. As a matter of fact, we've probably added to our staff because we have more English language learners. We have more students in poverty, and we've taken on some early childhood efforts. We have to meet a lot of assessment standards that weren't there before. We've had to add a whole bunch of data people because we've got all these data requirements that are going in. And so if you're in a business and in the nonteaching areas, we've probably asked our secretaries and people like that to...you know, we have fewer of them and twice the work. But you can't do that as well with students. So I think in the private sector you've seen the plight of that middle-income worker go down. Their wages have gone down. Their healthcare coverage isn't near as good as it used to be. But all those things in school districts haven't changed. We still, and I think it's right--of course, I would because that would be me--we do still have good benefits for our teachers. We still pay healthcare. Even though their benefits have been reduced slightly, it's nothing like the private sector. The cost of healthcare has been borne primarily by the school districts and the taxpayers. The number of teachers across the state has not reduced significantly, but it may have in many of the private sector industries. [LB521]

SENATOR SCHUMACHER: So you're saying that your costs are higher because your people have so much more compensation than the private sector? [LB521]

VIRGINIA MOON: Not so much more compensation, but the costs of health insurance. We have not cut the people. [LB521]

SENATOR SCHUMACHER: But the private sector has grown the number of jobs that it has too. It hasn't cut people. Right now...it did for a little dip after the recession...a little dip--a big dip. But we're back now to 6-ish percent unemployment. In Nebraska, we're totally full employment. So you know, the private sector hasn't cut jobs, particularly here in this state. And I don't even think nationally. I think we're back to where we were. [LB521]

VIRGINIA MOON: I can't...I can tell you for sure that the cost in inflation is in people. We could probably go back and do some of those things. But it's not in buildings because the buildings are all done mostly by bond issues and those sorts of things. It may be a little bit in technology. It may be a little bit in maintenance, utilities, those sorts of things. But for the most part, 85 percent of school budget is people. [LB521]

SENATOR SCHUMACHER: Okay. Thank you. [LB521]

VIRGINIA MOON: And I would not want you interpret that I think people are getting...that our staff is getting too much money. [LB521]

SENATOR GLOOR: Senator Schumacher is asking a good question. [LB521]

VIRGINIA MOON: It is a good question. [LB521]

SENATOR GLOOR: And it's the question we all ask. And I know there is no single answer. I have a sister-in-law who is a principal. And you don't have to answer this question, but how long have you been in education if I might ask? [LB521]

VIRGINIA MOON: Oh, my goodness. (Laugh) [LB521]

SENATOR GLOOR: Awhile. Okay. [LB521]

VIRGINIA MOON: Awhile. Let's say 40 years. [LB521]

SENATOR GLOOR: Well, Fifth Amendment. Well, it's not unusual, when you talk to her, to have the police come in to her school once a week. And they're coming in to help subdue kids. This is an elementary school. And we've talked about this. And thinking back to my children's education and stories that came back from my children and my ex-wife who was an elementary educator also, 30, 40 years ago it was a pretty rare occurrence for police officers to come in to elementary schools in any type of neighborhood, even in more challenged schools, to do that. And I don't know why that is, but I know what goes along with that is extra training for staff, extra staff to handle those sorts of events that didn't used to happen. And I don't know if it's a parenting issue. I don't know if it's an environmental issue. I don't...it's hard to know what causes that, but there's no doubt there is an expense there that no one can quite explain that wasn't there, that feeds into some of those inflationary numbers. And I think if we were to sit down and start making a list of the things we dealt with 30 or 40 years ago and deal with now, there's a price tag on all of those that lends itself to those inflationary figures. [LB521]

VIRGINIA MOON: There certainly is and I think... [LB521]

SENATOR GLOOR: It's an editorial comment as much as anything, but it is part of the conundrum--I'm using that term again--and the puzzle that is the cost of education, and where do all those costs from? [LB521]

VIRGINIA MOON: And I think that you're absolutely right in the fact that we live in a different kind of society, and we provide different services for students because as much as I probably have some issues with No Child Left Behind, we are clearly in a time frame when we are not leaving any children behind and we can't and they do take additional services. We do interact more with social services and law enforcement. And now we're having a new requirement...now we're having a new...begging us to go back and take some of our very high and expensive kinds of courses with low enrollment like welding and industrial arts and some of those things. Those are high per-pupil cost items. [LB521]

SENATOR GLOOR: Sure. [LB521]

VIRGINIA MOON: So I guess I would like to be able to have that answer for you. I wish, Senator Schumacher, that I could just say here it is. But I think it's everything all together. [LB521]

SENATOR GLOOR: Thank you. Thank you for your testimony, Ms. Moon. [LB521]

VIRGINIA MOON: Thank you. [LB521]

SENATOR GLOOR: Let's see. Where were we at? Were we in neutral testimony? Any further neutral testimony? Senator Sullivan, you're recognized to close. [LB521]

SENATOR SULLIVAN: Thank you, Chairman Gloor. And, Senator Schumacher, you always give us the opportunity for a good philosophical discussion. And it occurred to me in what I've been listening to, we have an insatiable desire to succeed in this country. And we want a first-class education system that helps our best students succeed. And we want to make sure no one else gets left behind. And so we put resources into dealing with poverty and limited English proficiency, in dealing with behavior problems and admittedly a changing society that brings a lot of those challenges to the school door. We've got rising healthcare costs. And I'm thinking I often hear that conversation of people that say, well, we have so many more teachers for so fewer students. We have so many more healthcare workers for a hospital that has fewer patients. And then you can go to, well, why do we have rising ag land values? Because we have this insatiable desire to improve and succeed. So I mean the discussion can go on and on and on. And, Senator Scheer, an answer to your question when you asked about whether or not there would be fewer nonequalized school districts, speculation is that no. But to keep in mind what I'm trying to do with LB521 which, yes, admittedly moves us a little bit away from more emphasis on equalization but giving additional state support for all our public school students because over two-thirds of our school districts not receiving any equalization aid and carrying that heavy burden of property taxes. Is the message from the state says we care less about our kids in those districts? Just a thought. Thank you very much. [LB521]

SENATOR GLOOR: Thank you, Senator Sullivan. Any final questions? Thank you. And that ends the hearing on LB521. And before you open on LB523, let me read into the record two letters of support. Proponents on LB523: Anne Hindery, Nonprofit Association of the Midlands; and Roger Breed, Greater Nebraska Schools Association. (Exhibits 1 and 2) And with that, you're welcome to open. [LB523]

SENATOR SULLIVAN: Thank you very much. And I'm Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, here to introduce LB523 which, quite frankly, will not take very long because who would want to be the subject of bringing an income tax increase? But as I told you earlier, I really did not feel that I was being fair to existing programs by coming to the table in LB521 asking for $100 million increase in state support and not offering some way to pay for it. It's certainly not a popular thing to do. I'm asking for an increase in income tax rates for both individuals and corporate. But keep in mind that there is legislative intent in LB523 to facilitate increasing state support for public education and in so doing, shift some of the burden from property taxes to income taxes. And there you have it. Thank you. [LB523]

SENATOR GLOOR: That may be the record for the shortest opening we've had. (Laughter). Not quite. I think we had one other. Any questions right now for Senator Sullivan? Thank you, Senator Sullivan. We'll now move to proponents. [LB523]

LARRY SCHERER: (Exhibit 4) Good afternoon, Chairman Gloor, members of the Revenue Committee. For the record, my name is Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r, and I represent the Nebraska State Education Association. We support this bill. I'll try to keep up the pace that Senator Sullivan set here. We support...we thank her for introducing the bill because we believe that you really can't talk about a major, long-term, ongoing reduction in property taxes without looking at replacement revenues. And the proposal here is the income tax. There's a chart on the back here that shows the history of state aid over about a 12-year period. And over that period of time, the state funding has grown quite a bit, but there's been drops. And the formula has not been funded as the law provided at that time, so the law has changed. Partially as a result of that and there has been...Nebraska I think was 49th in 1990 in state support for public schools. We're still there. And part of that has to do with the fact that it's difficult to keep up with funding for schools unless you have a dedicated revenue source. And that's what this proposes to do. That's what LB1059 was supposed to do, but that kind of fell away after a while. As Senator Sullivan mentioned, if you come up with $140 million more of income taxes to put into schools and only ship that out to 35 percent of the school districts, even though that may represent 70 percent of the students and 70 percent of the voters of the state, you don't have a system that really works in an equitable way. So one of the reasons we support some serious looks at TEEOSA and the funding is because of this. And Senator Davis has LB323. Senator Haar has LB182. And those propose that kind of a serious look. I think Senator Schumacher's question about cost, the price of education are good questions. In my mind...and it is people. I looked at the average growth in teacher salary over the last ten years was 2.9 percent. And part of the issue is growing districts are hiring more teachers, and they have more high-cost students. The mandate question has been there. But I think it would be very interesting, very worthwhile as part of this look at school finance to look at the spending side of it and what can be done there because if indeed it's going to take a revenue source dedicated, you want to make sure you're spending your money wisely. So bottom line though, the NSEA supports a broader tax base for schools. And that's what this bill would do. And we hope that in the future, it's part of the discussion. Thank you, and I will try to answer questions. [LB523]

SENATOR GLOOR: Thank you, Mr. Scherer. Seeing no questions, thank you. [LB523]

LARRY SCHERER: Thank you. [LB523]

SENATOR SCHEER: Thanks, Larry. [LB523]

JOHN HANSEN: Mr. Chairman, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I'm president of the Nebraska Farmers Union. We support LB523 for the same reasons that we supported LB1059. It...all things considered, all pluses and minuses of all the different revenue streams, income still is the single best, most fair tax in that it best reflects the ability to pay. And we think that if you're going to provide some property tax relief, you're going to have to make up some revenue unless you're planning on cutting services. And I think you can always tighten down those costs for education, but I still think it takes basic revenues to run a school. And so we still think...as we discussed this issue at our state convention, our guys we were willing to pay more income taxes, and our policy supports it. And so with that, I'd be glad to answer any questions. [LB523]

SENATOR GLOOR: Thank you, Mr. Hansen. I see no questions. [LB523]

JOHN HANSEN: Thank you and good luck. And I should have said on the last bill that what I tell my folks when we're facing a serious challenge and we need to do something, that it's the responsibility of leadership to lead. And God hates a coward. And when my guys hear that they all start getting nervous. But I wish this committee well as you put together a package. [LB523]

SENATOR GLOOR: Thank you. [LB523]

JOHN HANSEN: Thank you. [LB523]

SENATOR GLOOR: Any more proponents? Welcome. [LB523]

VERNON FISHER: (Exhibit 5) Good afternoon. Senator Gloor, members of the Revenue Committee, my name is Vernon Fisher, V-e-r-n-o-n F-i-s-h-e-r. I'm the superintendent of South Sioux City Community Schools. The 15 member schools of STANCE would like to thank Senator Sullivan for her continued leadership. We are supportive of her efforts in trying to look at ways to provide more money for funding for public education in our great state. We feel the time is now for our great state to further analyze the best ways to help preK-12 education through revitalized funding ideas with a renewed sense of purpose. LB523 could very well be the document that spurns meaningful conversation and planning about preK-12th grade funding in Nebraska. We appreciate Senator Sullivan's willingness to help lead the education community at a time of volatile fluctuations in state funding while we're also dealing with an all-time high in terms of student needs. As I mentioned, we applaud Senator Sullivan's willingness to encourage dialogue and meaningful planning to address the tax burden while also keeping education whole. Attached is the story of South Sioux City as compared to other school districts. The purpose of the document is to illustrate the complexities associated with funding, the contextual nature of the impact of funding on individual districts, and highlights the importance of planning carefully while resisting the temptation to jump at symptoms associated with the complicated problem. And I have shared this information with several senators and/or their legislative aides. And my primary goal here is, under STANCE, E is to educate. And really I'm hoping that that's what I'm doing at this point in time. The brochure shows that...if you look on the inside of it, it compares South Sioux City Community Schools to Omaha, Lincoln, and Grand Island. It illustrates the percentage of the budget. So in terms of property tax, we just have reliance of 21 percent of our budget from the local property owners. Over 61 percent of our budget comes from state aid. We're a low-valuation district, so we have a low valuation per student. And just of over 15 percent of our budget is connected to LEP and poverty. And we're one of the lower spending school districts in the state of Nebraska, so we feel that we're a good steward of the taxpayer dollar. I did pick on Senator Sullivan. I didn't want her to go without any look at this. So we did compare South Sioux City Community Schools to other school districts to be fair. So on the left are highly equalized school districts. And we are a highly equalized school district. However, over the course of my tenure in South Sioux City, we have not seen a noticeable increase in state aid. Our budget has remained relatively flat. In comparison to Pender, Cedar Rapids, Norfolk, and Westside, you see some similar trends: the percentage of our budget as compared to other school districts that are reliant on property tax, the percentage of our budget that's heavily reliant on state aid as compared to other school districts, valuation per student, the percentage of the budget connected to poverty, and also the per-pupil cost spending. On the back of this brochure also illustrates the story that looks a little bit different for us than some school districts. Our free and reduced lunch remains relatively high and is above the state average. Our population demographically has significantly shifted from Caucasian to Hispanic. And we're also a growing school district. So in terms of student enrollment, we continue to grow over time, which brings me full circle to our support of Senator Sullivan's efforts to really look at a complex process or nature of funding public education and to ensure that all students in the state of Nebraska are afforded the opportunities that we want for any child, regardless of the school system that they attend. So with that, I would close my testimony and welcome any questions. [LB523]

SENATOR GLOOR: Are there any questions? I seen none, Dr. Fisher. That's a pretty good picture of you on this brochure I have here. [LB523]

VERNON FISHER: Thank you. [LB523]

SENATOR GLOOR: Thank you. [LB523]

SENATOR SCHEER: Thanks, Vern. [LB523]

SENATOR GLOOR: Any other proponents? [LB523]

RENEE FRY: (Exhibit 6) Good evening, Chairman Gloor and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute. OpenSky has consistently supported efforts throughout this legislative session that would reduce the reliance on property taxes while also protecting funding for K-12 education. We support the intent of LB523 to facilitate greater state support for public education in conjunction with other measures that will result in property tax reductions. As Senator Sullivan said in her earlier bill, this proposal is directly in line with the number one recommendation of the Tax Modernization Committee regarding property taxes. In FY13, we hit a historic low in state support for K-12 education as a share of the economy since the implementation of TEEOSA as well as historic high reliance on property taxes. The influx of state aid following the passage of TEEOSA in the early '90s did reduce property taxes during that decade. But we did not maintain our level of commitment to state support for education. Presently, about 32 percent of Nebraska K-12 education funding comes from state support, compared to a national average of 45 percent. To get Nebraska to the national average of state support for K-12 would require $513 million in additional state aid. Some will make the argument that our state's heavy reliance on property taxes is a result of excessive growth in school spending. However, our research shows that school spending has actually gone down as a share of the economy. School districts are subject to limits on spending and on the amount of property that they can levy. The combination of these state-level efforts to control school spending places significant constrains on school district budget flexibility at the local level. These limits help to ensure that influxes of state aid such as those contemplated in LB523 do indeed translate into property tax reductions. I expect the opposition to say that our tax code is uncompetitive and that the economy will suffer if we pass LB523. It's not, and it won't. In the early 1990s when TEEOSA was implemented, Nebraska raised state sales and income tax rates to broaden financial support for schools. Analysis of changes in major measures of economic growth--personal income, job growth, and GDP--show that the Nebraska economy continued to grow and thrive after these tax changes. This is shown in Figure 5 included with my testimony. While it's difficult to isolate the specific impact from other economic trends at the time, it's fair to say that modest tax increases did not cause the sky to fall and our economy continued its positive trajectory following the implementation of these tax changes. Furthermore, there is research showing that increased investments in the education of our future Nebraskans will increase our economic competitiveness. Recent research from Dr. Ken Kriz, formerly at UNO and now at Wichita State, shows increased state investment in education, healthcare, roads, housing, and public safety has a positive overall effect on economic growth even when funded by tax increases. Kriz's research also notes that while early studies of the effects of taxes on economic growth varied widely in their results, more recent studies have...more recent studies that have included the effects of both tax increases and the impact of spending have found positive economic growth similar to his findings. We support LB523's intent to facilitate greater state support for public education in conjunction with measures that will rebalance the responsibility of funding schools from property taxes, resulting in property tax reductions. This is in line with the original goals of TEEOSA implementation in 1990, as well as the recommendations of the Tax Modernization Committee in 2013. This proposal is consistent with our efforts throughout this legislative session to reduce the reliance on property taxes while protecting funding for K-12 education. Nebraskans understand the value of a good investment. Based on our research, we believe the best path to economic growth is making smart investments in our economy, and education is one of the most important investments we can make. Thank you for your time, and I'd be happy to answer questions. [LB523]

SENATOR GLOOR: Are there questions for Ms. Fry? Senator Scheer. [LB523]

SENATOR SCHEER: Thank you, Senator Gloor. One real quick one just out of curiosity, Senator Sullivan had provided us with a breakdown of state support as far as percentage. Based on that information, it looks like the state was providing 40.7 percent of the funds and you've got it at 32 percent. Where would the difference sort of come from, do you have any idea? [LB523]

RENEE FRY: Yeah. So when she said that I checked back in the office: different source, different year, and different measure. So we used the FY12 census data because that allows us to compare ourselves to other states. [LB523]

SENATOR SCHEER: Okay. [LB523]

RENEE FRY: And we used total revenue. We think Senator Sullivan probably used the AFR fiscal year '14 and general fund operating expenditures. So we think that that's the difference. [LB523]

SENATOR SCHEER: Okay. Thanks. [LB523]

RENEE FRY: You're welcome. [LB523]

SENATOR GLOOR: Seeing no further questions, thank you, Ms. Fry. Any other proponents? We now move to opponents. Mr. Clark. [LB523]

DICK CLARK: Chairman Gloor, members of the Revenue Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k, testifying today on behalf of the Platte Institute. Thanks for this opportunity to speak before you again, this time in opposition to LB523. I give you my word, this will be the last time I appear before you this year. LB523 would raise income taxes on Nebraska's families and businesses in hopes that this will somehow facilitate lower property taxes. I use the word "hope" there because the prefatory language in Section 1 of this bill is entirely aspirational. While I understand Senator Sullivan's desire is to shift some of the cost of public education from property owners to income earners, this bill does no such thing. This is a tax hike, plain and simple. More than once you've heard from me and my colleagues at the Platte Institute that our research supports what Nebraska taxpayers already know: that property tax relief should be a priority for this Legislature and for our state. But as I've said before, this justifiable concern about high property taxes in Nebraska should not be answered by raising other taxes and making Nebraska even less competitive. We especially should not resort to expansion of the most economically destructive taxes, our corporate and personal income taxes. I won't take more of your time today repeating the many statistics about the tax burden in this state in relation to other states. You've heard me say that all before. You've also heard me say that Nebraska is high-tax state and that we need to change, that we need to reduce the cost of government, that we need to make Nebraska a place where businesses and families can grow better and thrive more easily. LB523 would take Nebraska in the wrong direction. Before I close, I, too, enjoy a little philosophical banter. And to Senator Schumacher's earlier questions, you know, I would say everyone ought to Google the "economic calculation problem." And the problem here is that we don't have market prices that are determining how our resources in the public system are allocated like we do in the private system. You can read Mises or Hayek on those topics. And we heard in the earlier testimony something that really outlined the labor theory of value when it came to how we decide how much teachers ought to get paid as opposed to, you know, how the market sets wages, which of course is the marginal revenue product theory of wages based on the subjective value theory. So while we're waxing philosophical, I thought I'd get that on the record. Thank you for the opportunity to testify today. I'd be happy to answer any questions. [LB523]

SENATOR GLOOR: Thank you, Mr. Clark. Are there any questions? Seeing none, and this is the last time, I hope that relates to bills and not your employment status. [LB523]

DICK CLARK: Well, I am going on to other things professionally, too, but it's been a pleasure to spend so much time with you. [LB523]

SENATOR GLOOR: Okay. Thank you. [LB523]

SENATOR SCHEER: Thanks, Dick. [LB523]

SENATOR GLOOR: Other opponents. [LB523]

RON SEDLACEK: (Exhibit 7) Good afternoon, Chairman Gloor and members of the Revenue Committee. For the record, my name is Ron Sedlacek; that's R-o-n S-e-d-l-a-c-e-k. I'm here today testifying on behalf of the Nebraska Chamber of Commerce, and also I've been authorized to submit testimony on behalf of the Nebraska Bankers Association, so I signed in for both of those entities. Recognizing that time is getting late once again, it seems this is my hour of testimony the last couple of days, I'll try to be as brief as I can. But I would like to remind the committee that, of course, they're going to be considering a number of proposals dealing with reducing the property tax burdens, as well as considering proposals to adequately fund school districts. And with certainty we know that Nebraska's property tax burden is a concern to Nebraska businesses. And certainly our present income tax rates are of concern, which is why we have supported legislation that would reduce the rates for each of the four brackets. Whatever of the source of providing sufficient revenues for schools, the amount of revenue collected ultimately depends on economic growth in the private sector; and that's individuals, agriculture, and business. And we know that the level of income taxation affects the level of growth and investment in the state. And that's why we're here today in opposition to the legislation. The State Chamber has had a longstanding policy. It's been reviewed by the board each year, but nonetheless, they continue to oppose legislative initiatives that would purport to deliver property tax relief by shifting the mix of tax collections from property to income tax. I could go on and talk further, but just wanted to state our basic position. In the handout you'll note that we're just looking at how we compare with our neighboring states, and at least what the Tax Foundation is ranking us in the individual income tax at the 19th highest. If you take a look at a map of the United States and just divide between east and west and those states, Nebraska, north and south being on the western part, really there are only three states besides Nebraska that have a higher income tax rate. And that's Hawaii, California, and Oregon. Oregon happens to be one of those states, one of the nine states in the nation that does allow for deductibility for federal income taxes paid. That's a valuable deduction. When you look at Iowa, you'll say, gee, they have a nominal rate of 8.98 percent on $68,000 and over. But according to a recent article in The Des Moines Register, the policymakers were suggesting that that's an effective rate really when you take a look at the system, between 5 percent and 6 percent. And Missouri also allows a limited federal deduction of $5,000 of federal income tax paid. So you take a look at Missouri's 6 percent, and the effective has to got to be someplace south of there. So we're dealing with competition just in our...just in our own neighboring states of at least 6 percent or less. And that's what gives us pause is to where do we want to be on that chart when it comes to both individual as well as corporate taxes paid. So many of our businesses now, because of the ability to organize as pass-through entities as they do across the nation, have been organizing in noncorporate form, limited liability companies, limited liability partnerships, Sub S corporations, and so on. So that's why we are concerned so much with the individual rate as well. With that, I'll close my testimony and entertain any questions. [LB523]

SENATOR GLOOR: Any questions for Mr. Sedlacek? Seeing none, thank you, Ron. [LB523]

RON SEDLACEK: Thank you, Senator. [LB523]

SENATOR GLOOR: Anyone else in opposition? Anyone in a neutral capacity? Senator Sullivan. [LB523]

SENATOR SULLIVAN: Thank you, Chairman Gloor. I won't take long. And of course, I couldn't agree more with Mr. Clark that LB523 is obviously a tax increase. But it's a companion bill to LB521 which I do believe provides some opportunity for property tax relief and state support for our schools. And I offer both of them. You know as well as I do we have our work cut out for us in this Revenue Committee this session. But I offer both of them as not only just a package, but part of the total discussion that we'll have. And so to look at maybe components of it, I'm certainly willing to just put them all in the mix as we further our discussion on this challenge we have ahead of us. Thank you. [LB523]

SENATOR GLOOR: Any final questions? Thank you, Senator Sullivan. And that ends the hearing on LB523. And that ends the hearing today. Thank you. [LB523]