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Revenue Committee
February 16, 2017

[LB251 LB266 LB640]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 16, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB251, LB266, and LB640. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Tyson Larson; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SMITH: (Recorder malfunction)...everyone. Good afternoon and welcome to the Revenue Committee public hearing. My name is Jim Smith, I represent the 14th Legislative District in Sarpy County and I'm Chair of the committee. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following. Please turn off your cell phones and other electronic devices so as not to interfere with the people that are testifying. If you're looking to testify, if you could move to the front of the room in preparation for an opening on the seat to testify. The order of testimony will be the introducer of the bill, proponents of that bill, then opponents, then those in the neutral capacity, and then closing remarks by the introducer of the bill. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written testimony or exhibits for the committee and you would like those distributed, hand those to the page when you come up to testify and those will get distributed around the table. We will need 11 copies for all the committee members and for staff. And if you need help making any of those copies, just let us know and we can help you out with that. When you do come up to testify, we will need you to state and spell your name for the record so the transcriber, when they hear that recording, they can get it into the record correctly. We will use a light system today, five minutes for testimony. The green light on the table will be on for four minutes, after which time it will turn to an amber color for that last minute. During that period of time, if you could wrap up your testimony we'd appreciate it. And then when the light turns red we would like for you to have concluded your testimony. If you would like your position to be known but do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. The microphone on the table is not for amplification, it is simply to record your testimony for the transcriber. So you'll need to speak enough to where the folks can hear you. Let me introduce the committee staff. To my right is legal counsel, Mary Jane Egr Edson. To my immediate left is research analyst, Kay Bergquist. And then to my left at the end of the table is committee clerk, Krissa Delka. And I'm going to allow the committee members to introduce themselves. First at the far end of the table will be Tyson Larson, Senator Larson representing O'Neill, District 40. Next.

SENATOR GROENE: Senator Mike Groene, Lincoln County.

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

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

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

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

SENATOR HARR: And Burke Harr, representing Legislative District 8, which is part of midtown Omaha.

SENATOR SMITH: Very good. Our pages today are Alexi Richmond from Milwaukee, Wisconsin, and Sarah Wearne from Topeka, Kansas, and they will be helping us today, so we appreciate them being here and helping us. Please be mindful that the senators may come and go from this meeting. They do have commitments in other committees and so please be patient with that as they fulfill their other commitments. And with that, we're going to open on LB251, Senator Harr is introducing a bill related to defining agricultural and horticultural purposes for revenue and taxation purposes. That's a strange one-liner. [LB251]

SENATOR HARR: Yes. [LB251]

SENATOR SMITH: Welcome. [LB251]

SENATOR HARR: Thank you, Senator Smith, fellow members of the Revenue Committee. My name is Burke Harr, H-a-r-r, and it is a pleasure to be back here in front of this committee. I am here on LB251. This is a rather simple bill that codifies what is already being done in most counties across the state. And what happens is, real estate developers assume significant risk and frequently have an extensive up-front capital investment in land acquisition and installation of infrastructure: streets, sidewalks, and utilities. The initial sale of lots may not occur for a year or two or more from the time of land acquisition. In the meantime, the developer is responsible for carrying charges, such as making payments of loan principle and interest, along with real estate taxes and other expenses. In visiting with members of the Nebraska Association of County Officials, also known as NACO, they appear to agree that the platting or subdivision of agricultural land for the installation of infrastructure on agricultural land should not change the character of the land for tax assessment purposes. While we believe this to be generally the case,

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we have encountered a few situations in which a significant increase in valuation and the level of taxes have occurred when nothing more than platting or a subdivision agreement has been made. This legislation is five lines in total. And what it does is it says when you purchase land, if it's agricultural land to be developed later, you put in improvements just because you plat it or you put in a subdivision agreement or you put in utilities, it doesn't mean that that land takes on...loses its agricultural value. It may still be used for agriculture. In most cases, it's the 50 percent rule, meaning when 50 percent of that land switches from agricultural use to its new, higher, better use--for lack of a better term--then all the lots switch so that...but not immediately. And that's what I'm looking to do here. And I would entertain any questions if I need to be a little clearer. Thank you, Mr. Chairman. [LB251]

SENATOR SMITH: Thank you, Senator Harr. Senator Friesen. [LB251]

SENATOR FRIESEN: Thank you, Chairman Smith. So I'm just going to give you an example, I guess, and you can explain it to me. So if you bought 160 acres of ground on the edge of town and you wanted to develop it and so you develop a 25-acre patch... [LB251]

SENATOR HARR: Yep. [LB251]

SENATOR FRIESEN: ...and so now you're saying the 25 acres, as soon as that's developed the rest of the land would remain... [LB251]

SENATOR HARR: Agriculture. [LB251]

SENATOR FRIESEN: ...farmland, agricultural land. [LB251]

SENATOR HARR: Yep. [LB251]

SENATOR FRIESEN: And so as soon as you reach that 81-acre mark, then you say the whole 160 acres should be taxed as (inaudible)? [LB251]

SENATOR HARR: No. Thank you. So what happens is, you would have...I think under your...you develop 160 acres, are you developing the whole amount or are you planning to...well, let me restate that. If you had a situation where you buy 160 acres and you keep 80 for farming and you intend to constantly use that for farming,... [LB251]

SENATOR FRIESEN: Okay. [LB251]

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SENATOR HARR: ...as long as that's the intent of it, that will never change. Now, if you subdivide the whole 160 acres and you do a development on that land, the second you hit that 81st acre, yeah, you would probably switch it over. But, again, it's up to the assessor as far when that rule...it's generally accepted across the state as 51 percent. But if you had part you never intended to develop and just because you develop another portion of it, let's say you always intend to keep 40 acres as agriculture, just because you bought 160 and you developed 120 doesn't mean that last 40 becomes valued at the higher rate. It would stay agricultural. [LB251]

SENATOR FRIESEN: Okay. And so then if you just put in the sewer and water, for instance, didn't do any street work but were still farming it, leave it at ag value? [LB251]

SENATOR HARR: It would remain at the ag value, yes. [LB251]

SENATOR FRIESEN: Thank you. [LB251]

SENATOR SMITH: Senator Schumacher. [LB251]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, Senator Harr. Again, to clear up an ambiguity, it says that this will be determined without regard to whether some or all of the parcel is platted and subdivided into separate lots or--without a comma--developed with improvements consisting of streets, sidewalks, curbs, gutters, sewer lines, water lines, or utility lines. So I can understand you're not considering it to be a determining factor determinative (inaudible) paperwork down at the courthouse where you plot it out or you have an agreement or subdivision contract or something like that involved, but once...is it also your intent that it...you shouldn't regard the fact that you've put in streets, sidewalks, curbs, and you couldn't basically farm it if you wanted to without running into a street or a curb. Is that also not to be considered? [LB251]

SENATOR HARR: And I appreciate that...your question. And the answer is, it depends on the development and it's a judgment call by the assessors as far as when do you convert it over from ag. I have a situation by a friend up in Washington County who purchased some farmland in 2009. It had some sidewalks and some streets put in on the property, but then 2008 hit, right? And residential went down and ag was going up so the developer sold. A buddy of mine bought it and he used it for farming, even though there was some of that infrastructure that was already put into the land. So it's a judgment call, but I think this gives us better guidance and clearance for the county assessor. If you have a recommendation of better language, I am always open to amending the statute to clarify. But like I said, this is already being done in--I would argue--90, maybe 91 of our current 93 counties. [LB251]

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SENATOR SCHUMACHER: It seems to me that if there's streets, sidewalks, and there's no practical way you can farm it. [LB251]

SENATOR HARR: If there's no practical way, that's correct. [LB251]

SENATOR SCHUMACHER: And to clarify that we almost should say something along the lines of, so long as it's being farmed. I mean, if it's just magical lines in the sand that it's being farmed, then it's probably agriculture. Okay. [LB251]

SENATOR HARR: I believe Senator Groene is coming with a bill to address some of these concerns as well. [LB251]

SENATOR SCHUMACHER: Okay. [LB251]

SENATOR GROENE: I think we can combine them. [LB251]

SENATOR HARR: Maybe we can combine them, yeah. [LB251]

SENATOR SCHUMACHER: Okay, thank you, Senator Harr. [LB251]

SENATOR SMITH: Further questions from the committee? Senator Groene. [LB251]

SENATOR GROENE: Did I get you right? The way they're doing it now is the discretion of the county assessor? Some are doing it this way already? [LB251]

SENATOR HARR: That's what I understand, yes. The majority of them are doing it this way already, the vast, vast majority. [LB251]

SENATOR GROENE: Thank you. [LB251]

SENATOR SMITH: All right. Thank you, Senator Harr... [LB251]

SENATOR HARR: Thank you. [LB251]

SENATOR SMITH: ...for your opening on LB251. We now move to proponents of the bill, proponents, supporters of LB251. Welcome. [LB251]

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ROBERT HALLSTROM: (Exhibit 1) Chairman Smith, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, I appear before you today as registered lobbyist for the Nebraska Bankers Association in support of LB251. Senator Harr has set forth what the bill is designed to do. I'll give you a little bit of background on how we came to this point. The Nebraska Bankers Association put together the NEXt Generation Housing Task Force within the past year, consisting of bankers and representatives of the Department of Economic Development, NIFA, Midwest Housing Equity Group, the State Chamber, and others and looked at some issues across the state and tried to identify what some of our problem areas are. What we found in many communities across the state is that there are a large number of job openings and not sufficient work force housing to fill those needs and so we have brought a number of bills to the Legislature. Some of the bills are in other committees. This one was an issue that was identified because we had some folks come to us and say, if developers are at risk already in terms of the financial obligations that they have, they shouldn't be piled on by having taxes increased just by the mere fact that they have either platted or subdivided the land or even in some cases put infrastructure streets, sidewalks, utilities, and so forth in. We visited with the Property Tax Administrator, we visited with Mr. Dix from NACO. And I think we've generally found that not everybody is doing that, but when it happens it does put an extra burden on the developer and might dissuade them from developing in the first place or perhaps make the project go south from a solvency perspective. What I have done in my testimony is, from a couple of bankers and others that had provided us with examples, on page two of my testimony I show a ten-acre tract of farm ground valued at \$56,740 before any development activity took place. The land...that was in late 2014, based on the 2014 assessment, the land was purchased in October of 2014 for \$100,000 and lo and behold as of January of 2015, when the property was reassessed, it came in at \$229,475. The second one...it had increased the taxes from \$900 to \$3,300, an increase of \$2,400. The second example, another ten-acre tract of farm ground, original assessed value \$52,500, real estate tax is just in excess \$1,000. It was subdivided into 30 lots; they were assessed at \$1.5 million, \$50,000 per lot. The real estate taxes went from \$1,000 to almost \$30,000, an increase of \$29,000 annually. In both cases, as we have been informed, those tracts of land were continued to be farmed in the year after acquisition, so there was no construction, there was no development other than the infrastructure, no lots sold, and yet the taxes went up significantly. And I think you can see the type of burden that that would place on a developer. With regard to some of the questions...Senator Schumacher, with regard to your question, I think the issue is you look at the terminology that's currently used under the statute in terms of, does it continue to be used primarily for horticultural and agricultural purposes? That's the statutory parlance. And so we have situations where a developer may come in, they may put in the infrastructure and it may sit idle for a number of years and they continue to either farm row crop or perhaps plant it to alfalfa, as it had been before. When you look at the parcel as a whole, it continues to be used primarily for agriculture purposes, notwithstanding the fact that either you simply platted or subdivided the property or even if you've gone to the effort of putting in the infrastructure and the streets. And in talking to the Property Tax Administrator it

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was our understanding that that would be the determining factor, is was it and does it continue to be used primarily for agricultural purposes. So I don't know that you had have to clarify that anymore. I think that's the terminology that's in use. [LB251]

SENATOR SMITH: Senator Brasch. [LB251]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. Hallstrom. I'm just curious with your examples. Are these real examples? [LB251]

ROBERT HALLSTROM: Yes, they are. [LB251]

SENATOR BRASCH: Okay. Did they go to the TERC board? Can recourse be made? What was the outcome? [LB251]

ROBERT HALLSTROM: Yeah. I don't know the rest of the story. To my knowledge, nothing further was done. They took their medicine. The increases were there and to my knowledge...but I do not know that anything was done one way or the other. [LB251]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB251]

ROBERT HALLSTROM: Thank you. [LB251]

SENATOR SMITH: Senator Friesen. [LB251]

SENATOR FRIESEN: Thank you, Chairman Smith. I understand what's going on, I guess, but I'm trying to relate it now to in cases of an agriculture like where I'm involved at. If I so much as drill a well on a piece of land, my land goes up to irrigated land value. It increases and it does that whether or not I irrigate it. If I have access to water, my valuation goes up. If I put a pivot on it, I pay personal property tax on that pivot. And even if a pivot doesn't move and just sits there, I pay property taxes. So I guess I'm saying, if you're going to invest in infrastructure, even though it's not used, why should we discount it for tax purposes? [LB251]

ROBERT HALLSTROM: Well, Senator, I guess my initial action would be that you've converted it, you've taken that action. In the home construction field, when we talked to the Property Tax Administrator, we actually initially had intended to say you're not really realizing anything off of that project until you get the home built and it's ready to be occupied. The Property Tax Administrator suggested that that might be going a little bit far, because people could play games

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with that as far as making it 90 percent complete as of January 1 and those types of things. So we didn't go down that path, but there's a number of states that have different approaches of deferment of those increases. There's other...Illinois was one that actually does go until you've sold the lot or have the house construction to the point that it's habitable that they don't change the character of the assessed valuation. [LB251]

SENATOR FRIESEN: Would it be fair to say that if you came up with what you had invested...let's say you put the sewer and water in but continued to farm it. And so the value of that investment that you had put in there, since it's there, it's ready to go but not being used, would you consider adding that to the value? Would that be a problem, even though it continues to be farmed and not developed? [LB251]

ROBERT HALLSTROM: Well, I think it's...it probably would or could be a problem in terms of the significance in the increase of taxes because you've changed it to residential character and you've upped the valuation, even though you continue at that point and perhaps for some time thereafter to farm it and it's primarily agricultural. And I...my suggestion or my suspicion is that the reason that most of the county officials are not increasing the valuation is because they're looking at what the statute says. And it says, is that parcel being primarily used for agricultural purposes? And if in fact you do farm it, notwithstanding the platting, the subdivision, or the placement of infrastructure, the whole use in totality is primarily for agricultural use. [LB251]

SENATOR FRIESEN: So if it has access to water, should it be taxed as irrigated land? [LB251]

ROBERT HALLSTROM: Not sure... [LB251]

SENATOR FRIESEN: You don't have to answer. Thank you. [LB251]

ROBERT HALLSTROM: Thank you for letting me off that one. And we are interested in Senator Groene's bill as well. LB599 is a different way to skin that cat, but we would certainly encourage the committee to kick this one out and then we'll come before you and support Senator Groene's bill later. [LB251]

SENATOR SMITH: No offense to cat lovers, right? [LB251]

ROBERT HALLSTROM: Yes. [LB251]

SENATOR SMITH: All right. Thank you, Mr. Hallstrom. [LB251]

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ROBERT HALLSTROM: Thank you. [LB251]

SENATOR SMITH: Next proponent. Next proponent of LB251. Welcome. [LB251]

JUSTIN BRADY: Senator Smith and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y, I appear before you today as the registered lobbyist for the Nebraska Realtors Association in support of this bill. Just a quick history--a few years ago this committee and the Legislature passed a bill that was similar in the sense that when developers went out to the edge of a town, like...it was really focused around Lancaster County, and said when they went to the edge of town and developed it, how can they help with the development and not have the increased cost in the property taxes. And that really helped spur some development around Lincoln and Omaha. As the realtors looked to other parts of the state and in the rural areas, they realized that what was happening there was not only were they getting hit by being in development, they also were losing the designation of the agriculture piece. And that really was kind of a double whammy on trying to increase of the cost doing a development and therefore, quite honestly, kind of stopped development around some communities, at least in the discussions that I had heard. You know, Columbus, Norfolk, North Platte area were three areas at least that they talked about. I don't have any firsthand knowledge of that, but that's at least what people brought to me. And so with that, I think this would help encourage developments in those rural areas. With that, I'll try to answer any questions. [LB251]

SENATOR SMITH: Questions for Mr. Brady? Senator Groene. [LB251]

SENATOR GROENE: In an instance in North Platte where the developer had such a huge cost invested in putting the curbs and the streets in and then things closed down, but then he also got hit big time with property taxes on top of that. Is that what you're considering why some of this development is slowing down? [LB251]

JUSTIN BRADY: Yes. Yeah, that they looked at it and said, hey, we understand this is...by the time we get our...they get their rate of return, whether that's 4, 6, 8, 10, 12 years, to be able to sell all the lots or sell enough of the lots that it makes it a good financial investment, if all of a sudden their property taxes doubled or tripled or whatever just because it changed going from the...losing the ag designation, they don't do those developments. They might develop it one or two lots at a time, which is not what helps spur developments in communities. [LB251]

SENATOR GROENE: Thank you. [LB251]

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SENATOR SMITH: I see no further questions. Thank you, Mr. Brady, for your testimony.
[LB251]

JUSTIN BRADY: Thank you. [LB251]

SENATOR SMITH: (Exhibits 2, 3) Next proponent of LB251. Seeing none, we do have a couple of letters for the record that were sent in support of LB251: Barry Kennedy, representing the State Chamber; and Deb Cottier, representing the Nebraska Economic Developers Association. We now move to opponents, those wishing to testify in opposition to LB251. Welcome. [LB251]

JAREL VINDUSKA: Thank you. Senator Smith, members of the committee, my name is Jarel Vinduska, Jarel is spelled J-a-r-e-l, Vinduska is V-i-n-d-u-s-k-a. Before I begin, let me give a little disclaimer. Even though I'm speaking in opposition, I don't begrudge any person or group in Nebraska the benefit of lowering their property tax, because as far as I'm concerned it's too high for everybody and it's unfair and un-American to have a hammer over somebody's head where you can take their property after they've went and paid for it just because they fall on hard times and can't pay the property taxes. But that being said, in this state we value property on actual market value. When you take a farm and you break it up into small parcels and put in infrastructure, the moment that is done you've increased the actual market value and you use the comparable sales approach to see what that value is. So in that regard, the actual market value is increased dramatically. And Senator Harr was talking about what the intent of the law is, but it says right in what we're adding in here that without regard to whether some or all of the parcel is platted or subdivided. So in other words, you could have a property, the whole thing subdivided, roads put in, electricity, sewer, water, all the other amenities, seed it to alfalfa--which is a agricultural commodity--make it look pretty and green, but the value is way up but you're still calling it agricultural land. So now we got to look at...to see if this is right or not, we got to look at the definition of agricultural land. And it says right in this legislation, agricultural land and horticultural land means: a parcel of land, excluding land associated with buildings or other enclosed structure located on a property that is primarily used for agricultural and horticultural purposes. Well, you could make a stretch and say that seeding it to alfalfa in amongst the streets is an agricultural-horticultural purpose, but in reality it's quite a stretch to claim that it's still agriculture and horticulture. It's a subdivision, is what it is. And as you recall, Senator Smith and Senator Harr and some of you others, Senator Brasch last session, to try to correct an injustice that's happening around the major cities in Lancaster, Sarpy, and Douglas, where farmers are being gouged like crazy--especially in Sarpy, but the others, too--on this land that's associated with buildings that's excluded from the designation of agricultural-horticultural land. And if you remember, Senator Harr asked me...because I told him our farm was worth about \$6,000 an acre in actual market value and I told him we were getting actually gouged \$60,000 for that acre under the farm. And he asked me the question, he said, well, tell me, why would it be fair for you to be assessed at \$6,000 for the acre under the house when the guy in the subdivision across

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the road is getting assessed at \$60,000? And I said, that's an easy answer to that. My house is being assessed just like the urban guy's house, the same figure. And the land, we have to figure the value of the land by comparable sales. Well, there is no comparable sale to an acre under a house because there is no sales documented on that. It has to be sold with the farm. It's part of the farm. And if the rest of the farm is worth \$6,000, that acre is worth \$6,000. Whereas the guy in the subdivision, if he sells his acre, whether there's a house on it or not, that comparable sale he'll sell it for his \$40,000, \$50,000, \$60,000, so that's the actual market value. But you guys, Senator Harr, fought us on that and it didn't go anywhere. But what I...and Senator Smith, you, too, and several others, so we're still suffering with that injustice. But anyway, I got a proposal to make. If a guy with a subdivision can call his subdivided land agricultural and horticultural land, why don't you just change the sentence here where it says agricultural land and horticultural land means a parcel of land excluding land associated with buildings. Just get rid of "excluding," "excluded" and put "including," including land associated with buildings, because the guy that's farming with a cow lot next to it and the land his barn is sitting on and his windbreaks and stuff, why are you excluding that land as agricultural and horticultural land when it's a true farm and yet you're proposing to make a subdivision be agricultural and horticultural land? So we could fix that injustice by put "including" there. And the other thing that's in conflict is that we did get a little bit of relief because our assessor was using sales of lands in subdivisions as a comparison. That's how he came up the...that's the only way he could come up with \$60,000 figure for an acre. So we got Ruth Sorensen to at least...Property Tax Administrator, Ruth Sorensen, to at least give us a little relief and say that a farm homesite acre is outside of a plat or a zoned subdivision. Well, this bill, if this is passed as approved, it's in conflict with that because here we're saying land in a platted subdivision is agricultural and horticultural land and yet after years of fighting we got it finally that a comparable sale is outside of a plat or a zoned subdivision. So now we got a conflict between the two. So I see my time is up and I just hope you'll think of some of these things. And I'll answer any questions that you have. [LB251]

SENATOR SMITH: Thank you, Mr. Vinduska. Can you...the recommended...where you're talking about the "excluding" to...the "including" to "excluding," can you go back (inaudible)? [LB251]

JAREL VINDUSKA: Yes. It's line 10. [LB251]

SENATOR SMITH: I'm sorry. [LB251]

JAREL VINDUSKA: Line 10, number 1: For purposes of this section, 77-1363. [LB251]

SENATOR BRASCH: It's line 12. [LB251]

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JAREL VINDUSKA: Oh, sorry. Yeah, okay. Well, I mean that was the start of it. [LB251]

SENATOR SMITH: Okay. Thank you. Questions from the committee? I see none. Thank you for your testimony, appreciate it. [LB251]

JAREL VINDUSKA: If I had more time, I've got a lot of other reasons, but that's good enough for now. I'm sure other people will say. Thank you. [LB251]

SENATOR SMITH: Okay. Next opponent of LB251. Welcome. [LB251]

BRIAN McALLISTER: (Exhibit 4) Senators, thank you for time to allow me to speak to this bill. My name is Brian McAllister, Brian, B-r-i-a-n, McAllister, M-c-A-l-l-i-s-t-e-r. My wife and I represent ourselves. A brief background: My wife and I own, live, and farm 80 acres of farm ground in eastern Lancaster County, one mile from the Cass County line. I also manage a 700-acre farm in the north central part of the state for my side of the family. We both grew up on a farm and still enjoy the farming atmosphere. If you would look at the proposed bill, subdivision (4), farm site, it states: Farm site means the portion of land contiguous to land actively devoted to agriculture which includes improvements that are agricultural and horticultural in nature. Key phrases: contiguous to land actively devoted to agriculture, includes improvements that are agricultural or horticultural in nature. My farm site, 1.75 acres consist of corrals, feeding yards, a loafing shed with a corral yard, an open space. On my farm site I feed my cattle during the winter months, corrals for feeding out my steers that I sell, a loafing shed where I put my cows that are going to have calves, open space is used to store the hay bales for the winter feeding, where my tractors are kept, where my hay equipment is kept, and other agricultural purposes and uses. I came before you last year and talked to Senator Brasch's bill, LB1037, a bill that would have clarified 77-1359 and supported what I thought 77-1359 stated. I was the one who had a protest with TERC that a farm site should be classified as agricultural-horticultural land, among a few other issues. I felt I had a good protest. The land associated with an agricultural farm site is agricultural land and should be assessed as agricultural land. It very clearly meets the criteria that is outlined in subdivision (2), "Agricultural or horticultural purposes means". I lost that protest. TERC said that a farm site and a farm homesite did not fall under the definition of agricultural land and horticultural land found in subdivision (1), "Agricultural land and horticultural land means". I am confused. My farm site is not classified as agricultural or horticultural land. My farm site does not qualify for special valuation like the surrounding contiguous land. My farm site land is valued at 100 percent of the value of land found in Lancaster County and is assessed at 100 percent valuation, not the 75 percent valuation which is given to agricultural and horticultural land. This bill, LB251, is asking for land that is being developed for residential properties--no intention of keeping it agricultural land, no intention of having a farm or farm site incorporated--and they want it to be classified as agricultural and

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horticultural land. Earning the right to be included for special valuation, if qualified, and assessed at the 75 percent rate for agricultural and horticultural land. Yet my farm site that is used for nothing other than agricultural or horticultural purposes is not classified as agricultural or horticultural land. If you go by TERC's ruling, subdivision (2) or the addition of subdivision (2)(c) within this bill, LB251, anything in subdivision (2), subdivision (3) or subdivision (4) is not agricultural land. As a taxpaying citizen, I can't go to the state Attorney General and ask for clarification or an Opinion as to how state law reads. As a senator or as a legislative committee you have that right, you have that opportunity to go to the Attorney General and get that clarification. If you were able to get clarification from the Attorney General that land associated with subdivision (2), land associated with subdivision (3), and land associated with subdivision (4) is actually land that should be classified as agricultural and horticultural land, you would give an immediate tax break to hundreds of hardworking taxpayers all across the state. I do appreciate your time. Thank you. [LB251]

SENATOR SMITH: Thank you, Mr. McAllister. We have questions. Senator Friesen and then Senator Groene. [LB251]

SENATOR FRIESEN: Thank you, Chairman Smith. So your land value that's your farmstead, that's taxed at 100 percent of value? [LB251]

BRIAN McALLISTER: The farm site. There is a farm site, there's a farm homesite, and there's the agricultural land. It's the farm site. [LB251]

SENATOR FRIESEN: What...do they value that as an acreage then or what value do they place on that land? [LB251]

BRIAN McALLISTER: They placed...the 1.75 acres that they have broke out as a farm site, they place it at \$7,800 per acre value. [LB251]

SENATOR FRIESEN: And the ag land was valued at...? [LB251]

BRIAN McALLISTER: And the ag land, the most is \$7,200 would be the highest. It's all dryland and it's in the highest classification...excuse me. I said, \$7,200. It was like \$6,800, I believe, somewhere in there, somewhere in that area. [LB251]

SENATOR FRIESEN: Okay. That clarifies things for me. Thank you. [LB251]

SENATOR SMITH: Senator Groene. [LB251]

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SENATOR GROENE: But on the acreage you're valued at 98 percent or 100 percent versus 75 percent on the... [LB251]

BRIAN McALLISTER: That is on the farm site. It is 100 percent valuation, the biggest. [LB251]

SENATOR GROENE: It's a bigger chunk there, also. [LB251]

BRIAN McALLISTER: That is correct. [LB251]

SENATOR GROENE: So you would like your farm site to be ag, too. You're willing to pay your house, like everybody else, your home. [LB251]

BRIAN McALLISTER: I, myself, feel that a farm homesite--if you read the law--is, as I interpret it, the farm homesite should also be classified as an agricultural land; the land, not the house, just the land. [LB251]

SENATOR GROENE: I'm talking about the house. You're willing to pay your property tax? [LB251]

BRIAN McALLISTER: On the house, I have no questions on the house, the value of the house. But on the land that the house sits on. [LB251]

SENATOR GROENE: But also in a residential area the lot has...you get two valuations. You get your lot plus your home. [LB251]

BRIAN McALLISTER: And I understand that. And the way I interpret it, 77-1359--and if you read subdivision 1--they're saying, this is what we're going to look at agricultural land as, it's...we're going to exclude the building or the site that the building sits on. That value is what they're using to determine the value of the agricultural land. That's the value that should be placed on that one acre that the house sits on. That's the value that the farm site should be valued at, is that value that is determined by that subsection 1. That's the way I look at it or I read it. But I was wrong or I was told I was wrong on that. [LB251]

SENATOR GROENE: I can understand now when a farmer buys an old farm place, the first thing that happens is it gets bulldozed. Thank you. [LB251]

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SENATOR SMITH: Seeing no further questions, thank you, Mr. McAllister, for your testimony. Next opponent of LB251. Seeing none, we move to neutral testimony, those wishing to testify in a neutral capacity. Welcome. [LB251]

LARRY DIX: Good afternoon. Senator Smith, members of the 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 a neutral capacity on LB251. Certainly, we've had conversations with a number of county assessors in regards to this bill and the reason...really the reason why NACO has taken a neutral position is we believe, and I think Senator Harr alluded to it in his opening, that that is how these pieces of property are being valued. I think if there are some outliers, which I think Mr. Hallstrom may have provided something which I haven't seen, but if there are outliers then that probably...county board of equalization protest is the proper place for that. And similar to the gentleman that was here before, I think that is really what the role of TERC is when we have an outlier, because it at least appears to us that the majority of the counties are valuing this land in this fashion. Previously, Mr. Brady alluded to a bill that NACO had worked on a couple of years ago that we thought probably had taken most of this into consideration. But I think...I mean, our position truly is neutral, because we believe that is how it's being valued. And the assessors really look at, on page 2, line 13, if it's primarily used for agricultural or horticultural purposes. That's the section that they refer to and make their judgment. I think that is their job, they're an elected official, and they're elected to make that judgment. So with that, I'd be happy to answer any questions that you'd have. [LB251]

SENATOR SMITH: Thank you, Mr. Dix. I see no questions. [LB251]

LARRY DIX: Thanks. [LB251]

SENATOR SMITH: Thank you. Next person that would like to testify in a neutral capacity on LB251. Seeing none, Senator Harr, you're welcome to close. [LB251]

SENATOR HARR: Thank you, Chairman Smith, members of the Revenue Committee. I want to thank all those who took time to come down and testify. I think what everyone agreed is that we need to maybe clarify what is and is not agricultural land, as far as when there's a development on a piece of property. And that's what this bill does. Maybe there's something more we can do in the future that the two individuals identified, Mr. Vinduska and Mr. McAllister. But I would ask for your support on LB251 and entertain any questions you may or may not have before this four-day weekend. [LB251]

SENATOR SMITH: Thank you, Senator Harr. I see no questions. [LB251]

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SENATOR HARR: Thank you. [LB251]

SENATOR SMITH: That concludes the hearing on LB251. And we now move to the hearing on LB266 to be introduced by Senator Friesen, relating to changing the valuation of agricultural land and horticultural land. Welcome. [LB251 LB266]

SENATOR FRIESEN: (Exhibits 1, 2) Thank you, Chairman Smith. Thank you, members of the Revenue Committee. I have told people that I have introduced a lot of bills on property taxes this year and I've thrown everything out there, including the kitchen sink, and this is the kitchen sink. So what...I'm Curt Friesen, C-u-r-t F-r-i-e-s-e-n, I represent District 34 and I'm here to present LB266. LB266 lowers the valuation of agricultural and horticultural lands for school district taxation purposes only. Currently, ag land is valued at 75 percent of its actual value. LB266 would lower the valuation for school district taxation only to 50 percent in 2018, 40 percent in 2019, and 30 percent in 2020 and thereafter. It also reduces the acceptable range for a school district taxation. Right now, the acceptable range for ag land is 69 percent to 75 percent of actual value. Under LB266, the acceptable range would change from 45 percent to 50 percent in 2018, 34 percent to 40 percent in 2019, and 24 percent to 30 percent in 2020 and thereafter. LB266 also changes provisions of TEEOSA in regards to ag land. Currently, the state aid value for ag land is 72 percent of the actual value. This legislation proposed to change the percentage of actual value to 47 percent in 2018, 37 percent in 2019, and 27 percent in 2020 and thereafter. So when I got my fiscal note, Senator Harr, my first fiscal note was zero and I liked that one. But then my last one, unfortunately, increased to \$200-some million. So if I can choose which fiscal note, I'll take my first one. The reason for this bill is basically it shows I think when you look at agriculture as a business, small business, and the unproportionate amount of tax that us, as a small business, has to pay regarding our K-12 education. And so when you look at the one sheet, the longer one that was handed out, it gives you the...it's a history of taxes and valuation by property taxes levied. And so when you look down there and you look at ag land and you look at the ten-year history--and I think this runs from 2006 to 2016--we've seen ag land increase 163 percent. And this is the taxes levied. This has nothing to do with the valuation. I've never really complained about the valuation of my ag land, I thought it's been fairly valued over the years. But this is the taxes levied, has gone up 163 percent. In my personal case, in Hamilton County, my taxes have gone up 180 percent. And so when you go across there and you look at the different ones and you can just see the different increases, you see the ag improvements have also only increased 39 percent, but residential has only been 30 percent. There's a lot of them just in that 30 percent. Railroads, I guess, you know you can see they're increased, but I think that's mostly on real property and not personal property. They also have real property, I guess. So I mean, we are by far the biggest increase all across. And that shows you basically the amount of shift that has happened in the past ten years on taxes. It has done a slow and gradual shift from residential and commercial over to ag land. And when you see those numbers, it kind of sticks out. And that is the part that I'm trying to get at is, when we talk about fixing the property tax

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situation, it's the shift that I would like to see shifted back to where it belongs. And we can talk about the three-legged stool or something, but I don't really...I don't even want to get into that. Senator Smith has the three-legged stool. But it still, it points out that what has happened has been a gradual, slow shift, because of the increase in the ag land values. And \$8 corn, I will say, has done us more damage in our industry than good. If we would have seen an increase from our \$3 to that \$5 to \$6 range, we wouldn't have seen near the increase in land prices. And so, to me, I will say that most farmers did not get to take much advantage of \$8 corn, but they're paying the price now. Ag land prices shot up. The values shifted. Residential and commercial stayed flat during that time, because the U.S. as a whole was going through a depression or at least some tough times. And so it was hard for us to come in and complain at the time, because we were making money. And so the next sheet that I handed out shows a little bit about the complaint that we've heard in talking to my urban counterparts and things like that about how...I've heard the phrase numerous times that we farmers don't pay taxes. And so what I've done here is I've pulled out some information from...you know, you have Hall, Hamilton, Lancaster, Merrick, and Nance Counties. And I used those just because I'm more familiar with that area. So I'm just going to talk about Hamilton County. So if you look at that, it's the second one down. I used the numbers from 2004 and 2014, which are available from the Department of Revenue. But you can look across there and see the number of returns. So in 2004, we had 3,765 tax returns filed, federal tax returns. And there were, of those, 289 were filed as a farm and ranch on the federal level. And so you can go across there and see the federal adjusted gross income and you can see the Nebraska income after the tax rebates and then you can see the number of returns before any credits and then you can see the liability per return. And in 2004, the average per capita tax return was \$1,700.67. And then if you look at the farm and ranch, they were at \$3,023.37. So if you jump down to 2014, you can tell that the county has grown a little bit. We jumped from 3,700 returns to 4,260 returns. And then obviously, the federal adjusted gross income took a pretty good--you might call it--a pretty good hit. So you'll go across that line and you look at the number of returns again and the liability per return and you'll see that we're paying out \$2,900 on just across the countywide. But as a farm and ranch return, the tax paid was \$7,800 on a per return filed. And if you go a little bit across there...and I had a little difficulty here. When you looked at the 2016 property taxes--and it's the second to the last column--and there's a counties at a glance book that was just put out by the Legislative Research Office recently and this is where I got these numbers. But it's hard to come up with a per capita property by return, so I don't put much stock in that number on the number of total returns, which would be 28,220 returns that show \$3,632 of property tax per capita, basically, or per return. But when you look at the farm and ranch returns and divide those out, it's \$82,000 per return. And if you take the average size of a farm in Nebraska, that's about 950 to 1,000 acres, you can divide it out and when we're paying \$80 to \$100 a acre, that comes out to about \$80,000. So us, as a small business now, are saddled with paying \$80,000 to...\$80,000 on up in property taxes when at the time our income taxes liability is dropping. Our revenue projected to come in is going to be 50 percent less than what it was just a few years back. And so we're struggling. And right now we have property taxes in that

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I've heard ranges clear up into the \$130 an acre when you get close to some of these areas close to Omaha or Lincoln. And so if you're using even \$100 an acre, which I'll use the York Public School District, is \$100, I'm anywhere from \$65 to \$75 in my area. But at \$100 per acre, that is the second highest cost in putting in a whole crop. If you're raising corn, seed corn will cost you more and next in line is property taxes. And so I'm looking for ways to help reduce that burden on our number one business in this state. And this is the reason I guess for this bill. It really does target agricultural land. It's very specific. And because of what it does in the TEEOSA formula, it obviously brings in more state aid. I just did it because...I mean, for school purposes, because I've never complained about my county levies for taxes. I feel that the services I receive for the taxes I pay are fair and equitable. I don't complain about my NRD taxes. I think they manage a lot of acres and they're managing those acres that I farm. And so I think so far, I've never...there's a few people that complain about it, but when you look at what they do for the services I receive, that tax also is fair and equitable. And I recently...I remember a couple years ago, OpenSky had a seminar here and the speaker was talking about the pros and cons of property taxes. And one of the statements that I remember him making was that property taxes should be levied commensurate to the services received for that property. And so from that standpoint, I will say that I can say agricultural land I think maybe should be taxed at 30 percent of its value when it comes to education versus 100 percent. So with that, I will answer any questions you may have. [LB266]

SENATOR SMITH: Thank you, Senator Friesen, for your opening on LB266. Do we have a question from the committee? Senator Groene. [LB266]

SENATOR GROENE: You forgot to mention your A bill. Did you? [LB266]

SENATOR FRIESEN: I talked about it. I liked my first one, it came in at zero. My second one didn't do so well. But I was surprised. I would have liked to have used the first one, because an A bill this year is kind of tough to come across. [LB266]

SENATOR GROENE: That makes a good point though, doesn't it? [LB266]

SENATOR FRIESEN: It does. [LB266]

SENATOR GROENE: About how we've had a shift to agriculture on funding our schools. [LB266]

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SENATOR FRIESEN: If I remember my numbers right, I looked...in 2014 I looked. Because of the rise in ag land valuation, we saved the state \$133 million because TEEOSA didn't require that much. It was put on the backs of farmers. [LB266]

SENATOR GROENE: Thank you. [LB266]

SENATOR SMITH: All right. I see no further questions. Thank you, Senator Friesen. We move to proponents of LB266, proponents. Welcome, Mr. Hansen. [LB266]

JOHN HANSEN: (Exhibit 3) Mr. Chairman, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, I am the president of Nebraska Farmers Union. Thank you for the opportunity to appear before you today. As per the suggestion from Senator Harr last week, I did put together some numbers. And I thought these would be background numbers to try to help kind of point out the amount of dollars that we're working with in agriculture as we put in a crop and kind of where we're at. The first sheet that you have is the Nebraska corn price averages. And as you can see, it goes back to 1975-76. I would point out that in my farming career, I sold all of my corn when I started farming in 1973 for \$3.30 a bushel and that the price in my local elevator is \$3.33 a bushel today. So when you look at, in terms of purchasing dollars, you can see what a dramatic impact that's been. So you can also see that in marketing and production years for '10-11, '11-12, '12-13, you can see these big spikes. So when you have this kind of volatility in spikes, if you're a marketer and you're trying to figure out what you're doing, this puts a lot of fear into a marketer and you become defensive because you see this wild volatility. And so if you look at where the folks actually pulled the trigger in a lot of these things, a lot of folks sold an awful lot of crop defensively, because they were afraid of the kind of volatility that they had just seen happen and they knew that they couldn't afford to be in that red area. So a lot of stuff didn't get sold in the top fourth of the market. And the second, on the backside, is the production, which is helpful to look at Nebraska. You can see we're doing a darn good job of growing lots of corn. We're not doing such a good job of marketing it, but we're doing a really good job of producing it, so our yields continue to go up. That includes a lot more irrigated acres. As you put in the mix and as you put irrigated acres in the mix you also incur capital costs and operating costs, so it costs a lot more money I have noticed to produce an acre of corn. The next page, I tried to get some kind of a snapshot on soybean prices. So on your left-hand...upper left-hand side of that sheet, it goes back to 2006-07 so you could look at the price per bushel. It starts at \$6.43, it goes to \$10.10. You can see some of the...at \$12, \$13, \$14.40 a bushel, \$13. So as we were last year, we were \$8.95, we're now in the \$9 area for '16-17. So again, we are a capital intensive, high risk, low margin business. So when you look at these kinds of spreads, these kinds of differences in prices and margins are more than the margin we have to operate on. So these are not...we're not moving the needle back and forth in the green area, we're moving it back and forth in the difference between whether you're paying your bills or whether you're not. The next page is wheat and the price of wheat. And as you kind of look across the

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bottom, going from '10-11 through '16 and '17, the wheat guys are in a world of hurt and those prices are down to levels that are below the cost of corn in some cases, which a lot of us have never seen. And then the next three sheets are...I thought it would be just kind of helpful to get an idea for the folks who participate in the Nebraska Farm Business Association program. And so there's three different crops. And this for folks who are cash renters. When I was farming I used to participate in this bookkeeping program, so I knew my cost of production for every crop at every field I had. And so this is the kind of data that you yield. So when you look at soybeans you can see what the different inputs are and you can also see that as you look at the direct costs--about halfway down the page--and then when you look...when you put in the overhead, the rest of the insurance, the taxes, the other things that...not taxes, but farm insurance, interest, the other kind of overhead things, the cost of being in business, you get to \$583 an acre in total costs. And you can see that the net return over labor and management was a minus \$100.90 an acre. So in the case of corn on the next page, a total cost per acre of \$653.30 and the net return over labor and management for 2015--these are all 2015--was a minus \$110.68. And wheat, the poor wheat guys, they had a total of \$401 an acre and they lost \$191.96. So the cost of production from '15 to '16 did not change, but market prices went down substantially, as you can see in the data that I provided for each of those crops. So I just thought those background things would be helpful and we're all about...Senator Friesen, thank you for considering anything and everything, including the kitchen sink to try to look for ways to try to deal with this price and income volatility that we have, which is in direct conflict with the certainty of ever-increasing property taxes. With that, I'll end my remarks and be glad to answer any questions if I could. [LB266]

SENATOR SMITH: Thank you, Mr. Hansen. I see no questions from the committee. Thank you. [LB266]

JOHN HANSEN: Thank you and I hope this background information was somewhat helpful. [LB266]

SENATOR SMITH: Next proponent of LB266. Welcome. [LB266]

MERLYN NIELSEN: Thank you. My name is Merlyn Nielsen, M-e-r-l-y-n N-i-e-l-s-e-n, I'm from Seward, Nebraska. Thank you to Chairman Smith and the committee members. And thank you to Senator Friesen for introducing this legislation. I feel I'm a bit of a really aggressive student on understanding property taxes, because my wife, my two children, and myself own six properties in five different counties across this beautiful state. And the variety and complexities of trying to understand property taxes in all of those locations are quite challenging. I keep asking myself, what is fair? That's the word I just keep sticking in my mind. What's fair? And for our agricultural land that's bare and has no buildings on it, to pay for our county roads, to pay for

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our NRD services and a variety of law protection, etcetera, there's a variety of things that make perfect sense to me to value it and pay for that, as Senator Friesen said about commensurate with the expected returns on that. When I come to education, that's where I struggle to see why I should pay such a large amount of tax. Therefore, valuing lower as LB266 is presented, would make sense. There's very little labor input from an agricultural side, as compared to the amount of time that we as humans spend in our homes, working on our farm sites, which are valued high or at full value, as well as in our commercial businesses. But out on the bare ag land there's not a lot of human time invested there. I think of myself. I happen to also hold a Ph.D. degree. I've never been taxed on that Ph.D. degree, and it's property, very precious property for the 41 years that I was a faculty member on the campus just north of here. I also think of my wife is fortunate enough to have a few stocks, I don't, but to look at the...there's no tax on that property. And boy, it relates to humans and development of our educational systems to address those. So I keep coming back to, is it fair to tax our bare agricultural land at the levels that we have been doing to support education? I'm a strong supporter of education and supporting of wealth. I just think the taxing structure that we have on that right now depends way, way too much on bare agricultural land. I want to give you an example. And I did not bring 11 sheets of paper to circulate to all the members, as requested by our Chair. I have property in...my family and I have property in Blaine County out in the Sandhills; beautiful area. And to run a cow-calf pair on that property for a summer grazing season costs us about \$60 per pair in property taxes. Down near Seward, where I live, I do run cows. I did chores this morning. And to run the cattle there it takes many less acres, but it's valued much greater and we have a different mill levy there, about 1.5 difference in mill levy compared to Blaine County. So it costs me right at \$90 per cow-calf pair per year. Ninety dollars as a production cost, and Mr. Hansen was giving you production costs as well. I've got a really good buddy that owns land northeast of Wichita, about 40 miles northeast of Wichita. And he's got grass down there, \$5 a year. Five dollars a year is the property tax on a cow-calf pair in his location. So we're at \$90 where I'm at, at Seward compared to \$5 down in Kansas. At times, I've been labeled a dreamer. We've got to dream our way out of this. We've got way too much liability facing us all the time in paying too much property tax to fund things that could be covered in another more fair way. I certainly appreciate the time today of all the committee members and I appreciate this bill coming forward from Senator Friesen. [LB266]

SENATOR SMITH: Thank you, Mr. Nielsen, for your testimony. I see no questions. Thank you. Next proponent of LB266. Welcome. [LB266]

DENNIS RICHTERS: My name is Dennis Richters, live in Utica, Nebraska, farm in Seward County. My son farms in York and Seward County, three different school districts. [LB266]

SENATOR SMITH: Mr. Richters, can you spell that name for us? [LB266]

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DENNIS RICHTERS: I think I can, yet. I'm pretty old. D-e-n-n-i-s R-i-c-h-t-e-r-s. [LB266]

SENATOR SMITH: Thank you. [LB266]

DENNIS RICHTERS: Appreciate all the time you spend and your belief in the Unicameral and it's a sweetheart of Nebraska. But there are over half come from Lincoln to Omaha. They come from Waverly and Elkhorn and Gretna, Lincoln, Omaha. And I've been quiet for a long time. I don't know if I can make you angry enough in five minutes, but I'm going to give it a shot. This thing, my land tax goes from \$28 to \$38, \$58, \$78, \$98 an acre. And the Unicameral has done nothing. And I assume your staff knows that or somebody does or my senators do. And what I'm flat going to tell you is, there's two people on your committee that are associated with agriculture and they're paying more than you do and I'm paying more than you do. My son farms 1,100 acres, three different school districts, and different tax in every one, because how many acres you have relative to your students, which tells you it's an archaic, ridiculous way to fund schools. He probably pays \$100,000. Do you know of any attorneys that would last at \$100,000 a year, just say this is to be an attorney? You would leave. What are you doing to the cattlemen at \$90 per unit to \$5? I'll read you...this...I looked up what you said on the Governor's income tax bill. Make the state more competitive and attractive to new businesses and residents, allowing us to grow our tax base and economy. And yet, when you're paying \$90 compared to \$5 you're saying, get the heck out of Nebraska! This is what you're doing to ag. What business...what attorney's business, what grocery store, car maintenance, what business can survive \$100,000 a year for three, four, for five years? My Governor is offering 2 percent, starting 2019. Our taxes have gone up over 170 (percent) in the last few years. Mine's going up 16 percent a year. So what is 2 percent? I'm saying there's going to be a blood bath out there and I honestly don't believe my Unicameral is going to do anything about it. And I'll tell you, you will have to raise other taxes. There's \$1.588 (billion), just about \$1.589 billion paid by ag in real estate. That's beyond paying their house tax. There's sales taxes, we all do. Our tax on our businesses, as we should pay. Income tax, same rules. And all of a sudden here's \$1.589 billion that about 4 percent pay that none of you do. And how long are you going to do that? I hear farmers whine. Somebody asked Harry Truman at a rally, said, give 'em hell, Harry. Harry says, no, tell them the truth and they think it's hell. And I'm probably telling you the truth. I'm probably going to make everybody else look good, but if I don't have anger or questions, we're taking 45 percent that we did three or four years ago. That happens. We deal with that. We've done that since before forever. We're great producers. You just sometime, you say, okay, now next year I'll probably pay \$110,000. People talk about schools spending money, York doesn't. Seward doesn't. They're going up maybe 2 percent a year and we tell them to keep doing more with that. If they could cut 10 percent, that's amazing, that would be impossible. That would mean instead of paying \$100,000 more, my son could be get by with paying \$90,000 more. You get somebody move out from York or Seward or anywhere--I call them pilgrims, don't mean anything bad--they move say next to my son. You got the same road, same school, same police-fire protection, everything is the same. He pays

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\$100,000 more than them. How long are you going to do this? So, again, I appreciate you guys. One of the things I remember figured out my folks, they needed to have 40.5 kids to get their share of education by what they paid in taxes. They had a brother, I had a brother, that's one. They had me, that's a half. They're still 40 short. [LB266]

SENATOR SMITH: Thank you, Mr. Richters. Do we have questions for Mr. Richters? I see none. Thank you for your testimony. Next proponent of LB266. Welcome. [LB266]

DOUG NIENHUESER: Thank you, Senator Smith, members of the Revenue Committee. My name is Doug Nienhueser from York, Nebraska. That's spelled D-o-u-g N-i-e-n-h-u-e-s-e-r. I am an ag producer from York. My property taxes are \$106 an acre. That is one of my top costs. That's right comparable with seed. It has nothing to do with how productive I am. Seed at that price, I can pick different seeds and maybe increase my production. But property tax is paid regardless of whether I make a profit or not, so we're in serious trouble out there and we need help. And we'd like all of you to listen to us. And we're thankful for Senator Friesen to introduce a bill here that could offer us some relief along those lines. We're beginning to feel out there that it seems as if the state doesn't care about its number one industry that's helped found this state. We need some help and we'd like you all to listen and to offer some help to us. Another example I got here is, all state residential property, which includes ag dwellings and the site land they sit on, is subject to property taxes. We all get a vote to represent this tax. Then ag land owners, which is only 3 percent of the population, pays for 30.73 percent of the state's property tax revenue. We get no vote to represent that tax at all. We're voting down there with all the residents where our houses is, the same as any other person or landowner out there who would own land in a different school district or a different county, he gets no vote to represent how that money is spent. So we need to fix our taxing system. I assume it's gotten this way because 150 years ago nobody traveled 20 miles down the road to farm a piece of property. Your property was all right close and you were probably in the same county in the same school district. Our system of taxing ag land has not kept up with the times and we need to do something to fix it and make it right. I'm not against schools at all. I'm totally for schools. I've got nine grandkids and they'll all be going to school in this state. But we need to help fund schools also that all of these kids, clear across the whole state, has the same opportunities to the same education as everybody else. That's about all I have. I would entertain any questions. [LB266]

SENATOR SMITH: Thank you, Nienhueser (phonetically). [LB266]

DOUG NIENHUESER: Nienhueser, yes. [LB266]

SENATOR SMITH: Questions from the committee? Senator Groene. [LB266]

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SENATOR GROENE: My problem is this. Do you know every single tax dollar collected in this state is spent? So...and I'm on your side, but I keep hearing you guys say, well, I want the best schools. I want the best college. I want the best roads. Who's going to pay for it? Are you willing to cut spending, to consolidate schools, to pay more income taxes? What do we do? [LB266]

DOUG NIENHUESER: I'm not opposed to paying income taxes. If we make a profit, we pay the tax. I think it's one of the fairest ways to tax people is on your ability to earn income. But this property tax is just out there and we have no representation on it. [LB266]

SENATOR GROENE: Not a very good compliment to Curt. I'm just joking. I'm sympathetic. You'll hear my bill next. But, no, we've just got to start with the basics. Every dollar we collect is spent. We're fifth in the nation in support of our university system; we're 16th in the national in support of our public education. I mean, we like the Cadillacs around here. Somebody's got to pay for it. [LB266]

DOUG NIENHUESER: Well, we...I feel that this can be fixed, but we've got to have everybody have an open mind and put the good of Nebraska ahead of a lot of our own special interests and I believe this can all be done. [LB266]

SENATOR GROENE: Thank you. [LB266]

SENATOR SMITH: Thank you, Mr. Nienhueser. I see no further questions. Thanks for your testimony. [LB266]

DOUG NIENHUESER: Thank you. [LB266]

SENATOR SMITH: Next proponent of LB266. We do have some proponent. Welcome. [LB266]

ROGER MEYER: Thank you. Pleasure to be here. I'm Roger Meyer from Utica, Nebraska, R-o-g-e-r M-e-y-e-r. I grew up on a farm. I became a medical doctor. I've retired now for about 15 years. The most of my funds for retirement have been put into farmland. And I guess the thing that I see that is so unfair about this is that myself, people who have inherited farmland, or have farmland depend upon it, have used it to make their living, raised their kids on, and there is no alternative to paying except they have to pay the tax, the real estate tax that's being levied. Now, sales tax, which in my mind...Senator Groene just said, where are you going to get the money? Well, I think sales tax is a great place to find revenue. I have a choice there. If I want to go buy a new car, I know the sales tax is going to be 10 percent or whatever. It's my choice whether I buy it or not. Being a landowner I have no choice, I have to pay this tax. As someone else has said,

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bare farm ground produces no kids. And why is it being taxed to support kids in school? We have income tax, we have property tax, and we have sales tax...I mean, property tax without real estate tax. I know this sounds very foreign, but if you look outside of Nebraska, while looking into Nebraska looks awfully foreign. I was to a farmers' national meeting here a while back and a lot of these people manage farms for people who don't live on them, don't farm on them, maybe don't even live in the area. And they're consistently being told, sell this farmland in Nebraska and buy us land outside of Nebraska, and it's because of the taxes. Again, I just think this is...I guess another point is that the rebound of this is that people in agriculture, when they...if they make money, they're going to update their equipment, they're going to return it back to the communities. And just as farmers do not...and ag people do not do well, neither are the car dealers, the machinery dealers, and such as that. It's not just the farmers that aren't going to be doing well. There's a real ripple effect here. I think I've talked long enough. I would certainly entertain any questions, would love to entertain some questions. [LB266]

SENATOR SMITH: Thank you, Mr. Meyer. Questions from the committee? I see none. [LB266]

ROGER MEYER: Thank you. [LB266]

SENATOR SMITH: (Exhibits 4-6) Thank for your testimony today. Other proponents of LB266. We do have letters for the record: Dennis Fujan, from Nebraska Soybean Association; Dan Wesely, from Nebraska Corn Growers Association; and Steve Nelson, from the Nebraska Farm Bureau Federation. Those folks sent letters in for the record in support of LB266. We now move to opponents, those wishing to testify in opposition to LB266. Welcome, Ms. Fry. [LB266]

RENEE FRY: (Exhibits 7-8) Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee, my name is Renee Fry, R-e-n-e-e F-r-y, I'm the executive director of OpenSky Policy Institute. While we appreciate the intent of LB266, we have two primary concerns with this bill. One, the disparate impact on taxpayers; and two, the loss of revenue to schools that will likely lead to cuts to education or higher property taxes for many Nebraskans. While the intent of this proposal is to provide property tax relief to the agricultural community, the largest benefits would not go to the most rural parts of Nebraska, but rather to farmers and ranchers near urban areas. Furthermore, residents and businesses are likely to see property tax increases in much of the state. LB266 would reduce property tax revenue by as much as 52 percent in some school districts and these school districts would likely increase their property tax levies as much as they can to make up the lost revenue or make devastating cuts. The lost property tax revenue from farmers and ranchers near urban areas can be shifted to businesses and residential property owners in those areas. However, such tax shifts cannot occur to the same extent in the more rural areas where there are not as many businesses and residential property owners. This means these communities with significant amounts of agricultural land must make

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up the lost revenue through major levy increases. This would wipe out much of the tax cut from lowering valuations for farmers and ranchers and raise taxes significantly for all other property owners. You will see here on the chart that's being handed out, a closer look at Lincoln County that illustrates a variable impact to agricultural landowners, residents, and businesses within a single county. Our second concern is loss of revenue for schools. If fully implemented in FY '17, LB266 would result in a \$476.8 million shortfall for public school districts. The TEEOSA formula, would call for an increase in state aid to schools. However, this would have offset less than half of the lost revenue. Given the projected \$1.2 billion shortfall through FY '21 and that the TEEOSA formula is not being fully funded in the Governor's budget proposal, the state aid support is far from assured for school districts. Even if the additional state aid were funded, the increase in state aid would lag behind the loss of taxable valuation for the three years it takes to get to full implementation. This is because state aid certification uses property valuation from a year prior. So while districts will get state aid based on agricultural valuation at 75 percent of market for FY '19, they will only be able to tax at 50 percent. A lag will occur during these three years until full implementation. Furthermore, the increase in state aid would only benefit schools that receive equalization aid. When fully implemented, 56 districts would not be equalized. If this bill had been in place and fully implemented in FY '17 and the state aid increase had been funded, school district property tax levies would have had to increase an average of 15.5 cents to avoid service cuts. However, 67 districts would have been unable to make themselves whole, losing a total of \$24.8 million unless they had obtained an override. If the state had not funded an increase in state aid, levies across the state would have had to increase an average of 28.2 cents, including 59.9 cents in the most agricultural parts of the state. And at least 185 school districts would have been unable to make themselves whole, losing a total of \$191 million without an override to their levy limits. As a final observation, this proposal would narrow the "disparative" property tax levies among agricultural landowners, since agricultural landowners that are adjacent to urban areas tend to have higher levies than those in highly rural areas. However, you could also accomplish this by reducing the value of agricultural land in the TEEOSA formula, as was proposed in LB144, Senator Friesen's bill last week in the Education Committee. If the state aid increase is funded, significant property tax relief could be achieved without the negative impact to K-12 education. Of course, the fiscal note on LB144 was even more than the fiscal note on this one. So thank you for your time. I would be happy to answer questions. [LB266]

SENATOR SMITH: Ms. Fry, I do have just a quick question for you here. In your testimony, in what you handed out to us, you reference that when fully implemented this would result in a \$477 million shortfall. How do you arrive at that number in light of the fiscal note that we have in front of us? [LB266]

RENEE FRY: So that would be the shortfall for schools. That's equalized and nonequalized if fully implemented in FY '17. And so the difference in the fiscal note that you have, this would be

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for equalized and nonequalized districts, so the fiscal note that you have would only be the state aid that is replacing some of the loss of equalization aid. That's why the difference. [LB266]

SENATOR SMITH: Okay. [LB266]

RENEE FRY: And then there's also the lag period, as well. So this is looking at if implemented in FY '17. [LB266]

SENATOR SMITH: All right. [LB266]

RENEE FRY: But the big difference is the state aid is not replacing all lost revenue for schools. That's the big difference. Does that make sense? [LB266]

SENATOR SMITH: Yes. Thank you. I see no further questions. [LB266]

RENEE FRY: Thank you. [LB266]

SENATOR SMITH: Thank you for your testimony. Next opponent of LB266. [LB266]

LARRY DIX: Good afternoon, Senator Smith, members of the committee, my name is Larry Dix, L-a-r-r-y D-i-x, I'm executive director of Nebraska Association of County Officials, appearing today in opposition to LB266. I certainly want to thank Senator Friesen for bringing this forward. I think it always gets us thinking about some of the possibilities. And I would tell you, our opposition comes really only in the technical implementation portion of it. As it noted in the fiscal note, one of the things that we believe that we would have to do is a rather significant software change in the fact that for every parcel we would have to begin carrying multiple values. And in order to present that as a tax statement, that tax statement is going to have to look drastically different than what it does today. There's going to be some reprogramming there to the tune of we may have to either present two individual tax statements or we may have to really expand that almost to a page per tax statement. The other area that is a concern that some of the county board members had expressed is, once we go through the protest process and now we have a taxpayer that actually has two differing values. They've got a value that they have for the political subdivisions with the exception of schools and then they have a value for the school districts. And so when they come in front of the county board, we may see some people saying, well--just like we've heard before in testifying, we've heard people say, I don't mind paying the property taxes for my county roads and some of these things. And we feel that we very well are going to have folks come up and protest and say, well, this value over here is fine, but this value over here is the one I'm protesting. And of course there's no way to resolve

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that particular protest. So we believe that's going to be a little bit confusing in that process. So that's really where our opposition lies to the bill, just some of those things. The software changes, I think the bill has an effective January 2018 date. That might be a challenge meeting that requirement. So with that, I'd be happy to answer any questions. [LB266]

SENATOR SMITH: So, Mr. Dix, the reason that...other than the implementation challenges that you don't have a problem with this is because this does not affect the budget of the counties? [LB266]

LARRY DIX: Right. This, as I read this, counties, NRDs, cities, ESUs, community colleges, ag societies, their tax base remains the same. Education, as it says, school district, which I assume means only school district, not the ESUs or anybody like that, their valuation will decrease for tax purposes. [LB266]

SENATOR SMITH: (Exhibit 9) Thank you, Mr. Dix, for your testimony. Next opponent of LB266. Any additional opponents? We do have a letter for the record in opposition to LB266 that was sent in from Diane Battiato, representing the Douglas County Assessor and Register of Deeds office. We now move to those wishing to testify in a neutral capacity, neutral. [LB266]

JAREL VINDUSKA: Senator Smith, Jarel Vinduska again, and the committee. J-a-r-e-l V-i-n-d-u-s-k-a. I'll keep it short. I wasn't going to testify on this because I thought it was obvious to everybody by now that we're in an emergency situation with property tax. But after hearing Ms. Fry's presentation, I thought I had to make a short comment. She says we'd have to raise mill levies to make our school district whole again. And what I don't understand about that statement is, what happened to the windfall when valuations went up two, three, four or more times for an acre of ag land, that created a tremendous windfall for the school districts. And so where is the assumption that we can't go back to the amount of revenue that the school districts had before that rapid increase in valuation? And so that's basically what I've got to say, but reiterate what our previous testifier said. You know, the reliance on property tax is what the problem is. I realize a two-legged stool can be wobbly sometimes, but really we should be only using the two legs, income and sales tax, because they have some reference to the ability to pay and property tax doesn't. So that's the focus we need to get on, but any legislation that works toward alleviating the emergency situation we're in, that can be appreciated also. But thanks. [LB266]

SENATOR SMITH: Thank you for the follow-up. Questions from the committee? I see none. Thank you. Anyone else remaining in the neutral capacity? Seeing none, we invite Senator Friesen back to close on LB266. [LB266]

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SENATOR FRIESEN: Thank you, Chairman Smith and members of the Revenue Committee. I was sitting back there listening. And so I'm willing to help the counties out by taking the value down to zero, if that would make any difference. We could make it simpler. Senator Groene, when you talk about spending, I agree we have to look at spending. But, again, just like it was said just a moment ago, when we were having these windfalls we weren't talking about spending then. I'm talking about fixing the shift that we've had. If we want to talk about efficiencies or cutting spending or holding down spending, let's have that discussion. But first, I would love to see the shift go back to where it was a few years ago before \$8 corn did its damage. The problem in our business, as a small businessman, is that we are dependent upon lots of acres of land. And it's real property that is taxed. It's not based on its ability to produce or anything else, because year in and year out we don't know what that production will be. We are price takers, not price makers and we are now working in a world market where we don't have the control that normally we would. And so at the amount of dollars that we're talking here and a young farmer trying to start out in these last four, five, six years now, it is make or break for these young guys to keep going. And a good example I would like to use is if Warren Buffett picked up his house and moved it out to Hamilton County next to me, how much would he contribute to the education of our students in property taxes? He would pay probably the same value as I'm paying on my house. But on top of that, I'm expected as an average-sized farmer to spend another \$80,000 above and beyond what he spends to educate the children of that school district and that's not fair. And so until we fund K-12 in a different way, we're going to continue to fight the battle, I guess. So I'm open to suggestions. I've thrown lots of ideas out. But until we recognize that we are permanently damaging our number one business, we have to come up with some sort of solution to this. Thank you. [LB266]

SENATOR SMITH: Thank you, Senator Friesen, for your closing on LB266. Questions for Senator Friesen? I see none. And that closes our hearing on LB266. And we now move to the last bill to be heard for the day, LB640, to be introduced by Senator Groene. And it relates to changing provisions of the Property Tax Credit Act and providing the school district property tax relief. Welcome, Senator Groene. [LB266 LB640]

SENATOR GROENE: (Exhibits 1, 2, 3, and 4) Thank you, Chairman Smith and members of the Revenue Committee. I've been working on this for a long time and the last three years came on ideals on valuations, came on ideals on spending, mill levies. Finally, I figured out fixing a variable in an equation doesn't do it; you have to fix the answer and that's what my attempt on LB640 is. The Tax Equity and Educational Opportunities Support Act, TEEOSA, dictates that local property taxes come first in the equation on how we pay for public schools. It does not take into consideration the ability of a community to pay those taxes. Property tax make up 48 percent of major tax collected in the state. The heaviest burden of property taxes statewide is levied by school districts. Per the 2016 Department of Revenue report, 60 percent is levied to the schools statewide. LB640 will put tax equity back into the TEEOSA formula. LB640 has three

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major components: The total revenue portion generated from the property tax is capped. The property tax portion of total general fund revenue is capped at 60 percent for a school district. The difference between 60 percent and the present property tax collected is recaptured by two means. Seventy-five percent of the difference will be funded by the state. All or part of the additional 25 percent of the difference may be made up by the local district through property taxes with a supermajority vote of the school board after a public hearing. LB640 will affect 159 unequalized districts and 26 districts that receive minimal equalization. LB640, number two, provides property tax relief for citizens in equalized districts by lowering the maximum levy from \$1.05 to \$1.00. By doing so, property taxes will be offset by the property tax relief aid. Number three, funding for LB640 will come with a transfer from the Property Tax Credit Cash Fund by requiring that the first money into the fund will be the first money out to the Tax Equity and Educational Opportunities Fund, which is TEEOSA, to pay for the school district's property tax relief aid to local systems. If the balance in the Property Tax Credit Fund is less than the calculation for the school district property tax relief aid, the individual school district aid will be reduced proportionately. The Department of Education will work with the Department of Revenue on the necessary process and calculations necessary to carry out the provisions of the bill. LB640 will give long-range tax equity in school funding. It eliminates the effect of the valuation inflation. Who cares if the valuation goes up if we cap the answer, the mill levy has to go down. It puts local control into local school funding by making local school boards justify any additional property tax asking to fill the gap above the 75 percent factor. It will also eliminate some of the shielding effect that the Property Tax Credit Fund gives local government entities for spending increases. We give them \$10 a credit, all the local entities can raise their spending by \$9 and claim we had lower property taxes. But spending keeps going up because we put a Band-Aid over it. I handed out four handouts. Number one is a spreadsheet, that's a draft, it's just a model of what would happen to every school district in the state. The columns to look at are number 7, the Total Resources, which is a combination of income tax rebate, other receipts which is \$5 we pay at the basketball game, speeding tickets, property taxes, and present state aid. But we're saying that at only 60 percent of that can come local property taxes. Number 8, School District Property Tax Relief Aid--there are three districts...right now, there are 175 districts getting no state aid, equalized aid. There will still be three that do not and that is because they're next to larger communities and they get huge amounts of option enrollment; that is considered state aid. Option enrollment for kids that transfer in is considered state aid, so they do get state aid. Column number 12, tells you what difference from standard...the TEEOSA formula as is and the difference is how much money each school district would get if state aid than before. For example, Kenesaw would get \$624,000 they never got before; Adam Central would get \$1.83 million; give example after example. Chase County would be getting \$753,000 more than they got before. But that is directly offset by property tax relief because we capped and answered it would have to be 60 percent. That's exhibit number...well, I wanted to also tell you, if it went into effect this year, the cost would be \$160,400,000. A hundred and two of that thousand of that would be the 60 percent cap. The second \$58 million would be lowering the local effort rate

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from...well, the total max levy from \$1.05 to \$1.00. What that does, of course, is give everybody property tax relief--the farmers that are in equalized districts; the homeowner in Omaha, Lincoln, Columbus, Norfolk, North Platte would get property tax relief because we lowered the max levy. So it's \$160 million. The present expected Property Tax Credit Fund is expected to be...the Governor asked for \$220 million. So the first \$160 (million) would go directly to the property...the school district property tax aid. So we'd still have \$60 million that was distributed the regular way, how the Property Tax Credit Fund is now. So everybody would get a little more property tax credit. To be honest, a larger percentage goes to agriculture, which it should. And the other thing it does is...folks, the Property Tax Credit Fund isn't assured. It could disappear when we get...it's going to be the big target when the forecasting board comes out in February and April and they lower it further. This puts it to salaries; it goes directly to an expense that it needs to be paid instead of just sitting there like a ripe plum to be plucked. If we went to 97 cents, as Education Chair, we might have to...if we have to go to LER and raise it 2 to 3 cents, let's say we raised it 2 cents to make the TEEOSA formula match what the Appropriations Committee is going to give us, if we went to 2 cents up, the total cost of the bill would be \$936 million, not \$160 (million). But ag would still get their \$102 (million). It would be in equalized districts because the LER, the local effort rate does not affect 175 schools that get no state aid, no equalization aid. But that's to number...handout number 2 shows you...let me rephrase this. These numbers...you want to be Education Chair, you learn about TEEOSA. When it says...on handout number one, when it says "yield from local effort rate", that's how much it would raise at the 95 cents if we changed it. That's how much a local school district could raise. Handout number two says property tax; that's the actual property taxes they levy. In a lot of cases it's a lot less because the levy is less than not equalized or it's a lot more because the local effort rate is at...well, right now it's at \$1.00, but they can levy up to \$1.08. But this second line on one is what is at a dollar...or at 95 cents. Handout number two, we can sit down over a cup of coffee and go over this, or if anybody wants to come to my office, we can get you a copy of these spreadsheets. Column number two is the interesting one. That is, right now, what every school district is paying, what percentage is property taxes. Kenesaw, who I gave the example, the reason I used Kenesaw--they're on the top of the list of District 10003. It's 79 percent of the people there fund their school with property...79 percent of the funding for their local school comes from property tax. You know, federal money is involved; special education money is involved; local speeding tickets makes up the other 21 percent. Nobody is at 100 percent property tax; they can't be. Hastings is on the other end of it at 24 percent. They're land locked. Adams is 73 percent. Here's one at 80 percent--East Butler Public Schools is 80 percent. Wauneta-Palisade, my area, and Dan Hughes' is 81 percent. But that second one tells you what percent every school district is funding their local education by property taxes. Handout number three is just the colored one; shows you why these farmers are upset, why a lot of people are upset in Nebraska about property taxes. In 2016, out of \$3.2 billion in total funding for our schools, only \$950 million of it came from state aid; \$2.3 billion came from property taxes. Most states, that number is flip-flopped. We are 49th in the nation how we fund our schools with state

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aid. We're 17th, I misquoted, there's 16 above us, we're 17th in the nation of how we...a per capita what we spend...not per capita, but per student spending on education--17th. There's not a taxpayer in this state has to apologize for what we've done for public education. The problem is we don't put it on the property taxpayer. Handout number four is an amendment that we need to make. We didn't clarify that if the Property Tax Credit Fund can't fund the \$160 million, or whatever the number comes from, if there's only \$100 million in there, that the local school district can automatically raise their mill levy to recapture to that 60 percent. And we also...the amendment also states that the way the legislation reads now, that's all or nothing. If the school board wants that other 25 percent...quick example--if you got \$10 million of local revenues and you're at 80 percent property tax, so you're \$8 million, 60 percent of \$10 million is \$6 million, there's a \$2 million different. Seventy-five percent of that will come from the state, which will be a million and a half. There's \$500,000 sitting out there that we're going to make...we're going to give local control and we're going to try to control spending that the local school board has to tell the people we need that extra \$500,000 or all...we're changing it from "all" to "all or part." So if a school board negotiates, gets the supermajority, some farmers are about ready to have a farm sale and they're on the school board can say I'm not willing to do that. I would give you \$200,000 of it, but not \$500,000. And then you get your supermajority. That's called local control. That doesn't affect the big school districts; they're all equalized. So the 60 percent does not affect them. But we wanted to give everybody property tax relief so we lowered the LER from \$1.00 to 95 cents. But that covers that. Oh, something on that spreadsheet, before you jump at me, Senator Harr, we have an aberration on the schools from the Learning Community because we're in that process of changing right now. And right now without doing this, you guys are going to have a huge shift--Westside, Millard, all of those, West Douglas, will have a huge shift property tax from state aid because before all your property taxes went into the Learning Community and then the state aid was...so there's an aberration there that the model can't account for right now because we're comparing from the old...because we're not into the new...we're a year behind, it doesn't happen until next year funding that the Learning Community goes away...or it's two years behind. So before you jump on me...but we will try to figure that out as we go what happens at those Learning Community schools. But nobody, nobody has a minus; everybody gets more state aid in this of some type. Everybody...in which automatically concentrates into...well, except for three districts. But then they're small districts where they sit right next to a larger school district and they're getting a lot of option students. Otherwise, that's what we're trying to do. We're finally trying...what I see of this is we would finally, finally...everybody would get state aid. We put tax equity back into the TEEOSA formula, Tax Equity Educational Opportunities Support Act. If the valuation of farm ground went up and education by \$3,000 an acre, it would make no difference to an unequalized farm district, which is 175 of them, because we cap how much property taxes can fund their school. The local school district would have to lower their mill levy. It would take that factor out of the equation. One thing I wanted to clarify, if some of the folks are coming up here and testifying against it, based on the first spreadsheet that was floated around, there was a big error in that spreadsheet. The

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assumption was that there was no growth, that the 2.5 percent a year growth in the formula would not be there because of the budget crises we had. That is not the case. We have not decided on that. And that probably will not happen, so that spreadsheet has a lot of errors in it. It showed some districts having minus state aid from what they've gotten; that is not the case anymore. But it does that and it puts some accountability back in to fund local control, how much they really want to spend on their school by giving them only 75 percent of the difference that would drive down property taxes on the unequalized districts immediately. It would drive down some of the property tax pressure on everybody in the equalized districts also. That ends it. If you have a question...oh excuse me, Chairman. I'm done. [LB640]

SENATOR SMITH: All right. Questions for Senator Groene? Just a real quick question for you. So your plan is at 60 percent. Would you anticipate ratcheting that down in later years and then continuing to try to deliver it through the same mechanism? [LB640]

SENATOR GROENE: Two things can happen. We got it in place. Somebody does raise property...sales taxes, we've got the mechanism in place, we start going from 60 to 55, 50, that's how we bring more money into the...the state has more money, that's how we can bring more money automatically into TEEOSA. Number two, the reason I'm using the Property Tax Credit Fund is because I thought I was smarter than Curt Friesen. I know we can't have an A bill this year. The property tax...I'm just kidding Curt, but we can't have an A bill. The Property Tax Credit Fund does not show up in our budget. It is a transfer into that fund. And number two, I'm protecting that fund. That fund is not protected now. If we have to have the children and the schools behind us that we need that money in that credit fund to fund this LB640, we have a lot better chance protecting that money in that fund. [LB640]

SENATOR SMITH: So that funding mechanism it's your intent to jump start this with the Property Tax Credit Relief Fund, or a portion of that. [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR SMITH: And then in later years, continue to ratchet and with increased revenues or ability to spend on education through the state. [LB640]

SENATOR GROENE: We've got the formula in place. [LB640]

SENATOR SMITH: All right. [LB640]

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SENATOR GROENE: Now this does not touch needs. This is not...there's two sides of that formula; there's the needs formula in this and the funding formula. We're only addressing how the needs are paid for. It does not affect the needs side of the formula. [LB640]

SENATOR SMITH: And then the other question I had, I think you addressed them, I'm just not certain I understood it. But you...all of the Omaha metro area schools, like my school district, the OPS and such, so the numbers in here are not accurate in this large spreadsheet or they're (inaudible). [LB640]

SENATOR GROENE: On the Learning Community because of the flux. We've gone from all of the Learning Community getting 95 cents of the...and then split up equally and then everybody getting state aid and they split the state aid up. Now each one of those individual school districts, next year...now Bryce Wilson, Director of Finance, is here and I asked him to correct me on my exaggerations; he's going to testify in neutral. He can clarify or he can answer your questions better. [LB640]

SENATOR SMITH: And then in the subsequent years after that, unless the school districts were able to make up that 25 percent, then they would have to reduce their spending. Is that...all right. [LB640]

SENATOR GROENE: If they didn't want...but it does not affect the formula into the future because it's...because we'll add that back in. That's why I don't want to label it...we can't label it as state aid to education because the next year they would go into this formula and they would be at 60 percent and they would go up and down like this. So we'll add that back in to property taxes, the relief fund, and it would go back into the calculation. But it sets up...one thing I've learned as Education Chair, we can't get along because we have the top 26 districts that love the TEEOSA formula as it is, because if we come up with one more dollar, they get 90 cents of it split up, so they don't want any changes. We got the ones in the middle who are fearful that that anything that happens they're grasping for every dime they can get. And then we've got 175 district and their senators who don't care if we ever spend another dime increasing TEEOSA because we don't get any of it. So this would put everybody back on the same playing field that the tax equity would be back in place and then we could all sit around and talk who cares if you've got a hundred students or 10,000, we'd all be sitting talking about the same issue-- education. [LB640]

SENATOR SMITH: Okay. Senator Groene, thank you for your opening on LB640. And do we have any further questions from the committee? Senator Schumacher. [LB640]

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SENATOR SCHUMACHER: Thank you, Senator Smith. And thank you for bringing this proposal to us, Senator Groene. Just so I kind of understand, the funding mechanism is the present property tax credit, that \$220-some odd million. [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR SCHUMACHER: And, basically, you're taking \$160 million out of that and throwing that over into the TEEOSA category. [LB640]

SENATOR GROENE: It's a transfer. [LB640]

SENATOR SCHUMACHER: And then you're distributing that in a way that some of the...most all the nonequalized districts would get a piece of TEEOSA. [LB640]

SENATOR GROENE: Yes. [LB640]

SENATOR SCHUMACHER: Okay. So... [LB640]

SENATOR GROENE: Except for three of them. Which they already get a big chunk of state aid with their option enrollment students. [LB640]

SENATOR SCHUMACHER: Okay. And then...so basically it is...and the larger districts probably don't come out much ahead, they come out a little ahead. [LB640]

SENATOR GROENE: Do you know the average homeowner will probably get about the same credit he got with Property Tax Credit Fund...because he's going... [LB640]

SENATOR SCHUMACHER: Okay. So basically the mechanism is to take from the urban commercial, rural...or residential, commercial taxpayer and move some of that money over to the nonequalized schools. That's really...the bottom line what's happening here. [LB640]

SENATOR GROENE: They're already getting the biggest share...I'm not sure what the number would be. I know one of the representatives from the Farm Bureau has done all the calculations about how much...I think 48, 49 percent of it goes to ag now. This might bump it up to 60. I'm not sure. The Farm Bureau rep might be able to tell you what the number he came up with. But also, you must understand, Senator Schumacher, what Senator Friesen said. The shift that's been going on hasn't been from the residential taxpayer or the business taxpayer, it's been from ag.

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When we shifted...when our state aid to education is maintained, the last time it was only 3 or 4 percent, the reason was because ag land went up and more and more of that state aid burden went to the farmer and ag. [LB640]

SENATOR SCHUMACHER: Thank you, Senator Groene. [LB640]

SENATOR SMITH: Very good. [LB640]

SENATOR GROENE: Any other questions? [LB640]

SENATOR SMITH: Very good. Thank you, Senator Groene, for your opening. We're now going to take proponents. I assume you're going to stay for closing. [LB640]

SENATOR GROENE: (Inaudible.) [LB640]

SENATOR SMITH: All right, we're going to start with proponents of LB640. Welcome. [LB640]

JON HABBEN: Thank you. Good afternoon, Chair Smith and members of the committee. And my name is Jon, J-o-n, Habben, H-a-b-b-e-n, Nebraska Rural Community School Association. Our view of the bill, as it's kind of evolved, has improved in the sense that some of our concerns were simply addressed. That's what you're always hoping for when you're working with a bill that more than directly affects you. There were several parts of this bill that attracted our attention. One was that it was property tax, not strictly ag land tax. We know the issues with ag land tax. I mean, if you're in rural you've been living those over and over and over again. But it became important, I think, to look at a little broader picture, to look at property tax. Ag landers weren't the only ones frustrated. And that became apparent as these last few years have gone by. So that was an important key to us to pay attention to this bill. The second thing was, this idea of saying we're going to cap property tax at the same percentage level of everybody's budget; we're going to use this 60 percent. Now, I don't know the science behind 60 percent. But that was the other piece that seemed to be able to say in every school district this is how property tax was going to be applied; not 80 percent, 40 percent, but the same--60 percent. The other piece, a recent change is the recognition of growth. We were concerned early on in the sense that it didn't appear that growth was going to be recognized in this process. And recognizing that 2.5 percent base growth is, I think, is important. School districts, I was a superintendent for 17 years and there were a few times in those years where we were mandated to freeze things. Oh what fun. You can do that only as far as your reserves will let you do it; you can do that only as far as your patrons will let you do it. But there comes a point where you can only do it so long. So I was

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glad to see that growth factor put back in there. The other part regarding, I guess, larger places, this idea of the levy cap reduction and lowering the LER to move that increased state aid in that direction made the 60 percent apply to every district and the property tax, not just ag land, seemed to make the picture look at everybody. And I think that is something we have to do. I've been doing this particular job for seven years now. And you've been watching it for a long time too. And looking for the points of progress, where do we make progress? Where do we...where do we get over the hump? Where do we find our way to the next base in this attempt to deal with this ag land issue and this property tax issue. Most of my family is in Iowa. They think Nebraska property taxes are really interesting. I won't describe their comment after that. But the point being, it's an obvious circumstance that has been with us for a long, long time. And like I said, property tax--not simply ag land tax, property tax. Now, one of the issues that we were really concerned about is, so what happens...the 60 percent is applied and what happens in a year when it doesn't appear there's enough money to fill that back in? What are we going to do then? And I think Senator Groene has attempted to address that positively in the sense that it is possible and that school district has the ability to levy its way through that, hopefully, in a temporary circumstance. I think having that little piece of hold harmless is a pretty important circumstance, because we really can't...well, we can predict sort of, but I don't think anybody would have predicted the last seven years. So I think it is important to have that small piece in there. One of the things that we pay attention to, if you're...I can only address schools, I can't address cities and counties and so on, but it's stability. You want whatever the system is to have a reasonable level of stability so that you don't feel like you are annually or biannually riding a roller coaster. I don't know of anybody that wants to be in that circumstance personally, professionally, or any of the businesses that we hold. We deal with it as best we can when it happens, but if we can put these pieces in place, that we create as much stability as we can. That's a very positive circumstance, in my opinion, particularly for school districts and working with the students of Nebraska. Anyway, I'll close at that point and if you have any questions, I'll be happy to answer them. [LB640]

SENATOR SMITH: Thank you, Mr. Habben, for your testimony. Senator Harr. [LB640]

SENATOR HARR: Thank you, Chairman Smith. And thank you. Is it doctor or mister? [LB640]

JON HABBEN: Doctor. [LB640]

SENATOR HARR: Doctor. Okay, thank you, Dr. Habben. I enjoyed Senator Groene's opening. I found it very informative. I find what you said very informative. The one thing I haven't heard, and I don't know what the answer is, would TEEOSA be fully funded under this formula for every school district...without an override? [LB640]

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JON HABBEN: Okay, as I see it, fully funded means what the formula says at that time. [LB640]

SENATOR HARR: Right. [LB640]

JON HABBEN: Okay. Fair enough on that? [LB640]

SENATOR HARR: And we change it every year. [LB640]

JON HABBEN: Yeah, there's sort of some of that going on. [LB640]

SENATOR HARR: We're good at that. Yeah. [LB640]

JON HABBEN: My assumption was that TEEOSA would be funded as per its calculation. But the reality of it is, if the body decides that it's going to be this amount of money, then we've got a discussion and it may involve that tinkering that we've done so much of. Or in this case, with this solution, you can go back and levy that shortage to your taxpayers. [LB640]

SENATOR HARR: Okay. Thank you. [LB640]

SENATOR SMITH: Very good. Thank you for your testimony, very informative. [LB640]

JON HABBEN: You bet. Thank you very much. [LB640]

SENATOR SMITH: Next proponent of LB640? Welcome. [LB640]

LARRY STORER: Good afternoon, ladies and gentlemen. My name is Larry Storer, 5015 Lafayette Avenue, Omaha, Nebraska. Last name is spelled S-t-o-r-e-r. Words matter. The gentleman just here said one and now it has slipped my mind, but the overall thing here is...well, I'd like some state aid. I'd like to be able to come to you and say can I have 40 percent state aid to pay my 100 percent property tax? Probably not. But being from Omaha, I've been to some OPS meetings; I've been to some Douglas County Board of Equalization meetings; I've been to some Juvenile Court Justice meetings, and I can tell you, that most people...I'm a taxpayer, I do not have an association behind me and I don't have an outside agency that I contract with, but most of you legislators are influenced by them including those local bodies in Omaha. The thing we pick up on is we keep hearing whose responsibility is that? Is it really just the school district? Do they make the final decision and do they actually pull the lever on that and then come back and

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ask you for 40 percent or 60 percent aid? Senator Groene asked, well, where are we going to get...who is going to pay for it or how are we going to get the money to pay for it? Maybe the answer should be no; a little tough love. And I'll tell you what, every...I'll try to give you four examples here specifically in your own "Legislative Update," we have hired an agency from Pennsylvania to come in and teach us and teach our social workers, or whatever, is encompassed in this to deliver the family finding model. I sat in on a lecture about this at the University of Nebraska at Omaha and I was amazed when a former Supreme Court judge from Pennsylvania said the state of Nebraska has hired us to come in and train people. Excuse me, that's the first I've heard of it; I usually read the paper a lot. So I come down last week and I open this and I find this that verifies that that there's two department contracts to do this. And it says essentially engage...well, to locate and engage family members and others to accept placement or become more involved in the life of a state ward. Well, what about all the other kids that are in out-of-home care? What about the juvenile justice kids, some of which are sent out of state without parents' okay. I've heard about that. Omaha Public Schools has outside foundations. Now, they're funding some of it. Then why do they need to come to you and ask for relief? And then they turn around and hire outside agencies to teach things such as Omaha Youth Success, which is involved in the juvenile court system. It's for unsuccessful kids that aren't making it in the school system and they get in trouble. We still have to educate them. But this is an outside agency that's telling us that and gathering the data. What's wrong with our people doing that? State Education Committee, right there in the front of your building...I can't build a house here to influence you every day, but they can. But the state, county, and city are all arguing about whose responsibility is it? Who is going to set the rate? It keeps coming back, it seems like, to the school district. So if it's the school district, then why do you have any responsibility over that? This is confusing, as Senator Groene said. I'll be done in just a second. Since most of us average citizens, and a lot of us retired, don't have associations that can fight this encroachment. Perhaps there's a way that citizens like me can. But we get excuses such as last year--we're out of time, we don't have time to deal with it. Why do you not have time to deal with it? Because there's a filibuster. Isn't there a state constitutional thing there about you can use to stop filibusters so that you don't run out of time? If there isn't, maybe you should have a State Article V convention of the state. Federal Constitution has it, why shouldn't the state? But that's one way the citizens can take it back. And we can kind of tell you, well, hey, we hired you, we want you to cut the funding to these outside agencies so you can make it on the property taxes that you have and not ask me for more. Thank you. [LB640]

SENATOR SMITH: Thank you, Mr. Storer, for your testimony. I see no questions from the committee. Thank you. [LB640]

LARRY STORER: Thank you. [LB640]

SENATOR SMITH: Next proponent. Welcome. [LB640]

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JAY REMPE: Thank you, Senator Smith. Senator Smith, members of the Revenue Committee, my name is Jay Rempe, J-a-y R-e-m-p-e. I am employed by Nebraska Farm Bureau, but I'm here today on behalf of Nebraska Agriculture Leaders working group, so we're getting a lot of groups out of the way in a short time, hopefully. So I know you guys want to get going. But I'm here on behalf...also the Cattlemen, Corn Growers, Pork Producers, Soybean Association, and State Dairy Association, so all those groups. [LB640]

SENATOR SMITH: Oh, you're making my day. (Laughter) [LB640]

JAY REMPE: Yeah. Anything I can do, Senator Smith. We are here in support of LB640. It's the approach that Senator Groene has taken with this bill I think is a novel approach in how he's looking at trying to fund some more property tax relief out across the state of Nebraska. And here's my interpretation of what the bill is trying to do. First, we're going to run through the TEEOSA formula and we're going to figure out how much state aid gets distributed to schools through the TEEOSA formula. And he's changing the maximum levy dropping that from \$1.05 to \$1.00 which then in turn drops the local effort rate. So that pushes more state aid out to school districts. And as talked about before, that's going to go to a smaller subset of schools, if you will, in the state that tend to be more populated, the bigger school districts. So that's the first iteration that he's doing. Then...and this is the novel approach I think the bill takes, it's...TEEOSA was set up to equalize across the state. Well I think what the bill is doing then is it said we're going to take another step in how we look at equalization in this state and we're going to say, as Mr. Habben said, that we're going to make sure that the property taxpayers in each individual school district collectively do not pay any more than 60 percent of the cost of running that school, or the total receipts out there. So to me that's another iteration. We're going through TEEOSA; we're pumping equalization aid that way. Then we're saying, okay, let's take a step back and let's say how are we going to further equalize this in terms of total property tax. So he puts that 60 percent cap in there. And so I think that's...so it's a reasonable policy decision on part of the state and the state Legislature to say we're going to equalize on this basis and then we're going to see what the results are, then we're going to take it and we're going to equalize it on this other basis as well. And in this mix we're going to try to help school districts and property taxpayers all across the state. So I think...the skeleton of what Senator Groene has there is really...it's a novel idea and I think it has some merit. Here's the one concern I have with it though is the way he set up the bill and the way he's structured it and the way he's funding it, it won't provide any property tax...additional property tax relief the first year out of the box. And I think...and that's because he's using the property tax credit program funding to fund what he's trying to do in this bill. So he's taking \$160 million out of the property tax credit program, redistributing it differently, but you're still getting the same \$160 million end result. And I think property taxpayers in Nebraska are expecting more out of you. They want additional relief beyond the \$224 million and beyond the TEEOSA aid that's already flowing out there. So that's one concern. And Senator Schumacher, you asked a very good question about how the dollar is distributed.

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And I've been trying to look at that. And as near as I can tell, it's about a wash. From an ag standpoint, when you take away the dollars we'd lose out the property tax credit program and you put those through the various mechanisms of the bill, we come out about the same. It's no change. And so based on that, I would say all the other property sectors are, basically, the same too. Now having said that, there might be a little bit of geographic dispersion there, but I think on the whole it's not going to change a whole lot much. And that's because, again, the local effort rate, most of the dollars that come out of the property tax credit program to go into that and TEEOSA will end up going into Omaha and Lincoln and your other schools that currently receive equalization aid. Then on the other side, the 60 percent cap will flow more to rural Nebraska. And it all kind of washes out in the end. So a couple of recommendations that I would ask the committee to consider, one is, look for alternative funding sources; don't go to the property tax credit program, put some additional...I think this provides a skeleton for mechanism to pump more property tax relief out there. I would look to alternative funding sources to do that. You've got some bills in front of your committee to look at that. That's one, second was Dr. Habben mentioned the growth factor. I would try to tweak things in there to make sure that the dollars, if you put it into this, due to the most extent possible, go to property tax relief because when you go through...one of the beauties of the property tax credit program, it goes directly to taxpayers and there's no slippage. When you pump it through state aid or through other school mechanisms, some of that gets eaten up in spending. And then the third recommendation would be just what Senator Smith indicated a little bit ago, I think this provides by setting the 60 percent, it provides a threshold there that then the Legislature can look at over time dropping that down...60, to 55 to 50, and as you can target that...or trigger it to other mechanism or whatever, but I think it provides a vehicle for you to push more property tax relief out in a very efficient manner. So with that I will be quiet and be happy to answer any questions. [LB640]

SENATOR SMITH: Thank you, Mr. Rempe. So let me ask you, so thinking long term, if the prospects are bright for being able to use this as a mechanism for long-term approach, isn't that what's going to help deliver long-term property tax relief rather than in the short term looking for a tax shift? [LB640]

JAY REMPE: Well, I think you could couple both of them together. I think this provides a mechanism to provide that long-term property tax relief. But in order to do that, you got to come up with some dollars. And so I...however, whether it's a tax shift...as been mentioned earlier, we've already seen a tax shift over the years. And from our viewpoint, we're just trying to shift back a little bit. But, so in the long term I think you...either you can capture additional dollars that are coming into the state or you could look at trying to restructure things now. Yes. [LB640]

SENATOR SMITH: Okay. Thank you for your testimony. Senator Schumacher has a question of you. [LB640]

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SENATOR SCHUMACHER: Thank you, Senator Smith. And thank you, Mr. Rempe, for your testimony today. So if we do not look to sales or income taxes for the funding mechanism but leave it as the Property Tax Credit Fund, and your analysis basically says that the proportion between the urban and the rural sectors isn't going to be shifted much one way or the other, why do it? [LB640]

JAY REMPE: Well, that's an excellent question. In my mind, I want to have my cake and eat it too. [LB640]

SENATOR SCHUMACHER: We all do. [LB640]

JAY REMPE: I think this provides a mechanism and I would put more money into this. But I think that's a question you would have to yourself if overall we're not going to affect more property tax relief then why do it? I think that's a fair question. Now the one...the one possibility is, again, that 60 percent threshold gives you a marker to go after, a measuring stick, if you will, to ratchet down that could help be a scorecard, if you will, for the Legislature to say here's what we're doing in the way of property tax relief. [LB640]

SENATOR SCHUMACHER: So, basically, the argument is let's put this mechanism in place so if one day the income taxpayers or the sales taxpayers feel generous, you've got a mechanism in place to help out property taxpayers. [LB640]

JAY REMPE: Um-hum. I...yeah, I mean that would be...and I guess it would be no different than the property...we have a mechanism today and that's the property tax credit program, which I think is a very good mechanism due. That's why I want you to leave it alone and look at this as an alternative...or, additional...building on that, I guess, if you will. [LB640]

SENATOR SCHUMACHER: Thank you. [LB640]

SENATOR SMITH: I've got another question for you. So let's say that 60 percent, every percent below that, so you moved to 59, you probably have looked at the numbers a little bit, what does each percentage drop from that 60 percent provide? [LB640]

JAY REMPE: I don't...I have figured that...I haven't looked at each percentage, but I did say if...and this is just my calculations for what it's worth, but I did look at if you dropped it to 50 percent, the total additional cost would be \$189 million. [LB640]

SENATOR SMITH: On top of the \$160 (million). [LB640]

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JAY REMPE: That's on top. Right now the fiscal note is \$102 million for that...going to 60 percent. [LB640]

SENATOR SMITH: Oh, okay. [LB640]

JAY REMPE: So that would be an additional...what is that, \$87 million? Is my math right? Another \$87 million to go to 50 percent is what I...my calculation show. [LB640]

SENATOR SMITH: Okay. [LB640]

JAY REMPE: And that's based on the financial report data out of the Department of Education for '15-16, so it's dated a couple of school years. [LB640]

SENATOR SMITH: Maybe in the neighborhood of \$10 million per percentage or something like that. [LB640]

JAY REMPE: Yeah, something like that, yeah. [LB640]

SENATOR SMITH: Okay. All right. Thank you. [LB640]

JAY REMPE: Um-hum, you bet. [LB640]

SENATOR SMITH: Appreciate the testimony. Next proponent of LB640? Seeing none, we move to opponents, those wishing to testify in opposition to LB640. And there's more, you can come on forward, so we can make certain we see that you're in line. Welcome. [LB640]

BRADY RHODES: (Exhibit 5) Thank you. Thank you, Chairman Smith and members of the Revenue Committee. My name is Brady Rhodes, it's B-r-a-d-y, last name is R-h-o-d-e-s. I'm a school board member from Hastings Public Schools. And I appreciate the work that you're doing. I appreciate the work gone into this bill by Senator Groene and his team; it certainly is a...I appreciate being a part of this process. It's first time testifying, and so it's interesting for me to hear and see what's going on and I really appreciate the work that you're doing on this. I'm here today to represent the 25 school districts that belong to the Greater Nebraska Schools Association, GNSA. While the schools of the GNSA serve approximately two-thirds of the students in the state, we work to ensure educational excellence through equitable funding for all Nebraska public school students. As an association, we stand opposed to LB640. We do so even though we appreciate this proposals attempt to lower our reliance on property taxes and the

mechanism provided in this bill that allows schools to recoup lost revenues under certain circumstances. We oppose LB640 because it substantially changes the property tax credit relief fund. Property tax relief aid under LB640 would be distributed to school districts with high valuations per students and low levies. This distribution concept is the exact opposite of the tax and funding equalization provided by TEEOSA. The intent of state equalization aid, as provided by statute is to provide students with equitable resources that cannot be provided by local resources. In addition, LB640 will not reduce property taxes for many Nebraskans. For example, in my district, the owner of a \$150,000 home would save \$75 per year on their real estate taxes due to the levy being lowered from \$1.05 to \$1.00. However, since this homeowner does not live in a district that receives 60 percent of its receipts from local property taxes, he or she will lose \$141 of tax credit they received last year resulting in a \$66 increase in property taxes. Despite a fiscal note that projects minimal initial impact, what happens in future years when the state can't afford to fund the additional cost? I am guessing that there will be tweaks to the formula that may reduce the state's financial obligation to TEEOSA. For future reductions to the formula will not be equitable to some schools, they'll be...won't be equitable as some schools will not be able to simply raise their local levy to make up for lost revenues, while others will be up against the \$1.00 levy lid and will not be able to make up for such cuts. In summary, this bill is unfair because it is counter to the equalization formula of TEEOSA that we need to continue to support. I definitely appreciate you listening to my testimony and happy to answer...or try to answer some questions. [LB640]

SENATOR SMITH: Thank you, Mr. Rhodes, for your testimony. Do we have questions for Mr. Rhodes? I see none. I know you're a school board member and I know that that's where a lot of hard work is done in our communities and we appreciate your service in doing that. [LB640]

BRADY RHODES: Absolutely. Thanks. [LB640]

SENATOR SMITH: (Exhibits 6, 7, and 8) Next opponent of LB640? Next opponent? All right, we do have a number of letters in opposition to LB640. We have Troy Loeffelholz from Columbus Public Schools; Jami Jo Thompson, Norfolk Public Schools; and Liz Standish, Lincoln Public Schools. Those letters were sent in for the record in opposition to LB640. We now move to those wishing to testify in a neutral capacity; neutral capacity to LB640. Welcome. [LB640]

MICAELA LaROSE: (Exhibits 9 and 10) Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Micaela LaRose, M-i-c-a-e-l-a L-a-R-o-s-e, and I am the senior fellow at OpenSky Policy Institute. I am here today to testify neutral on LB640. While we support targeting state aid to the districts that are most reliant on property taxes to fund K-12 education, we have concerns with the provisions of the bill that would result in spending cuts to

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school districts. First, we appreciate that this bill would address the overreliance of property taxes to fund K-12 education by increasing state aid. Every major tax study in our state has recognized our high reliance on property taxes to fund schools. This bill would begin to reverse that trend. Senator Groene has already given you a detailed analysis of what the impact would be and that it would benefit most districts. I'll just note that our numbers differ slightly because we analyze this bill as implemented in FY17. Second, not only would this proposal benefit most districts, it is also targeted to the school districts most reliant on property taxes and provides more property tax relief to the taxpayers in these districts than the current property tax credit. Under the current property tax credit, farmers in every school district, regardless of how highly reliant it is on property taxes, would have received an equal property tax reduction of \$108.55 per \$100,000 of taxable value. All other property tax owners would have received a reduction of \$90.46 per \$100,000 of taxable value in FY17. If LB640 had been in place in FY17, agricultural owners in the most property tax-reliant districts would receive an average tax reduction of \$143 per \$100,000 in taxable value and all other property owners in these districts would receive an average tax reduction of \$137. In comparison, agricultural owners in the least property tax-reliant districts would receive an average tax reduction of \$81 per \$100,000 of taxable valuation and all other property owners would receive an average tax reduction of \$76. Now to the portions of the bill we oppose. This bill would lower the maximum levy from \$1.05 to \$1 and by doing so would have caused 15 districts to lose another \$811,000 unless they could obtain a levy override. The reason the revenue loss is only \$811,000 is due to the reduction of the local effort rate from \$1 to 95 cents which results in increased state aid. The other provision of this bill that we oppose is the budget reduction component, which would require school districts to reduce their budgets by 25 percent of the property tax revenue exceeding 60 percent of total revenue, unless they could obtain a supermajority approval of the school board to raise this difference locally. If in place in fiscal year '17, school districts impacted by this component would have had to make a total of \$32 million in cuts unless two-thirds of the respective school board voted to override this provision. The majority of these school districts are nonequalized. Furthermore, school districts are limited in how much their budget can grow from year to year. As we understand the budget reduction requirement of this bill, up to 104 districts would have been faced with a reduction that exceeds this allowable spending growth. Therefore, these districts would see a reduction from the year before in what they were permitted to spend. For those districts that could not obtain a supermajority vote to avoid this, they could potentially experience budget reductions year after year. The handout I have provided walks through these calculations for an individual district. Finally, we disagree with the principle that school spending is the cause of the overreliance of property taxes in K-12 education and therefore the solution. We see no evidence to demonstrate that school spending is out of line. A 2015 report from the Legislative Fiscal Office found that school spending growth in our state over the last decade has been at its lowest level in 30 years, averaging 4.1 percent growth per year for general fund spending for the most recent decade included in the report. Some cite our high per pupil spending as evidence that Nebraska spends too much on our public education system. However, the Legislative Fiscal Office report clearly

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describes this as a result of a demographic shift. Many Nebraskans are moving from rural to urban parts of the state. The shift has resulted in enrollment surges in many urban school districts and declines in many rural school districts, both of which have implications for what schools cost. As the report states: quote, Costs don't change significantly if the number of students per class decline. On the other hand, the larger growing districts are adding new buildings and staff to account for their growing enrollment. If declining districts grow at inflation and growing enrollment districts grow at inflation plus enrollment growth, the overall statewide spending will always grow faster than inflation plus enrollment growth, end quote. As I mentioned, the overreliance of property taxes is the result of relatively low state support and not the result of school spending. Therefore, we support the component of LB640 that would provide targeted increases in state aid to the districts most reliant on property taxes, but oppose the bill's budget provisions. Further cutting school spending will only limit districts' ability to provide the quality education Nebraskans expect while failing to systematically address the property tax overreliance. Thank you for your time, I'd be happy to answer any questions. [LB640]

SENATOR SMITH: Thank you, Ms. LaRose. Do we have questions from the committee? I see none. [LB640]

MICAELA LaROSE: Thank you. [LB640]

SENATOR SMITH: Thank you, nice job. Next person in a neutral capacity? Welcome. [LB640]

BRYCE WILSON: Hello, Senator Smith and the Revenue Committee. I'm Bryce Wilson, that's B-r-y-c-e W-i-l-s-o-n. I am the director of Finance and Organizational Services for the Department of Education. Don't really have anything prepared other than I wanted to just make one clarification and give you guys a chance to ask any questions you may have on this bill that I may be able to help with. The clarification I wanted to make was if you're wanting to look at the Learning Community. Senator Groene had talked a little bit about the difficulty in the comparison in this because of the Learning Community going from the common levy to no common levy next year. If you look at...there is a difference, a comparison between what our department released as a model of state aid under current statute for '17-18 and what this bill would do, there is a comparison there and that gives you a pretty good idea of what this will do to the Learning Community. It shows that they do get increases at all but a couple of the districts. The only thing that it can't really predict at this point is that we have two, maybe three, nonequalized districts in the Learning Community and we don't know what their property tax amount will jump up to with the elimination of the common levy. So they may jump above that 60 percent threshold in the coming years, but we don't have, obviously, they haven't started that yet and we don't have any of the information to know that, and where they'll fall for sure; we can't predict that. So as Senator Groene said, the comparison from prior year state aid numbers,

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that kind of looks a little goofy because of the common levy going away, but the current year comparison should be pretty accurate and give you somewhat of a good idea what's going to happen there, other than at Springfield and Douglas County West. So with that I would...if there's any questions or anything that I can help with, I'd be glad to answer any questions. [LB640]

SENATOR SMITH: Thank you, Mr. Wilson. Were you referencing Senator Groene's handout? [LB640]

BRYCE WILSON: Yes. [LB640]

SENATOR SMITH: Okay. So which column...is that the column 14 that you're referring to, or the third from the last? [LB640]

BRYCE WILSON: I don't have the numbering that he had for sure, it's the spreadsheet that says at the top demonstrating LB640 property tax relief. [LB640]

SENATOR SMITH: Yes. [LB640]

BRYCE WILSON: There is a column about two-thirds the way over that's the first difference column and to the left of that. [LB640]

SENATOR SMITH: Okay. [LB640]

BRYCE WILSON: So it is...column number 12 would be your one that is...gives you a pretty good idea of what the difference will be compared to current law. [LB640]

SENATOR SMITH: Okay. [LB640]

BRYCE WILSON: And 16 is the one that's compared to prior year and it has the issue with the common levy going away. [LB640]

SENATOR SMITH: Very good. Thank you for your help with that. I see no other questions. Thank you for your testimony. [LB640]

BRYCE WILSON: You're welcome. [LB640]

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SENATOR SMITH: Next person in a neutral capacity? Seeing no one else in a neutral capacity, we invite Senator Groene to close on LB640. Not too painful, Senator Groene. [LB640]

SENATOR GROENE: No. I have to talk to the people that...all the education lobbyists have one representative. How did you do that? And we need to hear the information from them. But you mentioned once...appreciate...I love when elected officials come to testify, like the school board member from Hastings. Hastings taxpayers would receive \$1,620,465 in property tax relief with this...property taxpayers. Columbus would...you had a letter from Columbus, would receive \$1,280,000 in property tax. Lincoln would receive \$15,699,000 property tax relief if this was enacted. I understand, because I heard it from friends in education and administrators over years, they do not want property taxes messed with. Property taxes are certain; state aid is not. So if you're the business manager or the manager of a school, you want property taxes left alone because you can squeeze that turnip until the last drop of blood has come out of it and it's certain in their budgets. So anything that messes with that, I understand they don't want to change; but you're always going to fight that when we try to fix property taxes. What we're doing here is trying to protect that Property Tax Credit Fund. Remember, we're trying to earmark it to education and eventually move that way because I do not like the Property Tax Credit Fund and what it does. It's like J.C. Penney raising the price on something \$50 and giving you a \$45 coupon. Local entities hide behind it. Their spending increases are hidden behind the Property Tax Credit Fund. If we come up with more money, if some magical thing happened, corn goes to \$8 again over night, we could just add more money to the Property Tax Credit Fund because...you know, first in/first out would fund this, the \$160 (million), or the \$80 (million) if we went to 50 percent. On that 50 percent of that \$87 million, Jay didn't mention it, but most of that would go to equalized districts, because now you would have more school districts that became available for the 60 percent because we're dropping from 60 percent to 50. But we don't have the money. We don't have money for foundation aid. We don't have money to lower the percentage ag puts into it. So this is a perfect year to put it in place, what we can do and what we can work with into the future--one step and a time. In fact, it's a good time to do this because the temptation in the past was we got money flowing, let's throw some more into the Property Tax Credit Fund; let's throw some more money, let's do a foundation aid or let's just...finally when hard times come, we maybe might have a chance now to look at fixing the TEEOSA formula, fixing the tax equity. Like I said, I'm not real hep on supporting anymore state aid to education, as a state senator from where I'm from. Most of my people don't get a dime of it, 26 districts get it, vast majority of it. I understand why they have created an association to (inaudible) what is, but we have to fix it for every taxpayer statewide and for every child statewide. Every child is supposed to have free instruction or public schools supplied by the state and the state is letting down an awful lot of children in rural Nebraska and not doing their share. So anyway, any questions and I'll start heading for North Platte. [LB640]

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SENATOR SMITH: Thank you, Senator Groene, for your closing on LB640. Questions for Senator Groene? Senator Schumacher. [LB640]

SENATOR SCHUMACHER: Thank you, Senator Smith; and thank you, Senator Groene. I will say that this was a bit different proposal than I thought we were going to see and it gives us all pause to think. Is it fair to say that what's happening here is we're taking sales and income tax revenue, putting it into the Property Tax Relief Fund and then distributing that fund to the schools which in turn benefits property taxpayers without regard to need or their ability to pay? [LB640]

SENATOR GROENE: There's not a single property taxpayer out there that you can directly relate to the ability to pay. There isn't a single one. You could lose your job tomorrow; you could lose your license for insulting Senator Groene. No, I'm just joking. But you still have to pay your property taxes; there is no relationship. People pay taxes in dollars. I always got to remind myself, it isn't valuations, it isn't mill levies, it's dollars. [LB640]

SENATOR SCHUMACHER: But in the process, income and sales tax money going to property taxpayers, basically, in proportion to their wealth and without regard to ability to pay. [LB640]

SENATOR GROENE: You're talking wealth in terms of spending money? Because... [LB640]

SENATOR SCHUMACHER: In terms of bottom line on their...equity line on their balance sheet. [LB640]

SENATOR GROENE: No, it isn't. The state is stepping up and doing its duty to pay...to provide for free education in our public...in our common schools. [LB640]

SENATOR SCHUMACHER: Thank you, Senator Groene. [LB640]

SENATOR GROENE: Thank you. [LB640]

SENATOR SMITH: Further questions? Senator Brasch? No. I think, maybe, I mean, it's even more equitable...from what I'm hearing Senator Schumacher and his question, it would appear more equitable on what you're proposing than what we have in place today. [LB640]

SENATOR GROENE: Yes. We're putting a burden on people with no relationship to the ability to pay. We're taxing their...the assets they have to create the wealth that they then go out and

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spend and pay sales tax and income taxes. We're taxing it prior to the point of creating wealth.
[LB640]

SENATOR SMITH: Very good. I see no further questions. Thank you, Senator Groene, for your closing on LB640. That concludes our hearing on LB640 and our hearings for the day. Have a very nice long weekend. [LB640]

SENATOR GROENE: Yes. [LB640]