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Revenue Committee
February 17, 2011

[LB162 LB363 LB405 LB457 LB519]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 17, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB162, LB457, LB363, LB405, and LB519. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Deb Fischer; Galen Hadley; and Pete Pirsch. Senators absent: Greg Adams; LeRoy Louden; and Dave Pankonin. [LB162]

SENATOR CORNETT: Good afternoon. I am Senator Abbie Cornett from Bellevue. To my left is Senator Dennis Utter from Hastings. Senator Deb Fischer from Valentine will be joining us. Senator Greg Adams is excused today. To my far right would be Senator Pankonin; he is also not here today. Senator Pete Pirsch from Omaha. Senator LeRoy Louden had to leave for his home district. I...Senator Adams may be joining us. Our research analysts...I'm sorry, Senator Hadley. Senator Hadley from Kearney.

SENATOR HADLEY: (Laugh) That's as much respect as I get at home.

SENATOR CORNETT: (Laugh) Our research analysts today are Stephen Moore to my right and Bill Lock on my far left. The committee clerk--our normal committee clerk is out ill today. Laurie will be clerking for us. Our pages are Marilyn Buresh and Amara Meyer. Before we begin the hearing, I would ask everyone to turn your cell phones to either the "off" or "vibrate" position. Sign-in sheets for testifiers are by both back doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, a sheet needs to be completed for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your sheet to the committee clerk. There are also clipboards by the back doors if you wish to sign in but do not wish to testify. Your support or opposition to a bill will be included in the record. We will follow the agenda posted on the door today. The introducer or a representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies for committee and staff. If you have only the original, we will make copies for you. Please give the handouts to the pages to circulate to the committee. Before we begin, I would like to apologize to everyone: We're having a problem with the heat in this room, and all of the windows except one are padlocked. So I apologize. Every testifier will be given three minutes to speak today, except the introducer. Senator Campbell, you are recognized to open.

SENATOR CAMPBELL: Good afternoon, Senator Cornett and members of the Revenue Committee. I am Kathy Campbell, K-a-t-h-y C-a-m-p-b-e-l-l, and I represent District 25. And I am here today to introduce LB162. This bill would remove the requirement that county assessors file an abstract of personal property as of June 15 each year with the Property Tax Administrator. The abstract is obsolete. According to a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

conversation between my office and the Property Tax Administrator, at one time the department used the abstract for purposes of centrally assessed property. The department no longer uses the abstract for that purpose. Assessors provide information on personal property to the Property Tax Administrator when they report for the certificate of taxes levied. So the department will still receive information on personal property valuation if LB162 passes. For all these reasons, LB162 amends Section 77-1514 to remove the personal property abstract requirement. The Nebraska Association of County Officials will follow me with testimony in support of the bill. And I'd be happy to answer any questions. Senator Cornett, it's one of those cases where we have found a situation where we should probably not be requiring a report that we're not using. [LB162]

SENATOR CORNETT: Thank you very much, Senator Campbell. Questions from the committee? Seeing none, thank you. [LB162]

SENATOR CAMPBELL: And I will stay. [LB162]

SENATOR CORNETT: May I see a show of hands for the number of proponents? Okay. [LB162]

MARILYN HLADKY: (Exhibit 1) I'm ready. Okay. Good afternoon, Senator Cornett and members of the Revenue Committee, and thank you for allowing me to speak here today. My name is Marilyn Hladky, M-a-r-i-l-y-n H-l-a-d-k-y. I'm the Seward County Assessor, and I'm here today representing the Nebraska Association of County Officials and also the Nebraska Association of County Assessors, speaking in support of LB162. And I wish to thank Senator Campbell for introducing this bill for us. What she's passing out is a copy of what that abstract looks like. It's just a picture of ag and commercial properties countywide that we report by June 15. As assessors, we still have people filing their personal property schedules well into August. So as Senator Campbell stated, that the division no longer uses this report, and so the assessors would like to have it eliminated in statute, because all the information is on the certificate of taxes levied. In fact, on the certificate of taxes levied in school report, that breakdown is much more expanded; it's by each taxing entity and school district--so much more useful and complete for them. Thank you for your consideration on this bill. And if you have any questions, I'll try to answer them. [LB162]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB162]

MARILYN HLADKY: Thank you. [LB162]

SENATOR CORNETT: Next proponent. [LB162]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

LARRY DIX: Good afternoon, Senator Cornett. For the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials, appearing today in support of LB162. I think all--everything has been explained on this one; it's pretty straightforward. I just want to make sure we got on record. So I'd be happy to answer any questions that you'd have. [LB162]

SENATOR CORNETT: Senator Pirsch. [LB162]

SENATOR PIRSCH: No fiscal impact, of course, for the state. Are you going to have any substantive savings in the counties for us, or is it just a pain? [LB162]

LARRY DIX: It's a job that you don't--it's a report that you don't run, so... [LB162]

SENATOR PIRSCH: Makes sense. [LB162]

LARRY DIX: ...insignificant. [LB162]

SENATOR PIRSCH: Makes sense to me, Larry. [LB162]

LARRY DIX: Yeah. [LB162]

SENATOR PIRSCH: So, yeah... [LB162]

LARRY DIX: All right. [LB162]

SENATOR PIRSCH: ...I got it. Yeah, thank you. [LB162]

SENATOR CORNETT: Further questions? Seeing none, thank you, Larry. Next proponent. Is there--are there any further proponents? We'll move to opposition. Is there anyone here to testify in opposition? Neutral testimony? Senator Campbell. Senator Campbell waives closing. That closes the hearing on LB162. Senator Campbell, you are recognized to open on LB457. [LB162]

SENATOR CAMPBELL: (Exhibit 2) Thank you, Senator Cornett. And once again, members of the committee, I am here today to open on LB457, a bill that deals with preliminary valuations, and I can assure the committee there will be more testimony on this bill. Last year, colleagues, we debated issues regarding TERC and the property valuation process, and had lengthy discussions on the floor. Overwhelming in the themes was the idea that we need to look at methods and systems that serve the taxpayer in going through the property valuation system with good information they can use in deciding on whether to protest or not. And in conversations with Senator Cornett that we had over the summer, we invited some people in and we began looking at some of the ideas. LB457 is intended to cut down on the number and the expense of property

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

tax valuation protests. It is modeled on what Lancaster County is doing. The idea is pretty basic. If property owners have a chance to talk to the assessor before the county finalizes valuation, the odds are that disagreements, misunderstandings, and mistakes can be resolved. If they cannot be resolved and the property owner wants to protest, that can still happen. Mr. Norm Agena, Lancaster County Assessor, will describe the system to you in testimony to follow, which is used in Lancaster County and obviously which I observed when I was on the county board. But that really is the genesis of this bill. It is a preliminary valuation notice process. Last year, the assessor held 7,130 face-to-face informal hearings with property owners. And of those, 510 owners filed protests. The county spends \$95 per protest, so if the other 6,620 owners had protested, that would have cost the county an additional \$630,000. I'm sure that Assessor Agena will probably have more updated figures for you. Lancaster County's process saves money for taxpayers. LB457 would adopt this process into law. The bill establishes some dates by which time preliminary valuations would be done, owners notified, and informal meetings held. It also adjusts some of the deadlines that are already in statute so that owners would have time to come in and meet with the assessor, and also with the public officials at the county and state levels would have time to carry out their statutory duties. In meeting with NACO and with officials from Lancaster, Douglas, and Sarpy Counties, I have learned of some concerns about the bill as it is drafted. I would like to ask the committee to hold LB457 while an amendment is prepared for your consideration and to work with the Chair of the committee as we continue working with these counties. And I do have...we didn't draft any amendment because we think that's precipitous, but if the page...what we wanted to try to do for the committee was to give you some idea of points that would be in the amendment. The amendment would change the operative date to January 1, 2014, which would address the costs identified in the fiscal note. So once we change that date, then the fiscal note should go away in terms of costing money. It would not...it would also give counties time to prepare for the change in the law. The amendment would also make the bill apply to counties with a population greater than 150,000. In other words, we're going to start with the three largest counties, and because of that, that also voids the expense. The amendment would change a couple of dates. The date where the assessors review to end would be changed from March 10 to March 1, and the date for the abstract to be finished would be changed from March 31 to March 25. I have these listed on the handout that the pages have given you. I am working with county officials from Douglas, Lancaster, Sarpy Counties and with representatives of NACO to assure the bill, if advanced from committee, addresses concerns. When an amendment is ready I will give it to you for your consideration. I'd like you to go ahead and listen to the testimony on the bill today and then hold the bill until I have a chance to give you the amendment and to work with Senator Cornett. I believe the bill opens up the valuation process for taxpayers, giving them more information and another avenue to ascertain if they should protest. It may cost initially for these counties, but it does save money in the long run and that truly was what prompted the Lancaster County Board to persevere to this system. If you can invest at the beginning rather than at the end, in TERC, it is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

worthwhile. Consider this year only. Lancaster had 100 protests at TERC and Douglas County had 1,000 protests at TERC. Now Douglas is certainly far more populous than Lancaster, but usually we think of it as double. And I really appreciate Sarpy and Douglas County, and you most likely will hear from them today and their concerns. But they have been very generous with their time and with their conversations and their concerns, and they certainly are valid and we want to address them. With that, Madam Chair, I will close for any questions. I will waive closing because I need to get back to the Health and Human Services Committee. [LB457]

SENATOR CORNETT: Thank you, Senator Campbell. Senator Hadley...or Utter, and then Fischer. [LB457]

SENATOR UTTER: Senator Campbell, thanks for the bill, and it looks like it's a step headed in the right direction, for sure. But if it's good for counties with 150,000 population or more, why isn't it good for smaller counties? [LB457]

SENATOR CAMPBELL: You know, Senator Utter, when we finish all of our conversations it may be such that the amendment, we may feel comfortable. Many of the smaller counties...you know, I think if I could classify it and say there are small counties, then medium-sized, and then the larger, I would guess in a lot of the smaller counties what you're going to hear from Lancaster is probably informally done at many small counties. It's the medium-sized counties that we may want to take a look, and by that, meaning Hall, Buffalo, Madison, those population areas. I'm not convinced that it wouldn't work in every county, Senator Utter. I'm just trying to be responsive and say, do we start with the three largest and then work in the others? But you may feel differently after you hear the testimony today. [LB457]

SENATOR UTTER: Thank you. [LB457]

SENATOR CORNETT: Senator Fischer. [LB457]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Senator Campbell, for coming in today. Lancaster County currently does this on their own, correct? [LB457]

SENATOR CAMPBELL: That is correct. [LB457]

SENATOR FISCHER: Why would we mandate the other counties would have to do it? If it's such a good practice, wouldn't...or shouldn't they implement it on their own? [LB457]

SENATOR CAMPBELL: You know, Senator Fischer, I think you're going to hear some testimony on that this afternoon. I feel strongly, after the discussion on the floor last year in which we spent a lot of hours talking about TERC and how to come forward with proposals that would help taxpayers, it would seem to me that we need to start on the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

path. And sometimes you do have to put into statute what we as the Legislature feel that path should be. On the other hand, as we write legislation, we want to be concerned. But this is important enough. Taxpayer information and their understanding of the valuation process is important enough for the Legislature to take a look at this issue. [LB457]

SENATOR FISCHER: Okay. Thank you. [LB457]

SENATOR CORNETT: Senator Utter...or Hadley. [LB457]

SENATOR HADLEY: Thank you, Senator Cornett. Senator Campbell, I'm trying to understand the publication of the notices and the difference between counties with over 250,000 and under 250,000. Is there kind of a reasoning behind...? [LB457]

SENATOR CAMPBELL: You know, Senator Hadley, I'm going to let the assessors and the county people address that for you. [LB457]

SENATOR HADLEY: Okay. Okay, good. [LB457]

SENATOR CAMPBELL: I think NACO will be the best gauge of that because they're going to talk to you about all counties. [LB457]

SENATOR HADLEY: Okay. Good. Thank you. [LB457]

SENATOR CORNETT: Further questions? Seeing none, Senator Campbell, thank you. And I know you waived closing. [LB457]

SENATOR CAMPBELL: Yes, I will. Thank you very much, Senator Cornett. [LB457]

SENATOR CORNETT: Proponents. And I will remind the latecomers, we are using the light system today: three minutes for all testifiers. [LB457]

NORMAN AGENA: Senator Cornett and members of the committee, I'm Norman H. Agena, A-g-e-n-a, and I'm the Lancaster County Assessor/Register of Deeds. You are going to have to excuse my voice. I'm on the downhill side of a touch of flu, so I cough once in a while. I want to let you know what we did in 2009. We did a reappraisal for Lancaster County. We mailed out 87,000 preliminary notices. As part of that notice, we notified the property owners that if they had wanted to talk to us about their value, they could call and make an appointment. We allowed 15 minutes for each person that came in and visited with our staff. I had eight appraisers. We had 7,130 hearings in the span of seven weeks. Out of that number, 510 of those went on to file a formal protest. In a normal reappraisal year you will probably get somewhere around 8-10 percent of the number of notices that you send out will file a protest. In 2009, they had a total of 3,100

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

formal protests that were filed on there. We found out that, and as Senator Campbell had mentioned, in looking at it three things actually happened. It was very, very taxpayer friendly. They appreciated the fact they could come in and talk to somebody and find out how we established value and to tell...and we also found probably 80 percent of the people that came in, we got to go out and visit their property. Because just because we're supposed to look at the property, we don't get inside every property. We probably got into 80 percent of the properties to make corrections to our property card, which could have been room sizes, it could have been square footage, a whole variety of things, and made a lot of corrections at that point. The second thing is it did save our county board of equalization about \$600,000 by virtue of not having the other 6,100 people come in and file a formal protest. And the third thing is, it reduced the number of appeals that went to TERC after the formal protest, and I think we had less than 100 that filed appeals with TERC. But I would be glad to answer any questions that you may have. And that's pretty much what we did in 2009. [LB457]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent. [LB457]

JOHN DICKERSON: (Exhibit 3) John H. Dickerson, 11301 Davenport, Omaha, Nebraska. Senator Cornett, thank you, and Senator Pirsch, my senator, I'm glad to see he is on the committee. I am handing out to you a letter of my thoughts on this and also some charts that will demonstrate what is happening in Douglas County. First of all, I'd like to say that I've been a commercial real estate practitioner for over 32 years. I've done everything from management to sales to consulting, and I do property valuation appeals. Most of my appeals are for small commercial property owners so that's the area from which I will speak. But I can tell you, on the floor last year when the TERC bill was discussed there was some discussion about whether there was fairness, and it kind of tended to lean towards residential property owners. I can tell you that there are more small commercial property owners in our state than there are large ones, and those property owners have properties that are probably \$2 million or less, and so I think it's kind of unfair to say that all commercial property owners are big, can afford attorneys and expensive consultants to appeal their valuations. I'm here in support of LB457 because I think there's currently an injustice in Douglas County. Last year, I represented ten property owners, no value of more than \$2.2 million. I visited with the assessor's office during the appeal period, and we agreed on valuations. And on those ten, I was able to get \$2.5 million reductions in valuations. The largest one was \$800,000 and the next largest one was \$400,000. There seems to be a problem there and I think it's probably because the county assessor in Douglas County isn't provided enough funds to hire enough staff to do the job timely and efficiently. I have printed in here, in my letter, some data, and it's also demonstrated by the charts that I've presented to you. But in comparison to Lancaster County, Douglas County has almost twice as many properties, more than twice as many commercial properties, and extremely...and more than double value. And the Douglas County Assessor's budget is \$3 million and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

Lancaster County Assessor's budget is \$3.85 million, and I believe that was 2009 numbers. For commercial properties only, Douglas County has four appraisers and Lancaster County has three, with...so there's a difference. There's one extra assessor, appraiser, to work in Douglas County on twice as many commercial properties. Another comparison: There's an organization of assessors called the IAAO, and they have a rule of thumb about how much should be allocated to the county assessor's office, and it's .75 percent of property tax revenues. In 2009, Douglas County's revenue was \$785 million. The assessor's budget was \$3 million. The rule of thumb would have been \$5.9 million. On the other hand, the Douglas County Treasurer's Office rule of thumb is \$5.9 million and their actual budget was \$5.6 million. A lot closer to the rule of thumb. In comparison to Douglas County and some other counties as far as how much per parcel is spent on assessing, Lancaster spends \$30; Sedgewick, which is Wichita, Kansas, spends \$20; Polk County, Des Moines, spends almost \$30; and Johnson County, Overland Park, Kansas, spends almost \$28. Douglas County spends less than \$16. If Douglas County just spent \$25 per parcel, the county assessor would be budgeted with \$4.8 million, and that would be an increase...a \$1.8 million increase in their budget would be a \$9.34 average increase in taxes to all the properties in Douglas County. [LB457]

SENATOR CORNETT: Sir, is that in your written testimony? [LB457]

JOHN DICKERSON: Yes. [LB457]

SENATOR CORNETT: Okay. Well, you've reached time. Would you like to make...wrap up your remarks very quickly, because we can read this. [LB457]

JOHN DICKERSON: Okay. All right. The Revenue and Unicameral here have the authority to fix the problem and I think you should do it and I think you should do it this session. If you have any questions? [LB457]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB457]

JOHN DICKERSON: Thanks. [LB457]

SENATOR CORNETT: Next proponent. [LB457]

RANDY LENHOFF: Chairperson Cornett and members of the committee, my name is Randy Lenhoff, L-e-n-h-o-f-f, and I am with Seldin Company in Omaha, a member of NACPO, Nebraska Association of Commercial Property Owners, and I'm here in favor of LB457. The reason I think that something needs to be done is my friend John Dickerson was up here talking about it, and I didn't give you a lot of facts, but a couple of years ago I had a property that we had to protest. We got no hearing before the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

county until we got our TERC date, which was almost 18 months later. When I finally was able to meet with the representative from the assessor's office, he realized that he had actually assessed the wrong building. That's why the numbers didn't match up. So by that time I had paid almost two years' worth of higher taxes than I should have on that building. Now, we got the credit back, but that simply tells you what the problem is. We are not getting a hearing at the county level and we need to have the hearing there. It will take a lot of burden off TERC and it will be good for the county overall. I'm not here to tell you how to fix it. This bill looks like it probably does it. There may be other ways. But there is a problem in Douglas County. It needs to be fixed. We have properties we manage across the state. We don't have this problem in any other counties. It is strictly a Douglas County problem in my opinion. That's the end of my testimony. [LB457]

SENATOR CORNETT: Thank you very much. Questions from the committee? Seeing none, thank you. [LB457]

RANDY LENHOFF: Thank you. [LB457]

SENATOR CORNETT: Next proponent. [LB457]

BILL MUELLER: Senator Cornett, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska Association of Commercial Property Owners, the State Chamber, and the Omaha Chamber in support of LB457. I would like to thank Senator Cornett and Senator Campbell for their work and interest on the subject of TERC. I especially want to thank County Assessor Norm Agena from Lancaster County, Roger Morrissey from Douglas County, and Larry Dix of NACO and Bob Wickersham of TERC who have worked with us over the interim on this legislation. As all of you will remember, there was a TERC bill that this committee advanced out, last year. The bill was heard on the floor. There was a spirited debate. The opponents were led, in part, by Senator Campbell, and the bill failed to advance from General File to Select File. Well, we're back again. I think that the bill that you have in front of you takes part of what was in the bill last year--it doesn't take all of it. It doesn't change the burden of proof that I know you all heard a lot about, but what this does...and the statement of intent I think describes it best. It just requires that the county assessor provide a notice of preliminary value, and that after they provide that--and they can provide that by either publishing notice, they can mail notice, they can put it on their Web site--then the taxpayer would be afforded a chance to sit down with the county assessor and talk about their value. And Norm Agena has described that process. And then, thirdly, if you as a taxpayer were still not satisfied, you could file a protest with the county board. The county board could hear that or they could have a referee hearing that. I've actually gone through, as a taxpayer, the process in Lancaster County twice. I've not prevailed completely either time, but it was a good process. I felt like I was heard. I felt like I was able to talk to someone and make my case for why their value

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

was incorrect on my home. I think that another advantage of this process--and Norm Avena referred to this--if there is misinformation on the property card, it gets remedied. If they've mismeasured my house, it gets remedied because the assessor and the taxpayer will be across the table talking to each other. Once it's remedied, it will be remedied in the future. I think one very telling statistic is that Lancaster County--and I think this was in 2009--had 100 appeals to TERC. Lancaster. Douglas County had 1,000. Now Douglas County has double the parcel so we're not saying that they should have the same number. They had ten times the number of appeals. I think what you will hear is it costs money to do this. We acknowledge that. It will cost money initially. We think what will happen is, once this transition is made, the county will spend money on the front of the process and not on the back of the process going to TERC. I'd be happy to answer any questions you may have. I would hope that you would...and by the way, we do support Senator Campbell's amendment. It makes sense to phase it in. If we can't do it in 93 counties, we have no objection to doing it in three counties. I'm over my time. I'd be happy to answer any questions you may have. [LB457]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB457]

BILL MUELLER: Thank you. [LB457]

SENATOR CORNETT: Next proponent. [LB457]

JUSTIN BRADY: Senator Cornett 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 a registered lobbyist for the Nebraska State Home Builders and the Nebraska Realtors Association in support of LB457. And I won't go through all the reasons that the testifiers ahead of me did and just say if you have any questions. I'll try to answer them. [LB457]

SENATOR CORNETT: Seeing none, thank you. Next proponent. [LB457]

LARRY DIX: Good afternoon, Senator Cornett. For the record my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials, appearing today in front of you in support of LB457. A couple things that I want to touch on. Senator Utter, I think you had asked the question about, if this is good for three, why isn't it good for 93? At some point you reach this economy of scale. And in our smaller counties, you know, there's been a couple people testify about the number of cases that come in front of TERC, and those numbers that were thrown out were 1,000 and 100. And when you get to the smaller counties, those numbers are dropping drastically. Some counties will come and tell you, well, we haven't been in TERC in three or four years. So when you hear that and when you talk to the assessors in those smaller counties, there's just, by the nature of the smaller counties, everybody has the ability to know each other, see everyone in a common setting. There is more communication that's happening up front

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

in the process in those small counties. If this were applied to all the counties, then there would be a significant cost to send out these notifications earlier on. You still have to send them again later on in the year, but all of the ones that you would send out earlier, your economy of scale would be so diminished that at this point in time we don't think there would be a cost savings in and of that. I think when we look at it, if we can analyze the numbers--which Lancaster has--if we can analyze those in the larger counties and we can see a definite trend, then I think we need to look at all 93 and say, does the trend justify the cost of sending out the preliminary notices? And so I think that's something that we really need to look at. NACO certainly supports this, and specifically Senator Campbell's amendment, because that does just that. Otherwise, the tables would be turned because in some of those small counties those notice of valuation increases even on, you know, agricultural land, they would be significant in nature and not a whole lot of savings. Keep in mind, I think at the end of the day the goal and I think the success of this assessment process is to get the taxpayer in communication with the assessor to solve as many of the issues that can be handled on a one-on-one basis. And I think Senator Campbell's bill certainly is a step in that direction and in going in that way. So with that, I'd be happy to answer any specific questions anybody would have. [LB457]

SENATOR CORNETT: Seeing...oh, I'm sorry. Senator Hadley. [LB457]

SENATOR HADLEY: Thank you, Senator Cornett. Mr. Dix, I'll ask you the same question that I asked Senator Campbell. I just had some concerns about the notification. And if you could just spend a minute, kind of, that Section 2 there, kind of running through what the purpose and how that really would work then. [LB457]

LARRY DIX: Yeah. And Senator Hadley, I'm glad you asked that question, as I was running out of time. I didn't want to run over so I knew you would ask it. As that reads, I think there's a notice...there's a physical notice that comes out in the mail that has the name and address, prior value, next year's value. That still goes to each and every taxpayer. And I just read that in detail. Also it allows for counties to place it on their Web site, okay? Place the value on their Web site as another option. They're still going to get the paper notice, but that's another option that the counties have. And certainly as the bill was originally drafted, not all 93 county assessors would have a Web site they could place it on. And so I think, you know, we need to look at that language, you know, if we go forward with Senator Campbell's amendment, then I think you probably could use (a) and (b) and I'm not so sure that there would be necessarily a need for (c). [LB457]

SENATOR HADLEY: Okay. And secondly, just...I know I have more questions than I said I was going to ask. I do hope we look at other counties, because I've met with the Buffalo County assessor and talked about this, and they certainly do try to...he says that they meet with anybody who wants to come in to talk about their valuation. But I certainly hate to somehow change assessors where we went into some kind of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

procedure where we weren't doing it. [LB457]

LARRY DIX: Right. And I certainly think...and from the discussion I've had with assessors, if some assessors feel it's advantageous that they think there is the economy of scale, they can do it like we've seen with Lancaster. So they could do it. And I think once this moves forward I think you'll find more counties will say that's a good idea; that is a good idea to get the taxpayer involved earlier on in the process. Certainly, last summer, when we met in Douglas County with some of the property owners of Douglas County, one of the things I know I have in my notes is that the taxpayers in the state of Nebraska want the opportunity to meet with the assessor in this process. [LB457]

SENATOR HADLEY: Okay. [LB457]

SENATOR CORNETT: Further questions? Seeing none, thank you, Larry. Next proponent? We'll move to opponents. First opponent. [LB457]

RICK KUBAT: (Exhibit 4) Good afternoon, Chair Cornett, members of the Revenue Committee. My name is Rick Kubat. I work for the Douglas County Board of Commissioners and I am the coordinator for the Douglas County Board of Equalization. The Douglas County Board is supportive of the idea of preliminary notices. For us the issue--and Senator Fischer spoke to this--is should this be mandated now? I know that there has been a lot of talk about money situations down here. With the elimination of state aid to counties, likely adjustments in Medicaid reimbursement, this is going to be a difficult budget year for Douglas County. You may be aware, last year, that the Douglas County Board raised the tax levy two cents, and even with that, most county departments were told to and complied with the mandate to cut their budgets by 4 percent. We want to get there but we would like to wait until our economic situation is a little bit improved to do so. Our Douglas County Assessor's Office is estimating that this is going to cost roughly \$600,000 per year to build up his staff and to get what he needs to get done to move towards this. If this committee was in a giving mood today and we could get state aid to counties back, we'd be happy to trade. But it's our current situation, and that...in other words, what we'd like to do is have the opportunity to move towards this, rather than a mandate. The other aspect of this bill that I wanted to speak to is the mandate for the face-to-face hearings at the board of equalization. And to understand why Douglas County moved into a mail-in system I want to go back and give you what happened to us in 2007. Our Douglas County Assessor's Office did a major reevaluation of the county. Eighty thousand change notices were sent out and we had 10,700 protests. Under 77-1502, we had two months to get that business done. And we had our appraisers working in silos, looking at one property and one neighborhood; the next person would come in, they'd have a property on the other side of town. This made it extremely difficult for us for purposes of equalization. On top of that, the Nebraska Court of Appeals has...there is a Zabawa case saying that county

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Transcriber's Office

Revenue Committee
February 17, 2011

boards have a duty to equalize at the county board of equalization level. With our mail-in system we were able to group our properties into neighborhoods, similar commercial properties together, and we felt we were able to do a better job with equalization. As part of that, I am going to hand out to all of you, we created new forms to lead residential property owners and commercial property owners, provide them road maps as far as what good evidence is, and to have them focus not on property taxes but, rather, the issue at hand, which is valuation. We also held public forums. And believe it or not--if I may wrap in the next 45 seconds, Senator Cornett, because I see the red light is...? Believe it or not, when we explained the rationale to the public, we had more of a receptive response than we did a negative when we explained the rationale that we're trying to do a better job with equalization. Lastly, our property owners, when we made the changeover, were slightly more successful in the mail-in system than they were the previous year when they sat down and had the face-to-face hearings. In summary, this provides our appraisers with additional time for review. Their determinations are evidence-based and we feel we're doing a better job equalizing our neighborhoods. [LB457]

SENATOR CORNETT: I am going to go first here. First of all, the bill is written for 2014. That would be a three-year phase-in period. Douglas County has had these issues for a number of years, even when they had money, and they have made no steps towards doing this. Hence, we're probably at the situation of a mandate. And I understand the mass reappraisal, but I assume that moving forward with this assessor that the appraisals will be kept more up to date so you won't have that huge problem again. I mean would that be a fair assumption? [LB457]

RICK KUBAT: I believe so, yes. You know, and again I do believe our county board wants to work towards this. And, you know, hopefully, when 2014 rolls around, the economic climate will be better, property values will begin to rise, and maybe the money will be there to provide additional funding. It's just really difficult for us to kind of plan ahead for those future years. And as Mr. Agena stated, this is something that if we're going to do it, we need to start funding...we need to provide additional funding to our county assessor's office today so that he can bring the folks in, get them trained, and get them up to speed on what they're going to need to do when 2014 rolls around. [LB457]

SENATOR CORNETT: Senator Hadley. [LB457]

SENATOR HADLEY: Senator Cornett. Thank you for coming. If the numbers are correct, you had ten times the number of appeals to TERC than Lancaster County does. Do you have any idea of what an appeal to TERC costs Douglas County, in the way of attorneys, staff time? [LB457]

RICK KUBAT: Senator Campbell's office asked me for that number, and there would be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

two aspects to that: county assessor money and county attorney time. One Douglas County attorney handles exclusively TERC cases, and probably half of a paralegal. We estimate, from Douglas County, that it costs us \$100,000, including mileage and benefits, of Douglas County attorney time. I don't have an estimate as far as how much money it costs for the assessor's office to deal with it. I was kind of told that whether they have 100 cases or 1,000 cases...their staff is spending less time if they have 1,000 cases. They're going to be spending more time if they have 100 cases, at least according to one of their chief deputies. He thought that even if TERC cases diminish as far as their office is concerned, it's going to be kind of a wash for them. [LB457]

SENATOR HADLEY: One last question. What is the mill levy for Douglas County? [LB457]

RICK KUBAT: We were at 24.5 cents the year prior, and then last year we raised it two cents to 26.5 cents. [LB457]

SENATOR HADLEY: Am I correct, that's one of the lowest in the state? [LB457]

RICK KUBAT: I know it's on the low end. [LB457]

SENATOR HADLEY: And you probably don't know what \$600,000 would translate into the mill levy? You know, you said the cost was about \$600,000. [LB457]

RICK KUBAT: I can get that for you, Senator Hadley. I don't know... [LB457]

SENATOR HADLEY: Okay. If you get what...how much of that would be (inaudible) year, please. [LB457]

RICK KUBAT: I try to steer away from accounting as much as possible. [LB457]

SENATOR CORNETT: Senator Pirsch. [LB457]

SENATOR PIRSCH: And just so I know, your preference would be, if you could, to continue doing...I mean if there was no bill and if it was up to the county, would your preference be, you cannot meet face to face, but to do mail correspondence-type of...is that...? [LB457]

RICK KUBAT: You know...and to summarize it, again, property owners have been just as successful under the new system. But I'm more comfortable that I'm giving my appraisers the time they need to review the properties and to make sure that, you know, all properties in Dundee are grouped together, all properties in Florence are grouped together, and that when things are being pushed out of the BOE that we're doing a better job of equalization under the new system than we were. One of the problems with

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

77-1502, folks treat it like taxes. Everybody waits till the last few days to come in and there's kind of a mad rush. I can't tell people, hey, if you live in this neighborhood I want you to file on such and such a day. And it's difficult to have those hearings and get the equalization aspect of our operation done. [LB457]

SENATOR CORNETT: Speaking with Mr. Agena over the course of the summer, the Lincoln assessor's budget, even though they have about half as many parcels, is as great or greater than the Douglas County's. Correct? [LB457]

RICK KUBAT: I believe they're both right around \$3 million. [LB457]

SENATOR CORNETT: Has it been a policy decision to not fund the county assessor for Douglas County for the number of parcels that they need to administer? [LB457]

RICK KUBAT: You know, I've been with the Douglas County Board since 2007, and I can't speak to what happened in prior years. I'm sure each and every one of my commissioners would have a different perspective on whether or not the current funding level for the Douglas County Assessor's Office is at an adequate level at \$3 million. [LB457]

SENATOR CORNETT: Do you know what a county assessor in Lancaster makes? [LB457]

RICK KUBAT: I don't. [LB457]

SENATOR CORNETT: What does a county assessor--or I didn't mean assessor--a board member? [LB457]

RICK KUBAT: I believe...and again, I can find out that exact number. I believe it's around \$30,000. [LB457]

SENATOR CORNETT: And how about in Douglas County? [LB457]

RICK KUBAT: Or in Douglas County it's \$30,000. [LB457]

SENATOR CORNETT: Okay. And you don't know in Lancaster, I assume. [LB457]

RICK KUBAT: I don't know. [LB457]

SENATOR CORNETT: Senator Utter. [LB457]

SENATOR UTTER: It seems to me from the testimony that I've heard, not only this year but in previous years, that the attitude in Douglas County may be, if we ignore them

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

they'll go away. And I guess I have a little difficulty with that type of a response when in other situations I find that a lot of these things could be resolved by just a simple face-to-face meeting. I think that's all taxpayers want is to be able to talk to their assessor, and those problems can be easily resolved. But it seems to me like Douglas County is taking a different approach, and thus we're all...they're coming to the state now and saying we need the state to mandate how Douglas County is going to treat its citizens. [LB457]

RICK KUBAT: You know, Senator Utter, it's not as though the doors of our Douglas County Assessor's Office are closed. The public is free to go into our assessor's office and speak with them. I know our Douglas County Assessor's Office has informal meetings with commercial property owners, so there is that face-to-face dialogue. My only point is, at the end of the day one of my biggest concerns with the numbers we're dealing with is to make sure that properties are equalized. And what I'm trying to emphasize is I believe with our mail-in system we're more capable of doing that. Would we like to be able to do both? Absolutely. You know, I just wish that everybody could have an understanding of what things looked like in 2007 when we had the 10,700 appeals. You know, I had 25 appraisers looking at properties all over town, and it did make the equalization for the Douglas County Board of Equalization very difficult. [LB457]

SENATOR CORNETT: One moment, Senator Fischer. With that increase in valuation, that mass reappraisal, was any of that money dedicated back to the assessor's office? [LB457]

RICK KUBAT: I don't believe so. No. I mean their budget would be looked at like any other county department. I mean it doesn't come in line...you know, their mandate is to put these valuations at what the market would bear; not, hey, if you raise values we're going to try and get more money for your office. [LB457]

SENATOR CORNETT: But isn't that where Douglas County gets their money, is the assessor's office? [LB457]

RICK KUBAT: I believe a large portion of our general fund budget is property tax revenue, so yes. [LB457]

SENATOR CORNETT: Senator Fischer--I thought you had a question. Senator Hadley. [LB457]

SENATOR HADLEY: Just, if the system is working so well, why do you have ten times the number of appeals to TERC than Lancaster County has? [LB457]

RICK KUBAT: I don't know, you know, Senator, and I'm not saying that we have a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

perfect system. And, you know, what I was getting at with preliminary notices is that it's something we want to work towards. And can we improve? Yes. I think we have improved a little bit over the last few years. We started inspecting properties at the board of equalization level. If you have a residential property and you want somebody to come inspect your property, during the board of equalization we started doing that and we've made slow improvements to our process. But we're certainly not perfect in Douglas County, and if we can do things to get things addressed and lessen the burden on TERC, that's certainly a direction that I think our county board would like to go. [LB457]

SENATOR HADLEY: And isn't that what this bill is? [LB457]

RICK KUBAT: It is. And the real question is, you know, should it be mandated? Or would the Legislature and this committee allow us to move towards that, and especially move towards it when our economic condition slightly improves. [LB457]

SENATOR CORNETT: Go ahead, Senator Pirsch. [LB457]

SENATOR PIRSCH: Toward that then, you said that this bill kicks in, in 2014, we're saying. And you're saying, though, that it takes a number of ramp-up years to train and to finance? [LB457]

RICK KUBAT: And Mr. Agena spoke to it. This isn't something, in his words, that you can flip a switch and just do the next year. I mean when I talked about the estimate of \$600,000 from our county assessor's office, they're going to have to hire additional staff. And with the staff come benefits, and they're going to have to train their employees and get geared up, because, you know, their office is going to go from one year not dealing with protests, and the next thing you know, they're going to have 5,000 people at their door, and they're going to have to, you know, sit down with those folks and meet with them and explain their process and review the evidence and make determinations like the board of equalization is doing right now. [LB457]

SENATOR PIRSCH: Okay. So you don't think that's a reasonable period of time for you to be able to do that, right? [LB457]

RICK KUBAT: You know, I don't know, because this...like I stated earlier, this coming budget cycle is going to be a very difficult one for us because...largely, in part, because of what's going on down here in Lincoln, I don't know what 2014 is going to look like. Hopefully, things will be get turned around and our financial situation will be a little bit better, where we won't...right now, we're going to be telling...in all likelihood, on top of last year's 4 percent cuts for county budget it's going to be another year we're going to be telling county departments that they're going to need to cut more from their budget at the same time they're going to see our county assessor's office have a spike in funding.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

[LB457]

SENATOR CORNETT: If not 2014, what date then? Because over the course of a number of years the protests have always been more. And the assessor's office has done everything they can--and they've been very cooperative with Kathy Campbell and I--but the county board has not seen the need to fund the assessor's office so they can reduce those number of protests. If we don't mandate it in 2014, how long do you think you need? And I was hearing "no, no, no" before we even cut state aid to counties. It's been "no" since the conversation began years ago; "no, no, no" when we had money, when we don't have money, and now when we have less money. [LB457]

RICK KUBAT: You know, since I've been there, Senator, the one thing that I don't believe that the county board has been engaged in is this idea of preliminary notices. And again, I...they understand the value in doing preliminary notices. They are receptive to the idea. I'm not astute enough to answer, you know, how much time we need. I don't know how to answer that question. I don't think their answer in the past has been "no" to the idea of preliminary notices. I think they want to get there. And then that's... [LB457]

SENATOR CORNETT: I think it's been more "no" to more funding for the assessor, am I correct? [LB457]

RICK KUBAT: I don't know. I don't know. You would be more familiar with your tenure with the county board's direction in previous years than I would be. [LB457]

SENATOR CORNETT: Well, my point is, we've been asking the Douglas County Assessor to do twice as much work with half as much money, basically, as the other boards are asking their assessors to do. [LB457]

RICK KUBAT: I understand your point and certainly am going to relay the message to my board, and I have relayed that message to my board due to the meetings that we've held. [LB457]

SENATOR CORNETT: Further questions? Seeing none. [LB457]

RICK KUBAT: Thank you, I do have some handouts that... [LB457]

SENATOR CORNETT: Oh. Just hand them to the page. That would be great. [LB457]

RICK KUBAT: Thank you for your time. [LB457]

SENATOR CORNETT: Next opponent. Are there any further opponents? Neutral testimony? [LB457]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

BOB WICKERSHAM: Senator Cornett, members of the committee, my name is Bob Wickersham, W-i-c-k-e-r-s-h-a-m. I'm chairperson of the Tax Equalization and Review Commission. I'm appearing in a neutral status primarily because of the amendment that Senator Campbell has suggested, specifically the sentence 4 that would change the date for abstracts from March 31 to March 25. If the date had been March 25, it would have, I think, reduced the time that was available for the commission in a way that would not have allowed us adequate time to conduct statewide equalization. But we were happy to participate in a meeting with Senator Campbell and others, and the amendment is a product of that and meets our concerns. I have heard TERC mentioned a couple times in the prior testimony and questions. We are, as you all are aware, kind of the end of the process--the what I'll characterize as the informal process that is before you get to the courts. And we have had a significant number of appeals from Douglas County, as you know. The numbers that have been represented to you are accurate, with a little bit of rounding. Douglas County does send the largest number of appeals to us. I will suggest to you that a couple of years ago, at our suggestion, Douglas County began working with the persons who appealed after an appeal had been filed. This may sound something like kind of like a preliminary meeting but after you've gone through the protest process and after you've filed with the commission. But that's what they do. They have been very aggressive in talking to people who have filed appeals and there are a great many of the appeals resolved based on those conversations. If that resolution didn't occur, we would be absolutely overwhelmed. [LB457]

SENATOR CORNETT: Commissioner Wickersham, since they have...I just want to make sure we're clear on this. Since they have implemented some type of a face-to-face, even though it is after the appeal is filed, you are seeing a reduction in the number of cases that are coming to TERC. [LB457]

BOB WICKERSHAM: Not the number of appeals. What happens is that the appeals get resolved without a hearing. [LB457]

SENATOR CORNETT: That's what I mean. Okay. [LB457]

BOB WICKERSHAM: Yes. [LB457]

SENATOR CORNETT: But when I said come to TERC, what I actually mean, that you are actually physically hearing then. [LB457]

BOB WICKERSHAM: Yeah. We've reduced the number of appeals as a percentage... [LB457]

SENATOR CORNETT: As a percentage. [LB457]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

BOB WICKERSHAM: ...that we're actually hearing. We're still hearing a large number of appeals, but it has helped. And I will again repeat, if they had not done that we would be absolutely overwhelmed. [LB457]

SENATOR CORNETT: And you feel that it's that actual face-to-face with the taxpayer that is what's reducing it. [LB457]

BOB WICKERSHAM: Well, I don't know of any other explanation. Senator, I just want to be careful. I just don't know of any other explanation. [LB457]

SENATOR CORNETT: Well...oh, and I understand that. But as, you know, formerly being Chair of Revenue and now on TERC, would it be...would you be comfortable saying that you think that the number of appeals themselves could be reduced if they did the face-to-face at the front end rather than the back end? [LB457]

BOB WICKERSHAM: Yes. We have...in fact, I have made some analysis over a four-year period...five years, I guess now--four years--of appeals filed in Lancaster, Cass, Douglas, and Sarpy Counties. And I think you can see the effect in Lancaster County. For the year 2006, Lancaster County did a reappraisal. They had something over--and hope Mr. Agena would confirm these numbers--but they had something over 10,000 protests. That was a reappraisal in Lancaster County in 2006. Over 10,000 protests. They did a reappraisal in 2009 and had a little over 3,000 protests after they used the preliminary notice procedure. Now there may be other explanations for the substantial drop in protests to the county board, but the numbers are there. [LB457]

SENATOR CORNETT: What does the average case cost the state of Nebraska for a TERC appeal? Would...when they actually come to TERC, how much...? [LB457]

BOB WICKERSHAM: Our budget, as you know, has been around \$900,000. We have...we've been generating, on the average, for the last four years, 1,800 appeals. I'd have to do the math, Senator. I haven't done that but that would be the math I think. [LB457]

SENATOR CORNETT: If we reduce the number of cases actually coming to TERC, it would reduce the state's budget also, correct? [LB457]

BOB WICKERSHAM: Possibly. [LB457]

SENATOR CORNETT: And do you think that it's more cost-effective to handle...for the counties also to handle it at the front end rather than the back end? [LB457]

BOB WICKERSHAM: Senator, I don't think I could comment on that. I don't know what the county costs are. I have read articles that appeared in the newspaper that Mr.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

Agena recited cost savings for Lancaster County. Other than that, I really couldn't comment on what I think costs are for the counties. [LB457]

SENATOR CORNETT: How about for the taxpayers, so they don't have to hire an attorney? [LB457]

BOB WICKERSHAM: Well, most of the...many of the people...of course, we don't know how many of the people who have appealed to TERC hired attorneys after they filed their appeal. We could tell if they had an attorney at the time they filed the appeal. We can't tell afterwards. So I really...I know this is sounding equivocal, but again I'm trying to be careful. I don't know how many of them use an attorney to reach a settlement with the county. We just don't know that. [LB457]

SENATOR CORNETT: You just see the ones that actually, physically, come to you. [LB457]

BOB WICKERSHAM: That's correct--or file the appeal. [LB457]

SENATOR CORNETT: Or file the appeal. Okay. Questions? [LB457]

BOB WICKERSHAM: But something in between, we just don't know. [LB457]

SENATOR CORNETT: Senator Pirsch. [LB457]

SENATOR PIRSCH: And you started these kind of meetings...when did this policy go into effect? [LB457]

BOB WICKERSHAM: Well, we encouraged Douglas County to do that because we...initially, we had worked with Lancaster County. This is starting to sound like a process I suppose. But we had asked Lancaster County to implement that process. We had a large number of appeals from Lancaster County. We called up the county attorney's office and the county assessor's office, and said, "Can you talk to these people? We want to only hear the appeals that can't be resolved. Can you talk to the folks? We'll give you...we'll wait to schedule appeals until we hear from you." In about August or October...I think that year, if I remember correctly, Lancaster County had something over 400 appeals filed with us. We asked them to review them. They did, and I think we ultimately heard 43 appeals. Now that's just a recollection. If that number is wrong, I'm sure somebody will correct me, but it was a very substantial benefit and impact. And I think that the benefit, quite frankly, extends beyond just the workload of the commission. You heard one of the witnesses say that by the time, if they can talk to folks, they get into the property, they're able to measure it, they're able to verify the inventory of characteristics of the property, and they can do a better job of assessment. Once they're...but there...it extends beyond the assessment for the immediate year,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

because the whole assessment process is dependent upon a good inventory of the property and its characteristics. So any time you improve that inventory, you improve the potential for good assessment results in the future. [LB457]

SENATOR HADLEY: Thank you. Commissioner, thank you for coming. If my math is...however we work it, at TERC we're spending ten times on Douglas County appeals versus...if there were 100 from Lancaster County and 1,000 from Douglas, we're spending ten times the funding. Okay. Thank you. [LB457]

BOB WICKERSHAM: Yeah. I'm sure you can work it out. [LB457]

SENATOR HADLEY: Yeah. And if you use even \$500 each, that's a half a million for Douglas County and \$50,000 for Lancaster. [LB457]

BOB WICKERSHAM: Yeah. Now, I should be careful also. The commission has other obligations so we do things... [LB457]

SENATOR HADLEY: Oh, I understand that. [LB457]

SENATOR WICKERSHAM: Yeah. [LB457]

SENATOR HADLEY: I understand that. [LB457]

SENATOR CORNETT: Senator Pirsch. [LB457]

SENATOR PIRSCH: Yes. Well, and that's what I'm trying to look at. From the quantitative analysis of this, I think, if I heard the testimony of Douglas County, the individual who is the commissioner's, that they were saying because of fixed costs, really on the back end there is...whether it's 100 or, you know, lower, more in line of what Lancaster appeals are on the high end, 1,000 pretty much costs them nearly the same. In other words, the variable costs don't go down. Is that...I mean, do you...are you suggesting that there are a lot of variable costs that could be lowered on the TERC level if this is employed? Or are you...or so many...I know you said there are some fixed costs, but can you give me an idea of how much reductions in your spending, then, we could associate with this change? [LB457]

BOB WICKERSHAM: I...Senator, I don't really know. Our costs are...cover a variety of things: one, when we do almost all of the paperwork that's related to an appeal. I think you're used to working with the court system where the persons who file the appeal or the other side are the ones that furnish most of the paperwork. That isn't true with the commission. We furnish most of the paperwork--that is, the orders for hearing, the notices of appeal, the other documents. We generate all of that. Now if the volume of appeals goes down then the volume of that paperwork goes down. And I just can't tell

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

you exactly what that impact would be. And I know there's somebody sitting back there, saying he's speaking kind of through the...he's not speaking the truth. Because I send in big piles of paper and he doesn't send me nearly as big of piles of paper. And that's true in terms of the evidence that the people have to submit. But for the run-of-the-mill cases, primarily what we will be doing, other than the time that individual commissioners spend on an appeal, is generating paperwork directing people to do things, showing what they need to do, when they need to do it, mailing it out, responding to inquiries for continuances and so forth. And we do all of that paperwork for the parties, unlike a court system where that's done by the parties. [LB457]

SENATOR PIRSCH: Thank you for the answer. [LB457]

SENATOR CORNETT: Further questions? Seeing none, thank you, Commissioner Wickersham. [LB457]

BOB WICKERSHAM: Thank you. [LB457]

SENATOR CORNETT: Next person in a neutral capacity. Are there any more testifiers on this bill? [LB457]

MIKE GOODWILLIE: Good afternoon, Senator Cornett and members of the committee. My name is Mike Goodwillie, G-o-o-d-w-i-l-l-i-e. I am a deputy county assessor in Douglas County and am here to testify in a neutral capacity on LB457. The reason we're testifying in a neutral capacity is we absolutely love the idea. The more opportunity we would have to meet with taxpayers and be able to change values prior to the time that we can't touch them anymore without county board approval, we'd be thrilled to death, because we would get rid of a lot of what we would call the no-brainers, you know, where you've got data on the property wrong. You've got them on for an extra bathroom, or the measurement of the house isn't right, or the big killer, especially in older neighborhoods, is in the interior condition of the property. We don't get in all the properties unless somebody asks us in, and this might be a vehicle to remove those from the system. The reason we're testifying in a neutral capacity is the implementation will be an issue for us with the existing staff and budget. At a minimum, what it would require for us is to sort of rejigger our calendar for when we do valuation work. Currently, our entire appraisal staff is working throughout June, July, and the early part of August to prepare packets to give to the county board of equalization referees to provide them a reasonable background for how we got to the value we got--you know, did we use comparable properties; what did we do--so that when that referee has the protest, he can look at what the taxpayer provided and can look at our background material and get some feel for how we got to where we got and give them some reasonable means to say, yes, the value is good enough to stand or no, we should change it. So June and July and early August are dead months for us. We have to have values finalized by the middle of March. And so, essentially, the later half of the year

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

and the first couple of months of the new year we are doing basically all of our valuation work: inspections, following up on building permits, all of that kind of thing. And at least initially we would have to have our values done by the time we put our notice out, either on the net or send notices. And so essentially you'd be compressing or changing your valuation calendar. I don't have enough time to belabor the cost data that has been provided for you. I don't think there's any need to do that. I would just simply say that, yes, we like the idea. We'd love to do it. We've gotten good results in meeting with taxpayers at various stages in the process. But often, when we meet with them, it's too late for us to do anything about it on our own. We typically have to either make a recommendation to the board if they protest, or we have to go through the process necessary to settle a Tax Equalization and Review Commission case. And with that, I would entertain any questions that you might have. [LB457]

SENATOR CORNETT: Thank you, Mr. Goodwillie. Questions from the committee? Seeing none, thank you. Next testifiers in a neutral capacity? [LB457]

MARILYN HLADKY: Good afternoon again, Senator Cornett and members of the Revenue Committee. My name is Marilyn Hladky, M-a-r-i-l-y-n H-l-a-d-k-y. I'm the Seward County Assessor, and I wasn't going to come up here, but listening to some of the comments and the testimony it drove me up here. But anyway, I thought you should hear from a smaller county. I'm Seward County. I have 10,500 parcels. I will tell you that in 2010 I had 19 county board protests. In 2009, I only had 50. And I guess part of my concerns with this bill is I think preliminary notices are a great thing, but to mandate a certain date that you have to have it by I guess causes me some concern. The assessors in the smaller counties, you also have assessors that are ex officio so they also have duties and responsibilities of being clerks, district court clerks, and election commissioners and so forth. The assessors in the smaller counties, like for myself, I go out and I review property, inspect it, do pickup work. I set all my ag land values in the county. We do homestead exemptions. I wait on the counter. I do the telephone. So we have to multitask for all the aspects within the office. So my main concern would be that January 15 deadline, because every year I'm pretty much--clear up until that abstract date of January 19, I'm still working to get my values set. So as you go forward with this idea and concept, I appreciate that you'd keep those things in mind. Thank you. [LB457]

SENATOR CORNETT: (See also Exhibit 18) Thank you very much. Questions from the committee? Seeing none, thank you. Is there anyone else to testify in a neutral capacity? That closes the hearing, as Senator Campbell has waived. [LB457]

SENATOR UTTER: We'll now open the hearing on LB363. And Senator Cornett, you're free to make your opening presentation. [LB363]

SENATOR CORNETT: (Exhibits 5, 6, and 7) Thank you, Vice Chair Utter and members of the Revenue Committee. My name is Abbie Cornett, C-o-r-n-e-t-t, and I represent the

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Transcriber's Office

Revenue Committee
February 17, 2011

45th Legislative District. LB363 has been introduced at the request of the Tax Equalization and Review Commission, otherwise known as TERC. LB363 is an omnibus technical changes bill which contains a number of statutory changes governing property tax-related processes and procedures. Among its many provisions, some merely strike obsolete statutory language while other provisions make substantive changes, including increasing TERC's filing fees from \$25 to \$50. There are three amendments to the TERC which have been drafted as requested by TERC to clarify certain provisions in the bill: AM94, AM207, and AM295. Any technical questions about the bill or the amendments can be answered by any of the members of the TERC which will be present today. On the amendments...on AM295--I want to bring particular attention to this amendment, which I'm submitting today. It is being offered to cure a defective state law. The defect in the law on notices to taxpayers was recently the subject of a Nebraska Supreme Court decision. Fixing this notice in the law is very important to address the private party's right to appeal and participate in the appeals process. I believe Commissioner Wickersham, who will be following, will be prepared to address this particular issue and should be able to answer any questions concerning that amendment. [LB363]

SENATOR UTTER: Questions for Senator Cornett? Not? Why, we'll start listening to proponents. Welcome again. [LB363]

BOB WICKERSHAM: (Exhibit 8) Yeah. Well, we may have another opportunity as well. Senator Utter, members of the committee, my name is Bob Wickersham. I'm chairperson of the Tax Equalization and Review Commission and am appearing in support of LB363 and want to express our appreciation to Senator Cornett for introduction of the bill. As noted, there are three proposed amendments to the bill. Two of them are rather--well, one of them, I think, is purely technical. Two of them are more substantive, and perhaps we should--if you wish, I'll address those first. One... [LB363]

SENATOR UTTER: At your pleasure. [LB363]

BOB WICKERSHAM: Yeah. One is the amendment that, as Senator Cornett indicates, is designed to correct a problem in state law that was identified in a recent Supreme Court decision, Cargill v. Colfax County. The Supreme Court in that case essentially determined that it would be impossible for a county to appeal from a decision of the commission. So the fix is to change the piece of statute that the court identified as a problem and to change the language back to what it was in 1997, before--when it worked, until it didn't work. The other amendment concerns Sections 19 and 20 of the bill, and I do have a handout, because I think...Sections 19 and 20 of the bill address an issue that may get a great deal of attention because of reasons other than, I think, the basis for the initial idea. Sections 19 and 20 concern notice that the commission gives of statewide equalization. That happens once a year; we publish notice for one day in two newspapers across the state of--for the state. We publish in the Omaha World-Herald,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

and then we also publish in the Lincoln Journal Star. The statute requires us to publish that notice in a paper of general circulation within the state of Nebraska. When we learned that the Omaha World-Herald had stopped general circulation west, I think, of Grand Island, or maybe it was Kearney, I'm not sure, but west of Kearney or Grand Island--there's limited access to the Omaha World-Herald--we began to wonder whether the Omaha World-Herald was a paper of general circulation within the state of Nebraska. And if it wasn't, then we weren't giving notice, appropriate notice, of statewide equalization, and none of our actions in statewide equalization would be valid. That kind of concerned us. That was one concern. The other concern, frankly, was the cost of publication. If you look at the handouts that I've distributed to you, the cost of publication for one day, one time, in the Omaha World-Herald was about \$423. It was substantially less in the Lincoln Journal Star. Now, people are entitled to charge, I guess, what they think is appropriate for publications in their newspapers. But a one-day publication in a newspaper for \$423 got my attention. And we started asking if there wouldn't be a different way to give that kind of notice, began working with the Secretary of State's office, and derived the idea that perhaps we could just publish our notice on the Secretary of State's Web page--no cost. No cost. And the notice would stay there for some extended period of time. Now, the Secretary of State--the initial draft of the bill, the Secretary of State said that imposes too broad a category for us and we want to have that tightened up. And that's the purpose of the amendment that is submitted to you: it tightens up the kind of a Web site that the Secretary of State would maintain, and it specifies that the only notice that would appear on that Web site is the commission's notice for statewide equalization. So it should not involve the issues that you might hear about in maybe some other contexts, about the need to publish all notices in newspapers as the most effective means for notice. You may...and I think you'll hear testimony about that. I do want to note that there are a couple of items...oh, I see the red light; I'm sorry, Senator. I... [LB363]

SENATOR UTTER: Go ahead and wrap up. [LB363]

BOB WICKERSHAM: Okay. I do note--want to note that there are a couple of technical things in the bill that you may want to be aware of. One is a provision that provides the Tax Commissioner and the Property Tax Administrator 30 days to intervene in an appeal in an exemption case. Currently that's governed--we govern that by rule: we give them 30 days. But we do hope that you would specify that they have 30 days to intervene after we give notice of the appeal. The...and that's the same notice that we would give to anyone else. The other provision that I would call to your attention, particular attention, is in Section 15 of the bill. Section 15 concerns an issue that in legal terms is described as "joinder." Joinder is the process of making sure that you have the right people participating in an action to make a decision. Now, last year--and I think you were correct--you passed a piece of legislation and it required joinder of all parties in exemption cases. You required that. And I think that was appropriate. It was...I don't know how it had been overlooked, but it was. But the same thing applies in contexts

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

other than exemption cases. There are sometimes other parties that ought to be brought in. We see them perhaps most often in the context of a tenant who has brought an appeal, for example, because they're the one that pays the taxes. But it is, in fact, the property owner that might also have something at stake, and they aren't brought in. So a provision that gives us the statutory right to give notice to somebody else...now, we're not saying that they have to participate, but what we're saying is we think they ought to be notified and, if they want to participate, have that opportunity. So we would like the statutory authority to send notice to people when we think that their interest might be affected by something that's in front of us and give them the opportunity to come in. And with that, Senator, I'll...there are many other things in the bill, but it's going to be a long day. [LB363]

SENATOR UTTER: Thank you, Commissioner Wickersham. Questions? Senator Hadley. [LB363]

SENATOR HADLEY: Senator Utter, thank you. Commissioner Wickersham, the increasing in the filing fee from \$25 to \$50... [LB363]

BOB WICKERSHAM: Yes, sir. [LB363]

SENATOR HADLEY: I thought TERC, actually, had a surplus in their cash account. Am I incorrect in that? [LB363]

BOB WICKERSHAM: We have been able to build up our cash account by not spending cash. We have--in fact, we have not spent even our General Fund appropriation for several years. And the result was that we built up cash funds; you're correct. And the Appropriations Committee this year, in their preliminary recommendation to the--their preliminary recommendation has us using about \$115,000 a year in cash, which substantially reduces the burden on the General Fund. In other words, we had cash; we've been able to conserve assets and resources. The Legislature is now going to use them. [LB363]

SENATOR HADLEY: We spent a lot of time talking about--when we talk about aid to cities and counties--concerned about, just, that if we had reductions in aid, that it would just be passed along in tax increases. Are we doing the same thing here, then? If we're reducing the tax funds for TERC and you turn around and raise your--increase your fees, we've effectively reduced TERC, but we made them whole again by going back to the taxpayer to increase the fee. [LB363]

BOB WICKERSHAM: Well, the increase in fees, as we've calculated in the fiscal note, might generate about \$45,000 a year. The commission's budget has been about \$900,000 a year. So the...I can't--Senator, I don't want to minimize what you're saying, but at the same time the cash fund has not been a significant source of revenue for the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

commission. In fact, in past years it's been running more like \$20,000 or \$30,000. And I will emphasize again that the reason that we had a fairly healthy balance in our cash fund is because we have simply not even spent our General Fund appropriation, let alone the monies that were appropriated to us out of cash. And we're more than happy that those assets are available to you. [LB363]

SENATOR HADLEY: Sure. The other question I have is on the notification. I guess we're getting more and more assuming that everybody has access to an electronic means of communication. Is that a fair statement, across this...? [LB363]

BOB WICKERSHAM: There... [LB363]

SENATOR HADLEY: You know... [LB363]

BOB WICKERSHAM: Okay. [LB363]

SENATOR HADLEY: ...you said you were going to make the argument that maybe the World-Herald wasn't a statewide... [LB363]

BOB WICKERSHAM: No. I was concerned about it as a legal issue. [LB363]

SENATOR HADLEY: Well, then, is there a legal issue that everybody has access to electronic means to be able to see this Web site? And what's on the Web site? [LB363]

BOB WICKERSHAM: Okay. The publication of notice doesn't necessarily ensure that everybody has an opportunity to see the notice. If you have published notice in conformity with the provisions of the law, then there can't be a challenge. I was just concerned...and, frankly, we've gotten some good information from the Omaha World-Herald. They...their staff attorneys--in fact, their general counsel, I think, did some research. And I think they'll be able to make an argument to you that they are, in fact, a newspaper of general circulation in the state of Nebraska and that I shouldn't be worried... [LB363]

SENATOR HADLEY: Okay. [LB363]

BOB WICKERSHAM: ...and that I shouldn't be worried. But... [LB363]

SENATOR HADLEY: I will certainly wait to hear what... [LB363]

BOB WICKERSHAM: But I was. And, frankly, even if they're a newspaper of general circulation in the state of Nebraska today, is it going to be the same next year? And at some point in time...I just don't like those questions. I'd much prefer a--frankly, I'd much prefer a process that I was absolutely sure that I could comply with and there would be

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

no question that I had complied with it. [LB363]

SENATOR HADLEY: Wouldn't you have a little bit of that if you did both? [LB363]

BOB WICKERSHAM: And, frankly, Senator, we have proposed that to the World-Herald. They said it didn't cure their problems with the provision. I did suggest that we publish both in--that we have a provision that said literally that we could publish both in the newspaper and on the Secretary of State's Web page and that if either one of them--if either one of those notices was valid, then we were okay. Yeah. [LB363]

SENATOR HADLEY: Thank you. [LB363]

BOB WICKERSHAM: Because you can do both, but you want to make sure... [LB363]

SENATOR HADLEY: That one is... [LB363]

BOB WICKERSHAM: ...that you don't have to do both; but if one is okay, then you're okay. [LB363]

SENATOR HADLEY: Thank you. [LB363]

BOB WICKERSHAM: Yeah. [LB363]

SENATOR UTTER: Senator Fischer. [LB363]

SENATOR FISCHER: Thank you, Senator Utter. Thank you, Commissioner, for being here today. I have a couple questions on the fiscal note, and maybe you can help me out a little. Why do you need to increase the filing fee for appeals? [LB363]

BOB WICKERSHAM: The filing fee was established in 1995 and has not been changed since that date. Now, the filing fee was originally set at \$25 because the idea was that we wanted to have the commission to be accessible and we didn't want to necessarily have the filing fee be a barrier. But it is a question now as to whether or not after the passage of time that it isn't appropriate to examine the level of the filing fee. [LB363]

SENATOR FISCHER: Do you believe that has to be included in this bill? [LB363]

BOB WICKERSHAM: Well, it's in this bill; and, in fact, it's something the commission has proposed before and--in a bill that we had a year or two years ago--and wasn't granted, you know. And I think maybe a further response (inaudible) perhaps to you and to Senator Hadley both: the commission isn't going to live or die if you don't increase the fee. It's just a matter of it hasn't been increased over a number of years. If it seems appropriate to you, fine. That...but if we don't put it in a bill, it doesn't get before you,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

either. [LB363]

SENATOR FISCHER: Right. Right. Another point--could you explain, is it my understanding here--am I correct that you want to remove the authority to consolidate appeals? Is that correct, in this bill? [LB363]

BOB WICKERSHAM: No, Senator. And perhaps that's something I should have addressed a moment ago. There is a provision in state law that allows us to refund fees when we've--in some cases, where we've consolidated them. That provision has not been used very much. You can see that we think it costs maybe \$750 annually. That's about 30 appeals that are consolidated. I can tell you that that has largely benefited one or two appellants. And the appellant that it has benefited the most has always filed their appeals and then dismissed them. So it's...I can't suggest to you, Senator, that I think it's a real benefit to taxpayers. And it has produced some fairly significant administrative burdens for us. [LB363]

SENATOR FISCHER: Okay. [LB363]

BOB WICKERSHAM: It's not something we can't do, because we do do it. But it just doesn't--the administrative burden just doesn't seem to match what we think is the... [LB363]

SENATOR FISCHER: Doesn't seem to make sense, with the time you're putting in, with the benefits for it. [LB363]

BOB WICKERSHAM: Right, especially because we only see these requests from maybe one or two taxpayers. And then at least one of the taxpayers, for the last three years, has dismissed their appeals. So we have all the cost, and there we are. [LB363]

SENATOR FISCHER: Okay. Thank you. [LB363]

SENATOR UTTER: Further...? Senator Pirsch. [LB363]

SENATOR PIRSCH: Yes. In just getting back to the proposal--request from \$25 to a \$50 appeal fee, I...and you said that, all together, that would increase about \$45,000... [LB363]

BOB WICKERSHAM: Based on... [LB363]

SENATOR PIRSCH: ...the amounts collected? [LB363]

BOB WICKERSHAM: Yes, based on average filings for the last four years. [LB363]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR PIRSCH: I take it, is there an area of your functions that are going on now that you feel are...I mean, what do you plan on doing with the extra \$45,000? [LB363]

BOB WICKERSHAM: I think we would replace general funds in our appropriation request. The funds--the cash funds aren't specifically dedicated to any function, if that's a part of your question. [LB363]

SENATOR PIRSCH: I see. I just wanted to know if there was a particular driver of costs that you were experiencing, such that... [LB363]

BOB WICKERSHAM: No. [LB363]

SENATOR PIRSCH: ...you were...okay. [LB363]

BOB WICKERSHAM: Oh. No, sir. I'm sorry, I didn't understand... [LB363]

SENATOR PIRSCH: Yeah. [LB363]

BOB WICKERSHAM: ...your question. [LB363]

SENATOR PIRSCH: No, no. And I appreciate--thank you for clarifying. [LB363]

BOB WICKERSHAM: Okay. [LB363]

SENATOR UTTER: Any further questions for Mr. Wickersham? If not, thank you very much for your testimony... [LB363]

BOB WICKERSHAM: Thank you. [LB363]

SENATOR UTTER: ...we appreciate it. Further proponents. Welcome. [LB363]

COLLEEN BYELICK: Thank you. For the record, my name is Colleen Byelick; it's C-o-l-l-e-e-n B-y-e-l-i-c-k. I'm the general counsel for the Secretary of State's office. We're really only very--here in a very limited role, with regard to Sections 19 and 20, which would require our office to post a public notice that is currently required to be posted in a paper of general circulation. This bill would shift that to post it on our Web site. And with the AM94, we're fully willing and able to accommodate this request and would support our limited portion of the bill with the amendment. I can answer any questions if you have them. [LB363]

SENATOR UTTER: Thank you. Any questions? [LB363]

SENATOR HADLEY: Senator Utter, thank you. [LB363]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR UTTER: Senator Hadley. [LB363]

SENATOR HADLEY: Just a quick question: Do you do this for any other agencies, that they have substituted a Web site for a newspaper? [LB363]

COLLEEN BYELICK: No. This is the first request that I know of, although we do--and I think why our office came up in the discussion is that we do do a lot of other public notices for regulations; we have a lot of other public information on our Web site. So that's why, I think, we kind of became the agency to go to on this. [LB363]

SENATOR HADLEY: Okay, thank you. [LB363]

SENATOR UTTER: Other questions? Senator Pirsch. [LB363]

SENATOR PIRSCH: How heavily visited is your Web site? [LB363]

COLLEEN BYELICK: Well, it depends on what you're looking at, and I don't have the statistics with me, but I can get statistics for you. But I know our rules and reg pages usually average about 200,000 hits per month, and our corporate area is about the same. And those are the, kind of, the two heavily visited sections of our Web site. [LB363]

SENATOR UTTER: Further questions? If not, thank you very much... [LB363]

COLLEEN BYELICK: Thank you. [LB363]

SENATOR UTTER: ...for your testimony. Other proponents. Are there any opponents of the...? Welcome. [LB363]

DEB McCASLIN: (Exhibits 9, 10, and 11) Good afternoon and thank you very much for hearing me out. I'm here, an opponent to Sections 19 and 20. I am Deb McCaslin; I'm the publisher of the Custer County Chief. I understand I'm supposed to spell that, D-e-... [LB363]

SENATOR UTTER: Will you spell your name, please, for us? Thank you. [LB363]

DEB McCASLIN: Okay, D-e-b M-c-C-a-s-l-i-n. And you are correct; it's very warm in this room. The Custer County Chief is the legal newspaper for Custer and Blaine counties in the center of Nebraska. I'm passionate about our communities, the citizens we cover, and the role of the community newspapers, and our role in how we serve our readership in keeping them informed. I believe strongly in the right to know; I believe strongly in my right to know; I believe strongly in the power of the press. Several weeks ago, when the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

question of the possibility of moving legal notices, including the TERC notices, to the Internet was proposed--and I'd like to point out that I don't publish the TERC notices, but I'm fond of the papers that do--I called a staff meeting to discuss the subject. I wanted to know what they thought; I respect my staff. I'm not a big guy out there; I'm just a little guy out there in the middle of Nebraska. I'm in Senator Deb Fischer's district, and she and I have talked in great detail on some of this stuff--subjects. Anyway, I asked the question: How many of you in this room have been on a government Web site in the last calendar year? I didn't say one week; I didn't say one month; I said the last calendar year. I have 17 of the people facing me, and we're in this little, tiny room. Four hands went up--for a government Web site in the last calendar year. One of them was my news editor; one of them was myself; my sports editor; and a compositor. My sports editor goes: Does the NSAA Web site count? I said no. He put his hand down. That left three. My compositor said: Does the Game and Parks Commission count? I'm a hunter. Yeah, it counts, because that's a government Web site. So that left three hands up. And this is three hands. And we're not old fogies. We're in--my staff is--they're intelligent people; they're involved in the community; and they're computer savvy. Three hands at a newspaper office. I think that's significant. My father died about two years ago; we're still sorting out some of the property holdings. He sold the land and the buildings that house my newspaper office, the printing plants to my parent company. I am corporate owned. None of the kids wanted to move back 20 years ago when he made that decision. I'm back now, and I'm not leaving. And there's a little area of land behind the building; it's a little dirt plot. He didn't sell it because the guy who lives behind the newspaper office...oh, dear, I'm going to run out of time. Anyway, the guy who lives there had a little garden on it. But the whole point is that he didn't sell this little, tiny piece of land. I got a letter in the mail, and it says: You owe \$10 in taxes. I didn't even know I'd owned it. I paid my taxes. But the thing is, is that had this land gone up for public auction, I would have lost my loading dock, because that's where the semis back up to load their paper. For a little, tiny thing, for \$10, it would have hit the courts, and it would've been kind of a nasty deal. I find it really interesting that the secretary of treasury every year sends an SOS out to the weekly newspapers saying: Please do an article; ask the folks to peruse this Web site that says that the state owes them money. And we do it; we do an article on it. We look at the Web site; we go, okay, these are our local people, and the government owes you money. Now, if people will not go to a Web site to find out if you owe them money, do you honestly think they're going to go to a state-owned Web site to find out if they owe you money? I've got a lot in print here. I believe very much in the legal portion of the paper; it's our people's right to know. I know that you are just as passionate in getting that information out. The thing about a Web site is, is that you have to know where you're going, and you have to know what you're looking for. The legal portions of the newspapers have been out there for a long time. People know where to go to get the information, and it's there for their perusal. Questions? [LB363]

SENATOR UTTER: Thank you very much for your testimony. Any questions for Deb?

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

We promise you we'll read the rest of your newspaper. [LB363]

SENATOR HADLEY: Yes. [LB363]

DEB McCASLIN: Oh, I did bring copies of my last three issues, just in case you really want some fine reading; and I have them here. [LB363]

SENATOR HADLEY: Send the bill to Senator Fischer. (Laughter) [LB363]

DEB McCASLIN: She is a loyal subscriber, thank you; and you should be too. We've got good stuff now here. [LB363]

SENATOR HADLEY: Okay, thank you. [LB363]

DEB McCASLIN: Am I allowed to testify for anyone else? [LB363]

SENATOR UTTER: We will put...it'll be in the record you've distributed that to us. [LB363]

DEB McCASLIN: It's in the record. It's from Marcia Hora... [LB363]

SENATOR UTTER: Yes. [LB363]

DEB McCASLIN: ...she has wonderful things to say. [LB363]

SENATOR UTTER: Yeah. [LB363]

DEB McCASLIN: Skip reading mine; do read hers. [LB363]

SENATOR UTTER: Okay. [LB363]

DEB McCASLIN: Thank you. [LB363]

SENATOR UTTER: Thank you very much. Welcome. [LB363]

JOEL LONG: (Exhibit 12) Thank you much, Senator Utter. Members of Revenue Committee, my name is Joel Long, J-o-e-l L-o-n-g, director of communications for the Omaha World-Herald Company, 1314 Douglas Street, Omaha, Nebraska. I've also submitted a letter from our publisher and CEO, Terry Kroeger, to be part of the official record. In addition to what Deb was saying, in the letter which was submitted--that it speaks clearly to the lack of Internet in lots of portions of the Sandhills. I've got some demographic issues; I'd like also to talk with you a little bit on the Internet. A UNL survey was taken last year, June of 2010--found that 44 percent of people over 65 do not use

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

the Internet; about half of the low-income households in the state don't have Internet access; and only 41 percent of those homes where the head of household does not have a high school degree have Internet access. Even the folks that are avid Internet users do not routinely go to government Web sites. The World-Herald's information technology department, which regularly monitors Internet traffic in our region, estimates the Nebraska Secretary of State's Web site gets about 42,000 page views per month. Now, I'd venture most of these people are attorneys and people that have a business concern with that. Contrast that with the Omaha World-Herald's Web site, omaha.com, which gets 17.9 million page views per month. Our citizens, particularly those who keep themselves informed on matters of public policy, read newspapers and/or their Web sites as part of their daily or weekly routine. They simply do not visit government Web sites as part of their weekly or daily routine. The whole concept with public notices is to put them in places where the general public, not lawyers and government officials, are most likely to see them. Putting legal notices in newspapers is a time-tested and legally tested practice. This is not a revenue issue with the World-Herald. Last year the World-Herald received a total of \$917 for publishing TERC legal notices. This is more an issue of open government, to provide the widest, most successful, most practical way to get legal notices before the general public. Now, there's also the issue of checks and balances. If notices were to be published on a government-controlled Web site, it would remove an implicit check and balance that currently exists. Currently, publishers of a newspaper certify through proof of publication affidavit that the public notice requirement has been met. If the government controls the entire process and certifies its own publication, that would invite skepticism about a government control of information. Finally, there's no more doubt that Internet news sites--a lot of people turn to those for information. As I alluded to earlier, omaha.com is by far the most popular Web site in the state. It is measured by page views and unique visitors. I'll finish quickly. Many of the newspapers across Nebraska and their Web sites are the leading Web sites and newspapers in those communities. Even those newspapers that don't have Web sites--the newspaper is the general source of general news. To help extend legal notices to Internet audiences, the World-Herald Company will begin, at no extra cost, posting on all of our newspaper Web sites, in a highly visible position, legal notices that are published in printed products. Our newspapers range from Omaha and Bellevue clear out to Scottsbluff and Gering; we have 14 other newspapers besides the Omaha World-Herald. And we would encourage our colleagues at other newspapers across the state to also adopt a similar policy. Thank you for your time. Any questions? [LB363]

SENATOR UTTER: Thank you, Joel, for your testimony. Any questions for Mr. Long? Seeing none, thank you very much. [LB363]

JAMES CANN: Good afternoon. [LB363]

SENATOR UTTER: Welcome. [LB363]

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Transcriber's Office

Revenue Committee
February 17, 2011

JAMES CANN: (Exhibit 13) My name is James Cann. I'm an attorney with Koley Jessen in Omaha, and my firm has had the opportunity to be legal counsel for the Omaha World-Herald for a number of years now, and I'm pleased to be here on its behalf. [LB363]

SENATOR UTTER: James, will you spell your name for the record, please? [LB363]

JAMES CANN: Last name is spelled C-a-n-n; first name is James, common spelling. I've brought here today a letter, which is being passed out to you, authored by general counsel at the World-Herald, Scott Searl. In the letter is information that I'm going to be talking about today, but you're welcome to refer to that after I'm through. His letter also encloses some case annotations that touch on an issue that I'm here to talk about concerning Section 19 and 20. And that, of course, has to do with this change that is proposed from publication in the newspaper to publication on the Secretary of State's Web site. The World-Herald sees that as a fundamental and substantial change to an important public notice feature. And as Commissioner Wickersham testified to earlier, this piece of this bill focuses on one aspect of the TERC's work, which is to ensure properties are equalized across the state. They do that on an annual basis. And they are obligated under the statute to publish notice that they are going to be having a meeting for that purpose so that interested parties have an opportunity to be there and be heard. The concern, as I understand it, is that the World-Herald is not or may not be deemed a newspaper of general circulation in the state of Nebraska. And we respectfully disagree with that premise. We have taken a look at the cases that have touched on this issue, and I'd like to share some of the highlights from those cases with you and, hopefully, bring some degree of comfort to the committee here that--and to the TERC as well--that the risk is very, very low, in our assessment, that the World-Herald would somehow not be characterized as a newspaper of general circulation. The issue goes back over 100 years. Nebraska's Supreme Court looked at this in a series of cases, and they concluded that as long as the publication was daily or weekly, without regard to class, vocation, or calling, and as long as it was devoted to gathering and disseminating news of current events of interest to all, then it satisfied the statutory definition of "general circulation." Other states have concluded the same thing. Again, news of general character, which the Omaha World-Herald obviously is; there's no question about that. And other courts have found that as long as the circulation is more than de minimis--more than de minimis--then it satisfies the definition of "general circulation" throughout the state. Now, the Omaha World-Herald has subscribers in every county in this state; it has an online presence. It has direct-mailing customers and it has home-delivery customers throughout the state. So that reach is broad enough so that we don't see that the Nebraska Supreme Court would conclude that we are not of general circulation. We, you know, circulate to 140,000 households and businesses on a daily basis and 172,000 on Sunday. I see that I'm out of time; may I briefly wrap up? [LB363]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR UTTER: Please... [LB363]

JAMES CANN: Thank you. [LB363]

SENATOR UTTER: ...please wrap up quickly. [LB363]

JAMES CANN: And studies that we have done have shown--third-party studies as well have shown that even if we distribute to 140,000 customers on a daily basis, that's households actually, so the number of people actually reading it can be multiplied by 2 or 3. So you can multiply that number, and very quickly you see that we have a very substantial circulation. We see no reason to change the law here. We see that this issue is fundamental to due process of law. We see that courts across the country have never found the state's largest newspaper to fail to meet the definition of "general circulation." So we don't want to see the TERC's desire for certainty of notice, which we certainly can appreciate and understand--we don't want to see that opened up to another host of issues, which could perhaps touch on equal protection issues, due to the fact that there are a number of people in the state that do not have Internet access. So even though we may bring some small degree of certainty with respect to the notice requirement, we may open this up to a large degree of uncertainty when there are challenges made to the vehicle that is chosen to distribute this important notice. With that, I'd be happy to entertain any questions. [LB363]

SENATOR UTTER: Thank you for your testimony. Senator Hadley. [LB363]

SENATOR HADLEY: Just one quick question: Is this a little bit the camel's nose under the tent? Because for \$980, this certainly isn't a revenue issue for the Omaha World-Herald. But I would guess it has greater implications for all of public notices that are filed in newspapers throughout the state of Nebraska. [LB363]

JAMES CANN: We think so, Senator. We clearly do not look at this from a revenue standpoint; the numbers are simply much too small. But the bigger picture is notice. And the bigger picture is, what is the best vehicle for getting notice to people? If we start picking the Secretary of State's site for TERC notices, what if another agency wants to pick the county's Web site or the Treasurer's Web site? All of a sudden, in order to get information about what's going on, there could be a number of different places to look. And if you're not tuned in to that or keyed in to that, you may be looking for a needle in a haystack. Now, we think the language of the statute, which requires publication in a general-circulation newspaper--that's, frankly, been a set of words that's found in statutes, you know, going back to statehood days, and so that--they got it right way back then. And it's still right today, particularly in light of the circulation numbers and the Web site hits that Joel talked about when he mentioned the Omaha World-Herald's Web site, where you can actually see the duplicate of the paper, the...it's 14 million compared to 50,000 or so at the State's office. [LB363]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR HADLEY: Okay, thank you, sir. [LB363]

SENATOR UTTER: Seeing no further questions, thank you very much for your testimony. [LB363]

JAMES CANN: Thank you, sir. [LB363]

SENATOR UTTER: Next opponent. Are there--is there anyone here that wants to testify in the neutral capacity? [LB363]

JIM CUNNINGHAM: Senator Utter and members of the committee, good afternoon. My name is Jim Cunningham, C-u-n-n-i-n-g-h-a-m. I represent the Nebraska Catholic Conference, representing the mutual interests and concerns of the Archdiocese of Omaha and the Dioceses of Lincoln and Grand Island. Let me explain the oddity of my testifying on this bill. It is for a very limited purpose and for a more or less technical purpose. As the commissioners know, over the years I have paid attention to the processes that affect appeals, primarily from the perspective of exemption appeals, just to be able to be familiar with how it works, in the event that our office would receive inquiries or calls from practitioners asking what we know about it. So I've paid attention to the processes. I just have a couple of narrow, technical points to ask you about. On page 22 of the bill, in line 13, I would like to ask the committee to consider striking the word "such." It's used as a modifier, on that line, of "taxable value." I don't think it's clear what "such" means in that particular context. Presumably, it could mean the taxable value determined by the Board of Equalization. But that would make no sense, because that determination comes after the hearing, and the stipulation would come during the hearing. I think all that needs to say is, "the parties stipulate to taxable value." I think "such" just confuses that sentence. And then I'd ask you to also--to consider, down on line 20, the proposal is to change the time for determining the value of a property that was exempt and has now been found to be taxable on appeal, that you consider leaving that time period at 90 days rather than 30 days. It just occurs to me that 30 days for determining the value of a property that has been or was initially determined to be exempt might take a longer period than just 30 days; I'm not sure that that's an adequate amount of time. So I'd just ask the committee to consider those two points on page 22. Thank you. [LB363]

SENATOR UTTER: Thank you for your testimony. Any questions for Mr. Cunningham? Seeing none, thank you... [LB363]

JIM CUNNINGHAM: Thank you. [LB363]

SENATOR UTTER: ...very much. Seeing no further testimony, Senator Cornett waives her right to close, and we'll move right along to the next bill, which is LB405. Senator

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

Cornett. [LB363]

SENATOR CORNETT: Good afternoon, Vice Chair Utter and members of the Revenue Committee. Again, my name is Abbie Cornett, C-o-r-n-e-t-t. I represent the 45th Legislative District. LB405 proposes to reform Tax Equalization and Review Commission hearing process by authorizing single-commissioner hearings to, among other things, help TERC manage its caseload and streamline its operations. LB405 authorizes but does not require the TERC commission to conduct a single-commissioner hearing when 1) a taxable value of each parcel is \$1 million or less as determined by the county board of equalization and 2) the appeal or cross-appeal has been designated for a single-commissioner hearing by the chairperson of the Tax Equalization and Review Commission or in such a manner as the Tax Equalization and Review Commission may provide in its rules and regulations. Section 3 of LB405 sets forth the bulk of the rules governing single-commissioner hearings. A single-commissioner hearing will be an informal proceeding in which the usual common-law and statutory rules of evidence would not apply, including rules governing cross-examination of witnesses and rules governing hearsay evidence. The single commissioner conducting the hearing would be required to consider and use all matters presented at the hearing in making his and/or her determination. Thank you for your consideration on this matter. And, for the members that were on the committee last year, you'll remember this was a large portion of the bill we passed to the floor. With that, any technical questions in regard to the TERC commissioner I will hand off to Commissioner Wickersham behind me. [LB405]

SENATOR UTTER: Thank you, Senator Cornett. Questions of Senator Cornett? Seeing none, thank you for your opening. [LB405]

SENATOR CORNETT: And I will waive closing. [LB405]

SENATOR UTTER: Commissioner Wickersham, welcome again. [LB405]

BOB WICKERSHAM: All right. Senator, I paused for a moment; I didn't want to get ahead of your process. But...Senator Utter, members of the committee, my name is Bob Wickersham; I am chairperson of the Tax Equalization and Review Commission. I'm appearing in support of LB405 and again want to thank Senator Cornett for introducing the bill on behalf of the commission. As Senator Cornett noted, the bill would authorize the commission to hold hearing--single-commissioner hearings in specific instances. The idea of having single-commissioner hearing is not entirely unusual. It--there are processes like that in seven other states that have commissions or boards or courts, or however you want to characterize them, that carry out some of the same functions as the commission. I do want to note also that this proposal is one that we hope would meet some of the concerns that people have had in the past about the formality of the commission hearings. As you know, the current hearing structure is that all witnesses

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

have to be sworn in; we do take marked exhibits and we do adhere to limited rules of evidence. The proceeding that would be in a single-commissioner hearing would have none of those characteristics--no oath given to witnesses, not necessarily marked exhibits, and certainly no rules of evidence at all, even the limited rules that we apply in our current hearings. So perhaps it would be a way to address what many have suggested is too much formality in other TERC hearings. Now, the issue of whether or not...I do want to emphasize one point, and I think this came up when we were discussing it a week or so ago. This bill provides for a right to appeal to the commission if you don't like the single-commissioner hearing. Now, that may mean extra work for the commission, but, to be candid, I think it's worth it. Because if you don't have any process for review of the single-commissioner hearings, then the single commissioner is not accountable to anyone. Think about a process where there is no appeal. Think about if you know of a single other process where a decision cannot be appealed to someone, somehow--except when you get to the Supreme Court, of course. I don't know of another process that insulates anybody's decisions from review in that fashion. And I think it would be problematic if we moved in that direction. Now, I want to emphasize something about the workload of the commission in connection with this bill. I don't think this bill in and of itself resolves workload problems or issues with the commission, because we would expect that there would be a number of appeals or a request for rehearing in front of the commission, as we suggested last time we addressed this issue--maybe as low as 25 percent, maybe some other percentage, maybe something that's higher. But there will be people who aren't satisfied with the single-commissioner results and would want to have a further hearing. There are also a goodly number of appeals to the commission that wouldn't fit the category. For 2007, we had 131 appeals that involved properties worth over \$1 million. In 2008, there were 163, and 2009, so far by our count, 168. So you have a fairly good volume of appeals that just, even by the dollar amount, wouldn't fit in this category, let alone the appeals that simply would be too complex, regardless of the dollar amount, to be appropriate for a single-commissioner hearing. And I'm sorry, Senator, I've run over a couple moments. But if there are questions... [LB405]

SENATOR UTTER: Senator Hadley. [LB405]

SENATOR HADLEY: Senator Utter, thank you. Commissioner Wickersham, out of my own ignorance: In a small claims court procedure, is there appeal processes? You may not know. [LB405]

BOB WICKERSHAM: Yes, sir. [LB405]

SENATOR HADLEY: They can--either party can appeal from a small claims court into a...? [LB405]

BOB WICKERSHAM: You go to the district court. And you... [LB405]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR HADLEY: Go to the district court. [LB405]

BOB WICKERSHAM: ...and you start over. [LB405]

SENATOR HADLEY: So you start over. Okay. Secondly, when we were--we've talked about this a lot, and one of the concerns I think at least I had and a number of people: Would not the county just automatically say that they will appeal if they lose? I mean, because the burden then shifts back to the taxpayer, because then you have rules of evidence on what the taxpayer can bring in, can't bring in, and such as that. So if I'm a county assessor and I'm walking before the one-commissioner hearing, I say, I'm going to appeal your...before you even heard it, if I--basically, if I lose, I'm going to appeal it. [LB405]

BOB WICKERSHAM: Well, I don't think so--and for a couple of reasons. One, I don't think that's the experience in Kansas, where there's a similar process. [LB405]

SENATOR HADLEY: Okay. [LB405]

BOB WICKERSHAM: And secondly, the bill explicitly provides that if you don't want to participate in a single-commissioner process, you get out at the git-go. [LB405]

SENATOR HADLEY: Okay. I thought I... [LB405]

BOB WICKERSHAM: So... [LB405]

SENATOR HADLEY: ...had read it that you could say before the hearing to have the appeal heard by the... [LB405]

BOB WICKERSHAM: Yeah. You can--any of the parties can opt out, if they don't want to... [LB405]

SENATOR HADLEY: Oh, okay. [LB405]

BOB WICKERSHAM: Now, I understand the risk that if the county...well, I guess both parties have the same kind of risk in the single-commissioner hearing. Either one of them might not like it. But the fact is the bill provides for them an opportunity then to have a rehearing by the commission. But that is also the process in Kansas, and I don't think you have the problem with the county assessors or the--actually, it's the county board, to be technical... [LB405]

SENATOR HADLEY: Sure. The county... [LB405]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

BOB WICKERSHAM: ...appealing. And let me suggest something else to you. It just--it isn't my experience that that's the way they work. [LB405]

SENATOR HADLEY: Okay. [LB405]

BOB WICKERSHAM: They just don't. [LB405]

SENATOR HADLEY: I guess I, you know... [LB405]

BOB WICKERSHAM: Yeah. [LB405]

SENATOR HADLEY: ...we always--our number one goal always is... [LB405]

BOB WICKERSHAM: Yeah. [LB405]

SENATOR HADLEY: ...to protect Aunt Millie... [LB405]

BOB WICKERSHAM: Yeah. [LB405]

SENATOR HADLEY: ...who's out there and... [LB405]

BOB WICKERSHAM: Yeah. [LB405]

SENATOR HADLEY: ...and... [LB405]

BOB WICKERSHAM: No. I--I think, in all candor, I think the larger question is whether or not the rationale for the decision, whatever it is, that's expressed in the single-commissioner hearing is persuasive. Because if you have good evidence, you write a good order, and people see the rationale for your decision, then I think you're less likely to have an appeal. If you aren't able to take the evidence, organize it in a way that makes some sense, write an order based on that evidence, and give some rationale for your decision, then I'll bet you you get an appeal--because somebody says: I don't understand that, and I didn't like it. [LB405]

SENATOR HADLEY: Okay. Thank you. [LB405]

BOB WICKERSHAM: Is that...? [LB405]

SENATOR HADLEY: Yes, that answers it. [LB405]

SENATOR UTTER: Senator Pirsch. [LB405]

SENATOR PIRSCH: From your aspect, how much less do you have to spend because

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

you have these one-commissioner hearings doing the initial review? [LB405]

BOB WICKERSHAM: You mean the commissioners' preparation for hearing? [LB405]

SENATOR PIRSCH: No, I'm saying... [LB405]

BOB WICKERSHAM: I'm sorry, sir; I'm not quite... [LB405]

SENATOR PIRSCH: We're shifting to one-commissioner hearings, correct? Isn't that right? [LB405]

BOB WICKERSHAM: There would be a significant number of appeals to the commission that could be heard by single commissioners. [LB405]

SENATOR PIRSCH: Okay. And it would--and if it wasn't for these one-commissioner hearings, wouldn't it go to the full TERC--the current system? Doesn't that use the... [LB405]

BOB WICKERSHAM: Yes, sir. [LB405]

SENATOR PIRSCH: ...form of, albeit relaxed forms of evidence--rules of evidence used, it's still a formal--more formal than what's proposed here. And so my question is, are there cost savings by utilizing a one-commissioner hearing? [LB405]

BOB WICKERSHAM: Okay. I'm not sure. And I'll try to explain why because... [LB405]

SENATOR PIRSCH: Yeah. [LB405]

BOB WICKERSHAM: ...I think--again, I think it's... [LB405]

SENATOR PIRSCH: And maybe if I'm more precise... [LB405]

BOB WICKERSHAM: Okay. [LB405]

SENATOR PIRSCH: I'm not talking about the overall picture... [LB405]

BOB WICKERSHAM: No. [LB405]

SENATOR PIRSCH: ...because you're also predicting... [LB405]

BOB WICKERSHAM: Okay. [LB405]

SENATOR PIRSCH: ...more appeals. [LB405]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

BOB WICKERSHAM: Okay. [LB405]

SENATOR PIRSCH: So I'm just talking in the isolated instance... [LB405]

BOB WICKERSHAM: Yeah. [LB405]

SENATOR PIRSCH: ...of that particular... [LB405]

BOB WICKERSHAM: Okay. [LB405]

SENATOR PIRSCH: ...hearing. [LB405]

BOB WICKERSHAM: Okay. I just don't know, Senator. And here's why I don't know, and I think it would be problematic to make a guess. As I indicated earlier, a large number of appeals are settled, because we've encouraged Douglas County, Lancaster County, others to go out and talk to taxpayers. They settle them before they get to hearing. But a large number of them are settled only after we give a notice of hearing. You know how an order gets somebody's attention. Then you've got to do something. Well, if those--if they continue to settle, then we'll have very few--we'll have much lower numbers of single-commissioner hearings. If they use the single-commissioner hearings as the settlement process, then we'll have a lot of single-commissioner hearings. See what I'm...? And I don't know which choice they'll make. But if they chose to substitute the single-commissioner hearings for what is now an off-commission process, then we'll do a lot of single-commissioner hearings. I just don't know which way that's going to turn out. [LB405]

SENATOR PIRSCH: And let me ask you this. What is...you had mentioned 131 appeals over \$1 million in a couple of years. And then this year, I think you said 168 appeals. Is that right? [LB405]

BOB WICKERSHAM: It was: 131 appeals in 2007 had a county board value of over \$1 million. In fact, in that year we had a couple that were over \$40 million, so I could give you a more complete breakout; '08 was 163 that were over \$1 million; and '09...and our--we're not--we don't have all the information in the database, but with about 69 percent of the appeals in our database, we have 168 appeals that are over \$1 million. [LB405]

SENATOR PIRSCH: Okay. And the way this bill is written, not every appeal would be eligible for this... [LB405]

BOB WICKERSHAM: That's correct. [LB405]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR PIRSCH: ...one-person panel. Is it--the way it's structured here, is it the dollar size--is it \$1 million that makes you ineligible to turn to this... [LB405]

BOB WICKERSHAM: Well... [LB405]

SENATOR PIRSCH: ...is that what it is? [LB405]

BOB WICKERSHAM: The \$1 million would make it absolutely ineligible. [LB405]

SENATOR PIRSCH: Okay. [LB405]

BOB WICKERSHAM: There are other, if you will, escape valves in the bill that allow other appeals to be heard outside the single-commissioner process. What we're contemplating, quite frankly, is that, based on our experience, most of the residential hearings that are under \$500,000 would be good candidates. You get residential values over \$500,000, they're not as good a candidate. They may have more complex valuation issues; they may be represented by attorneys; they may want, for various reasons, to have a full commissioner hearing. The commercial properties--and this doesn't distinguish between residential and commercial properties--the commercial properties, again, when you get over \$500,000, tend to be a little more complex. Maybe instead of using the cost approach, they have used the income approach, which raises different valuation issues. And I--what we want to do, quite frankly, or what we're asking you for authority to do is the far range, and then let us mold and shape the process as we gain experience and use it in the way that is most beneficial. [LB405]

SENATOR PIRSCH: Yeah. And I'm going to ask you some rapid-fire questions here, just so I can have an answer. In terms of percentage of residential, commercial, \$1 million, those who would not be eligible--what do you anticipate--you know, is it going to be mostly commercial, mostly residential? What's the percentage split as you see it? [LB405]

BOB WICKERSHAM: Those are mostly commercial. [LB405]

SENATOR PIRSCH: Okay. And in terms...you said there are some other escape valves--I'm not going to talk about that, but...so you don't see it beneficial to bump up the level, then, so as to allow for more...you said a great number--168 cases are going to escape this method. But you think that because of the complexity of those cases, you're saying they're not appropriate for a one-person--a one-commissioner assessment? [LB405]

BOB WICKERSHAM: That's correct. And I believe that the other commissioners agree with me. [LB405]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR PIRSCH: And is there any...right now, if you don't agree with the results, you'd take it--under this paradigm you would take it to the, as you would before, to the TERC, right? Regular TERC? [LB405]

BOB WICKERSHAM: You'd--what would likely result is that if you ask for a rehearing, you're going to get a hearing by either two or three commissioners. [LB405]

SENATOR PIRSCH: So that's the current paradigm. [LB405]

BOB WICKERSHAM: Yeah. [LB405]

SENATOR PIRSCH: And you don't see...what are the major, then, issues for those people...? Well, I guess it's too early to surmise, I think you said, right, conjecture what would be the basis for which you wouldn't be able to--you know, why people would appeal these (inaudible). [LB405]

BOB WICKERSHAM: I, yeah, I--I... [LB405]

SENATOR PIRSCH: Okay, thank you. [LB405]

BOB WICKERSHAM: What we'd...we're--we want to engage in the process because, again, we think it will provide a forum that meets the expectations that many people have said that--what it should look like: no oaths, no marked exhibits, no rules of evidence. But beyond that, in terms of how we would do our work, I--frankly, Senator, I can't tell you that it's going to lower our workload. [LB405]

SENATOR PIRSCH: Okay. [LB405]

BOB WICKERSHAM: It will change our workload, but I don't know if it'll lower it. I--and I'm sorry, I was remiss in...Senator, if I may--on page 4, line 2 and 3, of the bill, there is a sentence that reads: "Any party to the proceeding may appear through an authorized representative." I believe that the bar association has concerns about that particular language. The commission has considered their concerns, and I believe we would join with the bar association in suggesting to the commission (sic) that that sentence be deleted, through an amendment. It just--it raises, perhaps, at least from the bar association standpoint, raises unnecessary questions. We think we can operate without that sentence in place. And, with your indulgence, Senator, I should have noted that earlier. [LB405]

SENATOR UTTER: Thank you very much. No further questions? Thank you for your testimony. Further proponents. [LB405]

BILL WARNES: Thank you. I am Bill Warnes. And greetings to the Revenue Committee.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

I'm past chairperson of the TERC. But I want to, really, address only a couple issues here, because we authorized and asked our chairman to come up and speak on behalf of LB405. But I feel very passionate about LB405, and I want to just make a couple points. My last name is spelled W-a-r-n-e-s, sorry. When I came on the commission five years ago, I was met with a tremendous number of appeals where I'm going to characterize it as Mom and Pop come in disputing the value of their property. They were met with a situation that just didn't appear to be correct. I'm a trial attorney, 30 years' worth. It just didn't appear to be appropriate. So I looked around and I found a consensus of what we might do. I went down to Kansas and in Johnson County watched the Kansas board with their chairman-person, Rebecca Crotty, and I was fortunate to have all three of the commissioners there from Kansas. And so I realized that what we had to do is perhaps do something outside, take the railroad track and, you know, remove the train from that, create a new track. And so this--they call it in Kansas the expedited single-commissioner hearing. And I want you to understand that even if we had more appeals than we could handle, the purpose of the single-commissioner hearing is not designed simply to reduce the number of appeals. Because it is a little faster, might be a little cheaper, but that isn't the real reason. The real reason is to match the resources to the need. There's no sense in having three or four commissioners sitting before Mom and Pop on your average, uncomplicated residential appeal. I also want it to be clear that there is no appeal from a single-commissioner hearing. That term is not accurate. If you don't like the single commissioner's ruling--like, myself, if I rule, you don't appeal anything; you just ask for a hearing before the commission. So the term "appeal" needs to go out. It is like a small claims, but it isn't really. Because like you've already had discussed, there are some exceptions to a small claims, and I certainly understand that. Why would a assessor want to be part of something like this? Well, when I spoke to NACO and I spoke to the assessors workshop this last year, I learned there's at least two reasons. One, many people who file a protest never go before the county board of equalization; so the assessor never gets a chance to even see them, nor does the county board. Two, when you do have the single-commissioner hearings, you will find that there will be a higher likelihood of an inspection, to correct all of the physical characteristics that, you know, would--you know, your common errors that might occur. Now, I can't guess, either, on the cost savings, Senator Pirsch, but I will tell you that in Kansas, where there are 10,000 appeals a year, 75 percent of those that come before their single commissioners down there are settled. That has to represent some major improvement to the system we have now. So I support...and I'm speaking only on behalf of myself here today--I'm not here on behalf of the commission--but I do feel passionately about this, and I think LB405 holds a lot of positive attributes. And with that, I'll end and ask if there's any questions. [LB405]

SENATOR UTTER: Senator Hadley. [LB405]

SENATOR HADLEY: Yeah, Senator Utter, just one quick question. One of the concerns

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

I have is with the \$1 million number. I'm trying in my own mind to equate that to a tax bill. And out in Kearney and Buffalo County, that would be, give or take, \$20,000 in taxes, which I think is a pretty significant dollar amount. So I...is there...and maybe we have it--data that the commission might have on the number of appeals arrayed with the dollar value of the tax that you're working with. Does that make sense? That... [LB405]

BILL WARNES: Right. [LB405]

SENATOR HADLEY: You know, do you--how many cases would the property be \$500,000 or less, or how many from the \$500,000 to \$1 million? [LB405]

BILL WARNES: Okay. The history of this bill is that when it was part of LB1079--and it was part of the individual bill before it was incorporated in LB1079--the concept was to use it for residential properties. [LB405]

SENATOR HADLEY: Um-hum. [LB405]

BILL WARNES: Now it's been expanded. I can just tell you--of course, I have five years of experience listening to cases and being the presiding hearing officer. We use \$1 million as a suggestion because that seems to be a figure beyond which you get into a little more complication. There's a little more effort being put forth by the county and by the taxpayer. It probably needs the--it would--we probably need to show--the attention of the full board, the full commission. But \$1 million...now, in Kansas--you just might find this reassuring--it's \$2 million. [LB405]

SENATOR HADLEY: Okay. I was going to... [LB405]

BILL WARNES: It's \$2 million in Kansas. [LB405]

SENATOR HADLEY: That was going to be my next question, so... [LB405]

BILL WARNES: So \$1 million is an arbitrary figure that you could change if you wanted, but we feel comfortable with it. And I can--got to tell you, I feel comfortable up to handling those kind of figures now, with my experiences. [LB405]

SENATOR HADLEY: Thank you, Mr. Warnes. [LB405]

BILL WARNES: I think the other commissioners are comfortable too. [LB405]

SENATOR UTTER: Further questions for Mr. Warnes? [LB405]

BILL WARNES: All right, thank you. [LB405]

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Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR UTTER: If not, thank you very much for your testimony. [LB405]

BILL WARNES: You bet. Thank you. [LB405]

SENATOR UTTER: Next proponent. Welcome. [LB405]

JAREL VINDUSKA: (Exhibit 14) Got a couple handouts to hand out. Should I pass them around? [LB405]

LAURIE VOLLERTSEN: Do you have your sign-in sheet? [LB405]

JAREL VINDUSKA: Members of the Revenue Committee, my name is Jarel Vinduska. It's Jarel, spelled J-a-r-e-l; Vinduska is V-i-n-d-u-s-k-a. I'm here in support of LB405. You might have remembered I testified on LB384 also. And I think LB405...I don't know which one you--one or any of you propose to advance, but we're talking about LB405 right now. And there's one major change that I think should be made, and I'll discuss that in a little bit. But first I'd like to try to answer Senator--is it Pirsch, is it? Is that how you pronounce it, I'm sorry? [LB405]

SENATOR PIRSCH: Yeah, very good. [LB405]

JAREL VINDUSKA: Your question of whether you think this would be any time savings--going to a single-commissioner hearing. And based on my experience...and I've had some recent experience. Like I told you last time, I was before the TERC; and my hearing lasted six and a half hours, and I attended four others on the same issue, and the shortest amount of time was four and a half hours. And the issue wasn't--I can assure you, the issue wasn't near that complicated that that much time should be needed. The reason so much time was needed is because of the formality of the hearing. The burden of proof is on the taxpayer, and as a result, you have to spend most of that time trying to establish what already should be established. It's like trying to prove gravity or try to prove the earth is round. There's basic things that you go in assuming that any assessor would know that would be established facts. And this case was in Sarpy County, where the assessor made all farm home sites, or virtually all farm home sites, the same level of valuation, based on the valuation--an extrapolated figure of one lot in a high-end subdivision. And so it's a basic fact of real estate that you shouldn't have to establish that there's no way that 800 properties could have the same valuation. It's just an impossibility. And it, of course, can't be that it can have the same valuation of the highest-priced property you could find that's an extrapolated value. So anyway, we had to reinvent the wheel and go from there. And the reason the hearing took so long is because it's so formal that I had to ask the same question a dozen, fifteen times, because the county attorneys would object all the time, and so you had to reword it a different way that met their objections. But anyway, I see I'm--I don't want to spend a lot of time. I submitted two documents of evidence that obviously, to me, are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

very important evidence--because the burden of proof is on you, so you need this type of evidence. These are public documents that were rejected. I hope you look over them. I highlighted some of the important parts to prove that they are very significant evidence that should be included. And that's one reason why I suggest, on page 4 of LB405, that it's a very important change that you need to do. On the first paragraph, (2), it says: The usual common-law and statutory rules of evidence, including rules of hearsay, shall not apply, and the commissioner may--you have, "may consider and utilize all matters presented at the proceeding." And I say that's a very, very important change: that needs to be "shall" instead of "may." And I hope by looking at the evidence of the documents that I submitted, that are very relevant documents to this case that confronted Sarpy County people, that if you left it...since it's going to be the same commissioners that will do the single one that sometimes do the multiple-commissioner, formal hearing--if they considered that this evidence was hearsay and was not relevant--if you leave it "may" here, there's a possibility that they may consider this evidence irrelevant in the nonformal one. So to eliminate any ambiguity about how it should be handled, "shall" would be very appreciated in that spot. If you have any questions, I'll answer them. [LB405]

SENATOR UTTER: Thank you, Jarel, for coming today and your testimony. Are there questions? Seeing none, thank you very much. [LB405]

JAREL VINDUSKA: Thank you. [LB405]

SENATOR UTTER: Next proponent. Welcome back. Please proceed. [LB405]

JOHN DICKERSON: (Exhibit 15) Thank you, Senator. John Dickerson, D-i-c-k-e-r-s-o-n, 11301 Davenport, Omaha, Nebraska. I'm speaking, of course, in support of the bill. I think single-commissioner hearings would be a good thing, particularly for property owners that I deal with most of the time--are small-property owners; their values are \$1 million or less a lot of times. And when they find out that if they go to TERC--hopefully, you can negotiate something with the local assessor--but if you have to go to TERC, it's very litigious, and you may want an attorney. It really turns them off. So I think it would be good if a small-property owner would have this type of hearing, so I'm in much support of it. [LB405]

SENATOR UTTER: Thank you, Mr. Dickerson. Any questions? Seeing none, thanks for your testimony. [LB405]

RANDY LENHOFF: Senator, members of the committee--Randy Lenhoff, back again. I support this bill also. I think it's--it'd be very helpful. We do manage for owners who have properties that fall into this category. And TERC is a--it's a difficult process for them anyway. So anything you can do to streamline it I think would be very helpful. One thought I have is I think that personally I'm not sure that an attorney being there is as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

important as maybe an appraiser with them, because I think they might have more to add. So I'm a little confused why it's important to have an attorney sitting with you. But I have a lot of friends who are attorneys, so I'm not trying to make anybody mad at me; it's just an observation. With that, I have no further comments. [LB405]

SENATOR UTTER: Thank you very much. Any questions? Seeing none, thank you. Justin, welcome. [LB405]

JUSTIN BRADY: Senator Utter 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. And for the reasons stated we think it will--has the potential to save some costs and definitely save some time. So with that, I'll try to answer any questions. [LB405]

SENATOR UTTER: Thank you. Seeing none, I think you're...Mr. Dix, welcome back. [LB405]

LARRY DIX: Good afternoon. Glad to be back. Senator Utter, members of the committee, for the record, 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 support of LB405. And I want to take the discussion just a little bit different here. Certainly we support single-commissioner hearing, but I would like to relay to you, over the past year I've actually attended a few of the TERC hearings, more so for my own knowledge than anything else, to understand the process. And what I observed at some of those hearings were taxpayers who would show up with not only themselves, their attorneys and appraisers on one side; on the other side we would see the county--the county attorney, the county assessor, and maybe a board member. And a couple of these simply were protests, that someone had applied late in the game to the county board of equalization and really didn't come prepared at the county board of equalization. And, in fact, one hearing the taxpayer said: Once I entered the county board of equalization process, I didn't think I could go back and talk to my assessor. And the hearing went on to where the information was very clear that there was a different analyzation of square footage. And so it's one of those where I felt so bad for everybody in the room, because that was one that not only, one, should have been handled locally, but, number two, if we had an informal process, we would not have to have near that many people there. And all of these taxpayers--they are paying taxes, and when the counties come, those are taxpayer dollars that are showing up. So I think we're really onto something here for a number of the protests and certainly a number of the appeals that I heard that were in front of TERC this year. And, like I said, I went to a number of them, and there was a good number that easily could have been handled by a single taxpayer--or a single-commissioner hearing. So as NACO has looked this over, thought it over--Senator Hadley made the comment about, well, won't the county just, you know, automatically appeal? I've got to tell you, on a number of these they won't; there just

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Transcriber's Office

Revenue Committee
February 17, 2011

isn't that--the decisions are pretty clear. You and I sitting across the table would come to the same example. And also we believe there are some cost savings, not only on the TERC side; we believe there, too, is a cost saving on the county side. So with that, I'd be happy to answer any questions you may have. [LB405]

SENATOR UTTER: Thank you, Larry. Questions for Larry? Thank you. Further proponents? Do we have any opponents of this bill? Is there anyone who would like to testify in a neutral capacity? If not, that will close the hearing on LB405. Oh, I'm sorry. [LB405]

SENATOR FISCHER: You have to move fast. [LB405]

MIKE GOODWILLIE: I guess. Good afternoon, members of the committee. My name is Mike Goodwillie, G-o-o-d-w-i-l-l-i-e, testifying on behalf of the Douglas County Assessor's office. And I think we're in a neutral capacity because, well, we like the idea very much, we have a lot of appeals that could probably be--from Douglas County that could probably be resolved with a one-commissioner hearing; but I did have some thoughts on the subject. My sense is that as you get closer and closer to that \$1 million threshold, there is going to be a higher likelihood of people either completely opting out of the one-commissioner process or rolling the dice on the one-commissioner process knowing that if they don't like the outcome they'll petition for rehearing to the entire commission; and so what you'd end up with in those situations is a short, rather meaningless hearing ladled on top of the process that there is now, and I'm not sure that's a benefit to anybody. I don't know what the answer is. I think in LB1079 the dollar threshold was a bit lower. In answer to somebody's question, at a 2 percent levy rate, a \$1 million value is \$20,000 in tax. I don't know at what point it becomes less imperative to be in front of the whole commission--if there's a magic tax amount or a magic dollar amount--but my sense of it is--\$1 million, I think the one-commissioner hearing would be either opted out of or simply duplicative. The other thought that occurs to me is--and I think one of the threads of the questions that I'm hearing is, well, you know, how do we know people are going to be satisfied, you know, with their one-commissioner hearing? It does occur to me that perhaps one mechanism to be sure you do resolve some of these, the relatively simple ones or the ones where very little value is on the table, would be give the parties the opportunity to waive their right to go to the full commission or appeal further. You put someplace on the appeal form, you know: I want a one-commissioner hearing, and I waive my right to go further. And then when the county files their answer, they'd be required to say, well, do they waive their right or don't they waive their right? You know, I don't know if that's the mechanism in other states, but I think if both parties clearly waive their right to go forward and they were knowing and voluntary waivers, that might be one way to handle that situation. And with that, I would take any questions that you happen to have. [LB405]

SENATOR UTTER: Thank you, Mr. Goodwillie. Questions? Seeing none, thank you.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

One more time: Are--is there any further testimony in the neutral capacity? Seeing none, we'll close the hearing on LB405. Senator Cornett. [LB405]

SENATOR CORNETT: I waive closing. [LB405]

SENATOR UTTER: Senator Cornett waives closing, and I'll just turn it back to you. [LB405]

SENATOR CORNETT: Senator Pirsch, you're recognized to open on your bill. [LB519]

SENATOR PIRSCH: Thank you, Chairman Cornett. Members of the committee, I am State Senator Pete Pirsch, representing Legislative District 4. I'm the sponsor of LB519. LB519 allows special assessment liens. And I think those who will testify--proponents--after me will flesh out what those would encompass. It would make those special assessment liens made by a city utilizing tax-funded worker services to gain equal standing for tax foreclosure purposes with generally levied real estate taxes. And so my purpose in bringing this bill forward, if you wanted to encapsulate it into a general statement, is protect taxpayer dollars. With that, I'll entertain any questions that the committee has. [LB519]

SENATOR CORNETT: Seeing none, thank you, Senator Pirsch. [LB519]

SENATOR PIRSCH: Thank you. [LB519]

PAUL KRATZ: (Exhibit 17) Paul Kratz, K-r-a-t-z, City Attorney for the city of Omaha. The purpose of this bill, which has been before this committee before, is simply to allow special assessments to survive foreclosures after there's been a tax certificate sale. This will put us on the same level as the county with respect to their taxes. This will allow us to eventually collect any tax assessments. We enjoyed this privilege prior to 2007, when the Nebraska Supreme Court basically reinterpreted a state law and said the particular language that was in the statute did not allow our special assessments to survive foreclosure. This bill picks out the language that the Supreme Court cited that would be appropriate, and that's with respect to a water reclamation district, where their assessments do survive. So that's why we have the particular language. This--the effort or the intent here is not to preclude the county from receiving its taxes. In fact, the county will receive its taxes first, before any special assessments. This is important to the city of Omaha because we spend anywhere from \$250,000 to \$450,000 a year in weed and litter control and demolition to clean up various neglected properties. We have created a revolving fund to continue to do this process. If and when we can collect these special assessments, it goes into that revolving fund to then go back and continue, basically, cleaning up neglected property. If you'd like, I could get in more into the specifics of the special assessments, but that's kind of a general overview. Take any questions if you have any. [LB519]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

SENATOR CORNETT: Seeing none, thank you. [LB519]

PAUL KRATZ: Thank you. [LB519]

SENATOR CORNETT: Next proponent. [LB519]

LYNN REX: Senator Cornett, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And first of all, thanks to Senator Pirsch for introducing this measure. Paul Kratz has outlined the reason for this bill. The league has been here in past years supporting this measure, as well. We strongly support it. I'd be happy to answer any questions you might have. [LB519]

SENATOR CORNETT: Seeing none, thank you, Ms. Rex. [LB519]

LYNN REX: Thank you very much. [LB519]

SENATOR CORNETT: Next proponent. Are there any further proponents? Opponents? [LB519]

LARRY DIX: Good afternoon, Senator Cornett, members of the committee. For the record, my name is Larry Dix, L-a-r-r-y D-i-x, executive director of the Nebraska Association of County Officials. I'm appearing today in opposition to the bill as written. And let me make sure that--we do understand and we do feel the pain of the cities in trying to go through this. And we've tried over the years to try to figure out some language that will really solve that. But in the bill as written and when you look at it, there's a common theme through there, and it's parity. And it's parity with the taxes that the county would receive. And I know earlier we had a statement that--the gentlemen before said, well, the counties will come first, and then ours will follow. But as we read this and as I understand the word "parity"--I understand it to be "equal"--and I don't understand it to say that the county's obligation shall be met first. And certainly we want to be very, very cautious of that if we change the tax policy. This bill has been in front of us a number of times, and every year we sort of have this same issue. But if they really--if we want the lien to survive--and I'm--I would be the first to say I am not an attorney on this--but if we want the lien to survive, why wouldn't we, you know, look at this, look at page 1 and say: "Such special assessment perpetual lien" and then go on through there, and those liens "shall extinguish the perpetual lien" of such assessments. I think there's language there that if the committee wanted to move this forward, we could move it forward and make sure that those special liens wouldn't be extinguished without bringing forth the parity issue. Because I think when we do bring in the word "parity," it does in essence mean "equal." That's been our issue with it for year after year. I know I've met with Mr. Cheloha and had some discussions on it, from the city of Omaha. We appreciate the problem they're in, but at this point we would have to

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Transcriber's Office

Revenue Committee
February 17, 2011

oppose this bill as written. Thank you. [LB519]

SENATOR CORNETT: Mr. Dix, this is, I think, the fifth year I've heard this bill... [LB519]

LARRY DIX: I think so. [LB519]

SENATOR CORNETT: ...in some form. Last year it was drafted where the Realtors opposed it--and the banks. [LB519]

LARRY DIX: And us. [LB519]

SENATOR CORNETT: And--well, yes, and you also. Do you think you can get together with Ms. Rex and find an amendment that you both can agree on? [LB519]

LARRY DIX: Yeah, well, I mean, we'd be happy to work through it. And I think last year there was an amendment proposed, if I remember. If it wasn't--maybe two years ago. If not that, maybe it was, then it was four years ago. I think there was an amendment that was proposed. But then it fell apart and didn't really go anywhere. And, you know, as we all get enamored with other things that are up on the floor, then time sort of slips away. So... [LB519]

SENATOR CORNETT: Well, I think it's probably pretty safe to say that unless you can reach some accord on this, we're going to hear this year after year. So I would appreciate it if you could sit down and work this out. [LB519]

LARRY DIX: I would say we probably will. In fact, my testimony is really copied from six years ago. [LB519]

SENATOR CORNETT: Okay. (Laughter) Thank you. [LB519]

LARRY DIX: Thank you. [LB519]

SENATOR CORNETT: Next opponent. [LB519]

JUSTIN BRADY: Senator Cornett and members of the committee, my name is Justin Brady. I appear before you today as a registered lobbyist for the Nebraska Realtors Association in opposition to LB519. And, really, the issue that the Realtors have--and I discussed this with Senator Pirsch--is they have a policy and belief that when you do a tax sale, all liens should be wiped--I mean the title should be clean at that point. I understand and have talked to Jack Cheloha from the city of Omaha and Gary Krumland with the league, and I do think if we spend some time and talk through it, we could come up with something that we would be okay with. But like I said, the policy of letting the lien continue after the tax sale is not something that Realtors have historically

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 17, 2011

supported. [LB519]

SENATOR CORNETT: And that was the issue we ran into last year. [LB519]

JUSTIN BRADY: Yes. [LB519]

SENATOR CORNETT: This bill does not have it continue after the sale, though, does it? [LB519]

JUSTIN BRADY: It does. On page 2... [LB519]

SENATOR CORNETT: I thought that I--I thought that it was extinguished. [LB519]

JUSTIN BRADY: ...lines 10 through 13. "No sale...shall extinguish" it, it says. [LB519]

SENATOR CORNETT: Okay. All right, thank you very much. Further opposition? Neutral? [LB519]

MATT SCHAEFER: Good afternoon, Chairwoman Cornett and members of the committee. My name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, a registered lobbyist appearing today on behalf of the Nebraska Land Title Association in the neutral capacity on this bill. The NLTA has no position as to whether the special assessment liens should have the same parity as tax liens. That said, the NLTA did want to draw the committee's attention to a different statute and a 2006 Supreme Court case. Because the bill, on page 2, opens up Section 14-557, which uses the term "perpetual lien," and because the bill adds new language with the term "perpetual lien," the NLTA wanted the record to show that another statute, 77-1862, says these liens actually extinguish after 15 years of being delinquent and really aren't perpetual. In 2006, the Nebraska Supreme Court in INA Group LLC v. Young found that a perpetual lien can be extinguished because of failure to foreclose on a lien until after the statute of limitations period had ran. The section I referred to a moment ago is such a statute of limitations period. In sum, the NLTA just wanted everyone to be on the same page if this bill moved forward and for the law to be clear on how long the liens last. Are there any questions? Thank you. [LB519]

SENATOR CORNETT: Anyone else in a neutral capacity? (See also Exhibit 16) That closes the hearings for today. Thank you. No Exec; we don't even have enough people. [LB519]