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Revenue Committee  
February 27, 2014

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[LB708 LB709 LB836 LB885]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 27, 2014, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB708, LB709, LB836, and LB885. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: Charlie Janssen.

SENATOR HADLEY: Welcome. My name is Galen Hadley, I am senator from Kearney, 37th District. I appreciate you coming to the Revenue Committee today. To my left will be Senator Schumacher from Columbus and to his left will be Senator Pirsch from Omaha. Do not feel offended if the senators are not here or come and go because we are still introducing bills in other committees. So quite often, senators have bills in other committees. And then we have Senator Sullivan from Cedar Rapids. On my far right will be Senator Burke Harr and then Senator Janssen from Fremont, Senator McCoy from Omaha, and we have Senator Hansen from North Platte. Our committee counsel is Mary Jane Egr Edson, to my right. Bill Lock is our research analyst. And to my far left is our committee clerk, Krissa Delka. Our page is Drew Schendt and Drew is from Broken Bow. We appreciate all the work the pages do. They help us out a lot. Turn off cell phones or put on vibrate while in the hearing room. Also, the microphones are very sensitive and we use those for the transcribers to transcribe the hearing. So try not to jiggle it or such as that because it causes some problems on their hearing. Sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If they are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk. We will follow the agenda posted at the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and staff. If you have only the original, we will make copies. Give the handouts to the page to circulate. With that, we are joined with Senator Pete Pirsch from Omaha. With that, Senator Kintner, we will start with LB708. [LB708]

SENATOR KINTNER: (Exhibit 1) Well, good afternoon, Chairman Hadley, members of the Revenue Committee. For the record, my name is Bill Kintner, B-i-l-l K-i-n-t-n-e-r, I represent Legislative District 2. I appreciate having the opportunity to submit LB708 for your consideration. LB708 would eliminate certain Social Security retirement income from state income taxation for all taxable years beginning January 1, 2015, and beyond. Most Nebraska taxpayers who have Social Security income would be able to exempt that income from state income tax. This tax exemption would not be available for those who are married and file a joint return if their federal adjusted gross income exceeds \$250,000. The tax exemption would not be available for all other filers whose federal

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adjusted gross income exceeds \$125,000. Last year I brought to your committee LB227 and which was my bill that would have exempted all types of retirement income from state income taxation. The fiscal note on that bill was very large. This bill and my next bill, LB709, are my attempts this year to continue to find ways to reduce the state income taxes on Nebraska retirees in a more tailored manner. LB708...I will review or I reviewed many bills that my colleagues introduced last year. I decided to draft this bill with an upper cap on eligibility in order to get the fiscal note to be at a reasonable level and to help guide the limits of what is fiscally manageable. My goal for this significant tax policy change is to stem the tide of retirees leaving the state of Nebraska and make our state income tax policy on retirement benefits more competitive with other states. I appreciate very much the work this committee did throughout last summer and fall on looking for ideas to change our tax code. I appreciate that the Tax Modernization Committee's report recommended changes in the area of taxation of Social Security benefits. I agree with the report's recommendation that the income thresholds used to calculate taxable income...Social Security income...taxable Social Security income should be raised. I believe we need to do more in this area. That's why I introduced this bill. I studied the committee's LR155 report after introducing the bill. From that data, it appears my bill would exclude all Social Security income calculated on all returns except for about 3,800 out of 102,000 in our state. These numbers are based upon the 2013 Nebraska statistics of income reports. That report also shows that our state in the year covered by the report had \$1.2 billion in taxable Social Security benefits. I believe we are taking too many retirement dollars out of the hands of taxpayers. I'm very willing to work with the committee to find a reasoned, more measured way in which we can enact retiree tax relief this session. I commend you for your work and time commitment that you've all made in order to achieve that goal too. I'm happy to answer any questions you may have. [LB708]

SENATOR HADLEY: Thank you, Senator Kintner. Are there questions for Senator Kintner? Senator Hansen. [LB708]

SENATOR HANSEN: I have one. Senator Kintner, you said that there were 102,000 people receiving Social Security benefits, 3,800 are not. [LB708]

SENATOR KINTNER: Thirty-eight hundred would still be paying with my bill. So we would exempt the rest of them. [LB708]

SENATOR HANSEN: So they have income over \$250,000? [LB708]

SENATOR KINTNER: Yes. Yes. [LB708]

SENATOR HANSEN: Thank you. [LB708]

SENATOR KINTNER: Okay. And that is out of that report. It was part of the Tax

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Modernization Committee. [LB708]

SENATOR HADLEY: As you probably know, Senator Kintner, we actually did...have voted a bill out of the committee that will...has been prioritized and will be heard on the floor to deal with Social Security benefits. It probably doesn't go as far as your bill does but I think we wanted to try to be reasonable and sustainable with any project that we come up with. So you'll get your chance to be able to speak on the floor on a bill that deals with this problem. So I think the committee is very aware of this concern and trying to do something with it that we can afford in our budget in the state of Nebraska. [LB708]

SENATOR KINTNER: Well, I appreciate your measured approach. And you've heard many, many hours of testimony and I know you're very much aware of the problems. I appreciate you guys working so hard on it, I really do. [LB708]

SENATOR HADLEY: Thank you. Senator Pirsch. [LB708]

SENATOR PIRSCH: Just so I have those statistics down again that you just mentioned. So under this plan, LB708, how many individuals would meet that qualification, individuals less than \$125,000 single or \$250,000 joint? [LB708]

SENATOR KINTNER: Well, the way...the numbers I gave you was there's about 102,000 that pay Social Security tax. And they would all be exempted except for 3,800 which are the upper ones. [LB708]

SENATOR PIRSCH: Okay. So 3,800 exceed that level and would... [LB708]

SENATOR KINTNER: Yes, that's correct. [LB708]

SENATOR PIRSCH: Thank you. [LB708]

SENATOR HADLEY: Okay. Seeing no other questions, thank you, Senator Kintner. [LB708]

SENATOR KINTNER: Okay. [LB708]

SENATOR HADLEY: (Exhibit 3) Are there any...well, before I ask that, we did receive a letter in support from Roger Rea, NSEA-Retired. Are there any proponents? [LB708]

DICK CLARK: (Exhibit 2) Chairman Hadley, members of the Revenue Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k, and I'm director of research for the Platte Institute. Thank you for this opportunity to speak today in support of Senator Kintner's LB708 which would reduce the extent to which Social Security benefits are subject to

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Nebraska's income tax. You've heard me talk before in hearings before this committee about why sources like The Wall Street Journal, Kiplinger, and Family Business Coalition describe Nebraska as a hard place to die, especially in comparison to some of our neighbors like South Dakota and Wyoming. I won't recite these rankings again, but Nebraska is near the bottom. Nebraska is also a hard place to grow older because we impose income tax on fixed income streams that retirees count on like Social Security benefits. Now no state sharing a border with Nebraska taxes Social Security benefits to the extent that we do. And, in fact, only six states nationwide tax them to the extent that Nebraska does. As of this year, 28 states exempt Social Security benefits from income tax altogether and that doesn't even count the states that have no income tax to begin with. As Travis Brown demonstrated in his book, How Money Walks, tax policy can drive interstate migration. And the average tax migrant's AGI is less than \$50,000. We're not talking about folks wearing monocles and top hats here who are leaving as a result of tax structures in one state versus the other. Now when federal officials talk about Social Security, we often hear about trust accounts and bonds. And the public imagines that their hard-earned dollars are tucked away until that day when the worker is allowed to finally draw against what he or she has paid into the system. Now everyone in this room likely knows the reality is that Social Security is a tax program and an entitlement program. That's why we use the words "income tax" without reference to capital gains tax here. But the fact is, that people have paid into this system after it was sold to them politically with the rationale that it will be there for them when they need it. If you think that it's right to tax Social Security, shouldn't you at least consider whether or not there is any actual increase in terms of the benefit income over the basis in Social Security tax paid? The federal government has taxed people for years with the promise of a future benefit, then it taxes that benefit, and then Nebraska piles on and taxes it too. A senator stated on this committee's hearing on repealing or reducing the inheritance tax that if you can't plan for 1 percent, you don't have a plan. The total tax cut contemplated here will amount to about 1 percent of the state budget. I think this Legislature is capable of planning for 1 percent. We can afford to stop taxing Social Security benefits. Thank you, again, for the opportunity to speak today. [LB708]

SENATOR HADLEY: Thank you, Mr. Clark. We've been joined by Senator Schumacher from Columbus. Are there questions for Mr. Clark? Seeing none, thank you, Mr. Clark. [LB708]

DICK CLARK: Thank you. [LB708]

SENATOR HADLEY: Next proponent? We will move to opponents. Those in the neutral? Senator Kintner, would you like to come up and close? Waives closing. With that, we will end LB708. And Senator Kintner, I believe you get to come up with LB709. [LB708]

SENATOR KINTNER: (Exhibits 4 and 5) Well, once again, good afternoon, Chairman

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Hadley, members of the Revenue Committee. For the record, again, my name is Bill Kintner, B-i-l-l K-i-n-t-n-e-r, I represent Legislative District 2. And again, I appreciate having the opportunity to come here and testify on LB709. This is a bill that would eliminate military retirement income from the state income taxation. I drafted the bill in a manner that would phase this income tax benefit into our tax code over a period of five years. Thus, for taxable years beginning on January 1, 2015, 20 percent of the military retirement benefit would be excluded from the state income tax. The exclusion would grow by 20 percent each year, becoming a full 100 percent exclusion of military retirement benefits for all tax years starting on January 1, 2019. Military retirement benefit is defined as: retirement benefits that are periodic payments attributed to the service in uniformed services of the United States for personal services performed by an individual prior to his retirement. That is the definition suggested by our Bill Drafter to include all military retirement pay and is consistent with all other bills that your committee has reviewed. The fiscal note shows that the cost to implement this change is very reasonable. I drafted the bill with a five-year phase-in after reviewing my prior retirement bill from last year and those of my colleagues who have submitted many retirement-related bills for a committee to consider. My bill does not try to target either those members of the military who retired younger and then went to work at a second career or those who are retired-retired. Whether or not members of the military have reached age 65, I believe that their active duty military retirement pay should be excluded from state income tax. Nebraska has a wealth of former active duty military members who are vibrant members of our state's economy. I recall a conversation last year in the committee along the lines of, why do military members deserve this treatment and not other retirees? I do believe that our fellow citizens who have served to protect our freedoms warrant the favorable tax treatment presented in my bill. As Senators Crawford, Smith, Janssen, and Krist have highlighted in their bills presented to you last year and this year, our state has a real opportunity to attract and retain the many veterans who will be leaving their active duty military assignments due to a national military restructuring and decisions that are just beginning to occur. In addition to the opportunity to attract this talent to our state, my experience in Legislative District 2 is with many military retirees who tell me they are considering leaving our state in order to have a better tax situation. When they get to the point of living on a fixed income and their retirement pay and Social Security income from a second job put them in our highest tax bracket as if they had \$58,000, I believe they are making a compelling point. We have the ability to retain that talent. Also, I'd point out the testimony of Mr. David Drozd, the University of Nebraska research coordinator, presented to you during your tax study. I have attached a copy of his prior testimony to my remarks. I want to highlight a few key facts from his extensive analysis of retiree data. His research has shown that as Nebraskans reach retirement age, they leave our state. His data showed that the net migration rates over the last 20 years turn negative for those age 60 to 64, illustrating a net out-migration. The data has also showed Nebraska could be expected to lose a net of 25,000 people during the next ten years who are near or at retirement age. Mr. Drozd's work then featured analysis of how this segment of Nebraskans leave

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our state, how it would negatively impact our hope for population growth. I know you've invested a lot of sweat and hours studying this issue. I believe I have crafted a bill that's fiscally responsible, inclusive of military retirees regardless of their working status, and a bill I hope can be included in some fashion among the tax priority bills that have been selected for this year. Again, I thank the committee for their positive consideration. I'm happy to answer all questions. [LB709]

SENATOR HADLEY: Are there questions for Senator Kintner? Yes, Senator Hansen. [LB709]

SENATOR HANSEN: Senator Kintner, do these exemptions from military retirement start the day they retire if they're 38 or 41 or whenever they retire? [LB709]

SENATOR KINTNER: It starts the day they start drawing retirement income, whenever that is. [LB709]

SENATOR HANSEN: I'm not sure when that is either. [LB709]

SENATOR KINTNER: Yeah, I'm not sure what it is. But the day they start receiving it, they get it no matter what their age. [LB709]

SENATOR HANSEN: Okay. Thank you. [LB709]

SENATOR HADLEY: Any other questions? I will say the same thing that I said on the last bill, Senator Kintner. We are actively looking at this and trying to craft something that, again, is reasonable and sustainable for the state of Nebraska. Hopefully, we will have something on the floor to talk about before the session is over with. [LB709]

SENATOR KINTNER: I think this meets the reasonable and sustainable test. [LB709]

SENATOR HADLEY: (Exhibit 6) Okay. I do have a letter from Lieutenant Colonel Jerry C. Anderson, U.S. Air Force Retired, that I'm putting into the record. Thank you, Senator Kintner. [LB709]

SENATOR KINTNER: Okay. [LB709]

SENATOR HADLEY: Are you going to waive closing or... [LB709]

SENATOR KINTNER: Yes, I might. Let me see...hear what they say. [LB709]

SENATOR HADLEY: Okay. First proponent to LB709? Opponent? Those in the neutral? Senator Kintner, you can close if you...waives closing. Okay, with that, we're done with LB709. Legislative Performance Audit, LB836. [LB709]

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SENATOR WATERMEIER: Are you ready for me? Maybe not. [LB836]

SENATOR HADLEY: I don't think you're on the agenda. [LB836]

SENATOR WATERMEIER: I'm not on the agenda? Performance and Audit? [LB836]

SENATOR HADLEY: Oh, we thought Senator Harms was going to be here. [LB836]

SENATOR WATERMEIER: Can you take the reserves? [LB836]

SENATOR HADLEY: We'll take the reserves. We certainly will. [LB836]

SENATOR WATERMEIER: Okay, the JV team? [LB836]

SENATOR HADLEY: Well, we have no problem with that, Senator Watermeier. [LB836]

SENATOR WATERMEIER: Okay, you've got them, you're stuck. [LB836]

SENATOR HADLEY: No, we had down Senator Harms was going to be here. No, that's good. We appreciate you coming. [LB836]

SENATOR WATERMEIER: Absolutely. Are you ready for me? [LB836]

SENATOR HADLEY: Yes. Go right ahead. [LB836]

SENATOR WATERMEIER: Thank you, Senator Hadley. Chairman and members of the Revenue Committee, for the record, my name is Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, representing District 1. And I am the Vice Chairman of the Legislative Performance and Audit Committee. LB836 adds some very basic goal language to certain tax incentive acts that have limited or no goal language. The need for such legislation arose from the Performance Audit Committee's three reports last year on tax incentives in Nebraska and our work with the Pew Center for the states on this issue. In our February 2013 report, we found that an absence of clear, measurable goals for each tax incentive program made it difficult to assess whether the programs are doing what the Legislature really intended them to do. On our November 13 report, outlining the process for legislators to follow improving the evaluation process for the state's tax incentive programs that was recommended by the Pew Center. According to the Pew, three key program concepts are at the core of this process. The first is the goals, which are clear, measurable statements of what the program is intended to achieve. The second being the metrics, which are the quantifiable measures to be used to determine how well a program is achieving its goals. And the third is the benchmarks, which are the thresholds policymakers must set that will determine the level of

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performance necessary on a given metric in order to consider that the related goal is being achieved or at least that progress is being made toward the goal. The Performance Audit Committee views LB836 as the first step in increasing accountability in tax incentive programs. We have also introduced LR444, a legislative study resolution that will create a committee to develop an ongoing, regular review of tax incentive programs. The LR444 committee will work with interested individuals and stakeholders and we expect to have additional recommendations for next year based on the results of that study. Thank you and I'd be happy to try to answer any questions. But we do have audit staff people here with us today and they'd probably be better qualified than I. [LB836]

SENATOR HADLEY: Okay. [LB836]

SENATOR WATERMEIER: But I think this is a movement that we need to be looking at. [LB836]

SENATOR HADLEY: Sorry for the misunderstanding. [LB836]

SENATOR WATERMEIER: That's all right. I would take second chair to Senator Harms any time. [LB836]

SENATOR HADLEY: You look like just a little younger Senator Harms, is what you look like. Other questions for Senator Watermeier? Seeing none, thank you, Senator Watermeier. [LB836]

SENATOR WATERMEIER: I won't need to close but I want to stick around and listen if anybody is going to testify. [LB836]

SENATOR HADLEY: Okay, thank you. [LB836]

SENATOR WATERMEIER: All right. [LB836]

SENATOR HADLEY: First proponent? Any in the opposition? Any in the neutral? I think we're...Senator Watermeier...yes. [LB836]

SENATOR HANSEN: Senator Hadley, I think we'd better get one of the two staff people up here to explain metrics to me. [LB836]

SENATOR HADLEY: Okay. Would one of the staff people come up and please... [LB836]

SENATOR HARR: Like the measuring system metrics? [LB836]

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SENATOR HANSEN: Yeah. [LB836]

MARTHA CARTER: Senator Hadley and members of the committee, my name is Martha Carter, M-a-r-t-h-a C-a-r-t-e-r. I'm a legislative auditor. In response to Senator Hansen's question, the metrics would be...I mean, we don't have any specific metrics in mind at this point. That, I think, will be part of the committee's discussion, the LR444 committee that's going to talk this interim. In general, what we're talking about is if you pick a goal of you want to increase jobs in the state, well, do you want to increase the number of jobs by 5 percent or 100 percent or, you know, having some way of quantifying, I guess, what your goal is what the metrics would be. [LB836]

SENATOR HANSEN: And the Advantage... [LB836]

SENATOR HADLEY: Go right ahead, Senator Hansen. [LB836]

SENATOR HANSEN: The Advantage Act has those listed out into several tiers. And then the...below that, the metrics would come in and say that, you know, you've got to have a 5 percent increase in jobs or you haven't met the threshold or the goals so you're not going to be qualified for next year's Advantage money. Is that how that would... [LB836]

MARTHA CARTER: I'm not sure I would see it that way because I think right now the companies are, in large part, doing what they are required to do. And that's audited by the Department of Revenue to be sure that they're meeting the specific requirements. I think this is more looking at the end of any given period of time, what do you believe has...that that Advantage program has provided to you and at what cost? And so you're looking more at the programmatic level than at the individual company level. Does that make sense? [LB836]

SENATOR HANSEN: Would it come up with a report that would say this job costs so much...cost the state so much? I mean, if it's not a \$50,000 job, it's a \$30,000 job and they thought they could get a whole bunch of \$50,000 jobs, so. [LB836]

MARTHA CARTER: I think that's a good example of what it could come with. And what the deciding factor there would be, is your metric that you want to have \$30,000 a year jobs or \$50,000 a year jobs or does any salaried job meet your job requirement? So that's one of the things that we found difficult trying to evaluate it is, if the Legislature hasn't been somewhat specific in what you want to see as a result of the program, then it's hard to assess whether or not the program is meeting those goals. So that...I think that's all part of the discussion. And then as you talk about that...the bill before you is, obviously, pretty simple. I mean, it just adds a little bit more language trying to clarify a little bit what the goals of the programs are. As you have more discussion about what the specific goals are, what the specific benchmarks are, you may be able to tailor that

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goal language a little more as well. [LB836]

SENATOR HANSEN: In this bill in the green copy, it says: encourage entrepreneurship and increased investment in high technology for underserved parts of the state. And that's a big task. Would you agree? [LB836]

MARTHA CARTER: I would agree. [LB836]

SENATOR HANSEN: It's an ag state. We're ag based. Our increase in jobs out west usually include something to do with agriculture, not necessarily high tech. So can you explain what high technology industries might include? [LB836]

MARTHA CARTER: Well, I guess what I would like to look at--to refresh my memory real quick here--is whether that language is added...now I have to get in bifocal range too. [LB836]

SENATOR HANSEN: Yeah, it's added. [LB836]

MARTHA CARTER: That language, I think, is added to the Angel Investment Act. [LB836]

SENATOR HANSEN: Okay. [LB836]

MARTHA CARTER: So what that should be doing is, essentially, restating what the goal of that program already is. It's just stating it in more specific language. [LB836]

SENATOR HANSEN: Okay. I didn't make that...I didn't connect the dots to Angel Investment. [LB836]

MARTHA CARTER: Yeah. Fair enough. [LB836]

SENATOR HANSEN: I understand that one, so. Okay, well good. It would help. [LB836]

SENATOR HADLEY: Senator Sullivan. [LB836]

SENATOR SULLIVAN: Thank you, Senator Hadley. And thank you for your comments. But just to, then, take off from that a little bit more, is it fair to say that after the Legislative Performance Audit Committee has further discussion on this, is it fair to say there would be additional legislation introduced that adds even more specific information relative to benchmarks? [LB836]

MARTHA CARTER: I think that's very likely, Senator Sullivan. [LB836]

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SENATOR SULLIVAN: Okay. [LB836]

MARTHA CARTER: The committee that...the resolution that the Performance Audit Committee has introduced would set up a committee over the interim that would consist of all the members of the Performance Audit Committee, the Chair and Vice Chair of the Revenue Committee, the Chair and Vice Chair of the Appropriations Committee, and one member at large selected by the Executive Board. And the specific task of that committee would be to develop a proposal for an ongoing and regular evaluation system for tax incentives. But I think it's almost a certainty that as those discussions occur, some of these goals and metrics discussions are going to occur as well. And so I would expect by next fall because that...the interim study committee has a December deadline for reporting back to the Legislature. So I would think as part of that, there would be more suggestions in terms of the goals and metrics as well. [LB836]

SENATOR SULLIVAN: Thank you. [LB836]

MARTHA CARTER: Uh-huh. [LB836]

SENATOR HADLEY: Senator Schumacher. [LB836]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony today. [LB836]

MARTHA CARTER: Uh-huh. [LB836]

SENATOR SCHUMACHER: If I read through just the changes in the green copy, they're kind of very, very high level language which, I mean, don't you have to get down in the weeds a little bit more when you say something like, encourage entrepreneurship and increase investment in high tech industries? I mean, is this giving you enough of a standard? And then secondly, all of these acts, I think, have buried in the fine print a high level of confidentiality which prevents us from getting down to actually figuring out whether or not they made a difference or not. Is that an impairment to your implementing a study? [LB836]

MARTHA CARTER: It can be. To answer your first question, does this bill make a substantive difference in resolving the problem that we found in the audit last year in terms of the broadness of the goals? No, I don't think that it makes a substantive change in that. I think it's a baby step. It's a way of saying, well, we've introduced a bill--we, the Audit Committee--has introduced a bill to say, there needs to be more work in this area and this would be a step in the right direction. But there's going to need to be, in order to really have a quality system of goals and metrics and benchmarks, there is going to need to be more discussion and that would need to be more statutory changes. So I think this is just the...really, just the first step, as Senator Watermeier

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said. And the other question in terms of the confidentiality, I think there is a hindrance there. The trouble right now is, without the specificity from the Legislature of what do you want to be evaluating these programs on, the Revenue Department is...their hands are tied, to a certain extent, because of confidentiality provisions. But there's quite a bit of information, like with the Advantage Act, you can actually get much more information than we used to get under the old program, LB775, because the Legislature required that information to be disclosed. So I think, again, there's some work for the Legislature to do in deciding well, what exactly--if there's information we can't get at--what is the information that we want and how are we going to have it reported in a way that we can use it in a meaningful way for evaluation purposes because sometimes, and certainly our evaluation report dealt with this a little bit, sometimes information is reported--and I don't mean this in any critical way--programs or agencies often report information in the way that they use it. But that is not always the same way that it was most useful for policymakers to understand it. And so there needs to be some dialogue there. And the more specific policymakers can be about what you do want to know, the better information you're going to, then, get. I don't mean better but the more you'll be able to use the information better that you get because it'll be reported in a way that's responsive to your needs. [LB836]

SENATOR SCHUMACHER: Having worked on this and maybe having a whole lot better feel than any of us have for how these things are working and what's happening, it seems to me that there's no terrific sense of urgency in this legislation. And do you get a feel that we should be more urgent about it, that we're printing these things and putting them out into the system and creating what might be a liability down the road? I mean, should we be more concerned? Should we make this more urgent in order to get an answer to this sticky question or whether or not...how much good they're doing? [LB836]

MARTHA CARTER: I'm not sure I can answer that. As your audit staff, I can...I mean, you know, as auditors, we like to have our goals and measures and data. And it is a big program. I mean, but I'm not a policymaker. I think that's the best way to answer that. [LB836]

SENATOR SCHUMACHER: But to a certain extent, you are our eyes and ears. And if you get a...if you have a sense that there is something that is maybe a caution light that should be flashing, do you have a sense of that? Or are we in a position to say, you know, it's okay, so we can take our time studying this stuff? [LB836]

MARTHA CARTER: Well, I really...I genuinely don't think I can answer that. What I can say is, the audit report raised the issue that the goals...the existing goals for tax incentive programs are very broad. And, equally, that evaluating tax incentive programs has some challenges and limitations. It is very hard to know exactly what causes a business to do a certain thing. So it's...there's a need there in the sense of it's hard to

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evaluate because you don't have the goals and there's also a caution in that it's very...it's a difficult business to do. That being said, if members of the Legislature are satisfied with what those programs are doing, then I guess there isn't any urgency. I mean, I don't think that we, as the audit staff...I mean, if we had found something that was fraudulent or, you know, some sort of serious breach of administration, that would have had to have been reported. So I'm not trying to be coy or not answer your question but I think it really just is one of those instances in which it's a policy question. And the argument from those, I guess, who are pushing for the evaluations is, yes, it is a difficult area to evaluate. It's never going to be completely simple. But it would be better to be doing some additional review. You know, you're going to get something out of it. It's not as if doing the evaluations is not going to tell you anything about how the program is working. [LB836]

SENATOR SCHUMACHER: Thank you. [LB836]

SENATOR HADLEY: Any other questions? Yes, Senator Hansen. [LB836]

SENATOR HANSEN: One kind of follow-up. When Senator Watermeier introduced this bill, there were three words that he's used and I've heard Senator Harms use over the years: metrics, goals, and benchmarks. And a company looking at coming to Nebraska and that we want to come to Nebraska, when does it...it's got to be a balancing act between the oversight and the willingness that we show to bring the company in. Can we overstudy this? As an auditor, probably not. [LB836]

MARTHA CARTER: Well, even...well, as an auditor, I'm inclined to say no. But as a pretty practical person, I'm going to say yes, there is always the possibility of overstudying things. But I guess the thing that I would say to the way that you laid out that scenario is, I don't think that what we're talking about doing should interfere with an individual business's decision about whether or not they're going to come here because, really, what we're saying is you, as members of the Legislature, have made policy decisions that are reflected in these acts. And you need to decide whether those are working in the way that you intended them to. So it would be looking more...well, two things. In terms of the individual decisions, you would be looking, as policymakers, after those decisions have been made. In terms of setting the specific goals and benchmarks, I'm pretty sure that any forum in which those are discussed, that there's going to be quite a bit of input from the various stakeholders in this area about what those should be and how success in the program should be measured. And even having that discussion might be very valuable, even if all of those...I mean, you probably don't want extremely specific metrics in your statutes. But having that discussion with policymakers and stakeholders about, well, what is it that we believe these programs are accomplishing and how can that be better reflected in statute might well be to everybody's advantage. [LB836]

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SENATOR HANSEN: Thank you. [LB836]

SENATOR HADLEY: Any other questions for Martha? Thank you. Appreciate it. [LB836]

MARTHA CARTER: Thank you. [LB836]

SENATOR HADLEY: Senator Watermeier. [LB836]

SENATOR WATERMEIER: I wasn't going to close but I think I will say something, if that's all right. [LB836]

SENATOR HADLEY: Please do. [LB836]

SENATOR WATERMEIER: I forgot to mention this is a priority from the Performance and Audit group. [LB836]

SENATOR HADLEY: I was going to ask that question. [LB836]

SENATOR WATERMEIER: We did prioritize this. We have our two, we did prioritize this. [LB836]

SENATOR HADLEY: Okay. [LB836]

SENATOR WATERMEIER: But let me tell you how I think it's important in the big picture. It's easy to do a simple audit and we can have the Auditor's Office do that. Did this company do exactly what they promised, either create 50 jobs or invest \$2.5 million or whatever it is? But where we need to head, we need to head to the hard analysis. And that's what's difficult. And by coming up and talking about this today, this will help us get there. Maybe not the urgency that you're wondering about, Senator Schumacher, for today's incentives. But in the next incentive that we decide to create, we need to be ready for that in more progressive ways and be up front with them so the next tax incentive we write, we get these in there right the first time if we think we need to add something that we don't have today. So to answer your question, as a senator, I think it is urgent because we want to be ready for the next time we have to talk about this on the floor. Does that make sense? [LB836]

SENATOR HADLEY: Any question? Seeing none, thank you, Senator Watermeier. [LB836]

SENATOR WATERMEIER: All right. [LB836]

SENATOR HADLEY: With that, we will close LB836 and open LB885. Senator Harr. [LB836]

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SENATOR HARR: (Exhibits 7 and 8) Transcribers don't like that. Chairman Hadley, members of the Revenue Committee--soon some to be former--Senator Hansen. My name is Burke Harr, H-a-r-r, and I represent midtown Omaha which is comprised of the Dundee, Benson, and Keystone neighborhoods. And I represent Legislative District 8. LB885 directs the county assessor in counties with a population of 150,000 inhabitants or more, to utilize the income approach including the use of discounted cash-flow analysis when determining the actual value of two or more vacant or unimproved lots. County assessors have been using a valuation method known as discounted cash flow which takes into account the holding period before a developer is able to sell a lot at market value. Douglas County, Sarpy, and Lancaster follow the same method. A review by Assistant Lancaster County Attorney, Michael Thew, Thoo (phonetically), T-h-e-w, in January 2013 found that a state...that the state mandated that the land must be based on actual value and not future purpose of the land. Lots that have been platted and approved with infrastructure are now being assessed at 100 percent of their market value instead of 50 percent, in some counties. According to the Lincoln Journal Star, an article dated August 3, 2013, in Lancaster County, 3,210 residential lots and 964 commercial lots lost the discount this year and over 1,643 owners of lots have protested the valuation changes. It is not feasible for a developer to sell most of its available lots in a single year. So assessing those lots at 100 percent of market value is not practical. It can take years to sell all the lots in a development and there isn't actual value until there is an actual buyer. You will hear...well, you have a letter from one assessor and you'll hear from another who have two different views of how to come to a proper value. Which assessor is correct? Is one right more than the other? I don't know. I don't have the answer. But it is a good example of the confusion that is out there. Both Douglas and Sarpy Counties still value buildable lots based on an absorption rate, the amount of time it would take to exhaust the supply of lots on the market in any given subdivision. The unpredictability of the current property tax system hinders economic development in the state of Nebraska. Additional investors and developers are unlikely to become investors because they cannot accurately predict annual property tax expenses, making it near impossible to accurately underwrite the new developments. The change will also likely meet fewer choices of lots for those looking to build a new home, which will drive up market prices. The goal here is to spur economic development. The current system stymies it. You will hear people today testify how it is...it has become too expensive to own and develop lots, particularly for the small business owner. They want certainty and LB885 provides that certainty. I would like to point out one thing in the potential legislation. On page 2, line 16, the date has been left blank. After talking with county assessors, the date should be June 30, which is the date that homestead exemptions must be submitted to the county assessors. I would ask that you pass...advance LB885 out of committee. And I would be happy to answer questions. And now I'm going to go off script a little bit. You have in front of you a letter from Norm Agena. He is opposed to this legislation. And he bases it on a opinion, again, written by Mr. Thew that I mentioned earlier. However, if you go to the second to last paragraph, Mr. Thew states,

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"Therefore it is the opinion of our office"--again, this isn't a court order, it's an opinion of an attorney--"that absent specific enabling legislation, your office should not use discounted cash-flow analysis or developers' discount in valuing vacant lots for tax purposes." Well, folks, that's what we have here is enabling legislation that allows that to occur. So he says, based on the opinion, he's against it. Well, the opinion says you need enabling legislation. So I'm not sure how actual negative his letter is. With that, I'd be more than willing to answer any questions. [LB885]

SENATOR HADLEY: Questions for Senator Harr? Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Senator Harr. Is all this change limited to counties with a population in excess of 150,000? [LB885]

SENATOR HARR: It is at this time. I am open to an amendment that allows it across the state. [LB885]

SENATOR SCHUMACHER: It just wasn't clear whether or not the language in Section 1 carried over to Section 2. [LB885]

SENATOR HARR: Yes, that is the legislative intent. [LB885]

SENATOR SCHUMACHER: Okay. And then if you have...I mean, how do you test whether or not a lot is being held for resale? Is this an empty lot that we're talking about? [LB885]

SENATOR HARR: It can be. It can be an area that was originally agriculture land that's been, now, parceled that you file with the register of deeds. There's an application process and that's how you would know which is, again, one of the...interesting with the complaint is that this system would be too cumbersome. And yet...I'm always a little leery of those that don't want to do something because it's difficult. You do it because it's right, not because it's difficult. And also, I don't think this process is cumbersome that...in the bill. [LB885]

SENATOR SCHUMACHER: Are these lots, do they have to be in the same subdivision or can they be anywhere in the school district? [LB885]

SENATOR HARR: No, it would have to be in the same subdivision. [LB885]

SENATOR SCHUMACHER: Is that in here? [LB885]

SENATOR HARR: Well,... [LB885]

SENATOR SCHUMACHER: It says: vacant or unimproved lots in the same tax district

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that are owned by the same person held for sale or resale and elected to be treated. It doesn't say they have to be adjacent. It doesn't say they have to be in the same subdivision. [LB885]

SENATOR HARR: Well, and that...the...yeah, the problem with the term "adjacent" is, you could have a situation where one parcel...it's a, you know, it's a subdivision, you have 100 lots. And you would have one lot surrounded by four sold lots but they may be the only four sold lots out of the 100 lots. [LB885]

SENATOR SCHUMACHER: But it's... [LB885]

SENATOR HARR: So that's why "adjacent." We can...and there are those coming up after...we can work on the language if you want. [LB885]

SENATOR SCHUMACHER: But it's your intention that this be in one subdivision or one development, not strewn out across an entire school district or something? [LB885]

SENATOR HARR: One development for each. That is correct, Senator. [LB885]

SENATOR SCHUMACHER: Okay, thank you. [LB885]

SENATOR HADLEY: Senator Harr, you talk about the discounted cash-flow analysis. In that, you have to do things like periods of time, discount rates, such as that. [LB885]

SENATOR HARR: Yes. [LB885]

SENATOR HADLEY: Does the bill address how the assessor should do that? [LB885]

SENATOR HARR: Well, they're currently doing it already so they know how to do it. If you would, again, like some language to that degree...I also have an amendment that would allow for an appeal process if a assessor thinks this process doesn't work, which I can give to you. But it's commonly...I mean, if you want that in there, we can provide it. I don't think there's a difficulty there with that. [LB885]

SENATOR HADLEY: Well, I just wondered, though, would you have different methods depending on which county? Different discount rates depending on which county you're in? Different periods of time that the...you would discount the cash flow over? I'm just wondering... [LB885]

SENATOR HARR: Yeah. [LB885]

SENATOR HADLEY: ...if we need any uniformity across. [LB885]

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SENATOR HARR: Yeah. [LB885]

SENATOR HADLEY: If we're going to use that discounted cash flow method, do you allow each county to decide their own discounted cash flow method? [LB885]

SENATOR HARR: It's a very good question. There are those coming up after me who could probably better answer that question. And if it hasn't been addressed, I'll work on it in my close. [LB885]

SENATOR HADLEY: Okay. Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Just one quick question. Is this the same issue that was raised, I believe it was, in Norfolk in the Tax Modernization Committee hearings where, if I remember right, there was some land developers saying they couldn't afford to develop lots because the minute they sold one, all the lots...the county assessor was evaluating all the lots at the sales price? And even though those lots might not sell for lots of years, they were all being charged...the market value had been set by the first sale. Is this the same issue? [LB885]

SENATOR HARR: Possibly. I'm not...I don't know. But let me restate this. It sounds like it's the same issue. I don't recall specifically or the specifics of that testifier but it sure sounds the same. [LB885]

SENATOR HADLEY: I believe it was the chamber of commerce at Norfolk. And I also think, if I remember it right, there was a concern about things like strip malls where you rent...lease the first strip mall unit and then the assessor says that that's what you will value each of the units. [LB885]

SENATOR HARR: Yeah. Yeah. Well, in that scenario, though, you can challenge the valuation. And if it's not fully leased, they will adjust that. [LB885]

SENATOR HADLEY: Thank you, Senator. [LB885]

SENATOR HARR: Thank you. [LB885]

SENATOR HADLEY: Can I see a show of hands of how many people wish to testify? We will use the light system. You will have a green light for four minutes, amber light for a minute, and then when you're kind of ready and finishing up, we'll give the red. Welcome. [LB885]

BOB BENES: Thank you. My name is Bob Benes, it's B-e-n-e-s. Appreciate you letting me come here. This is my first time in front of a committee like this so apologize for... [LB885]

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SENATOR HADLEY: We'll be kind. [LB885]

BOB BENES: Be brutal on me. [LB885]

SENATOR HADLEY: We'll be kind. [LB885]

BOB BENES: All right. I...and for your enjoyment, I left all my notes at home so I won't be reviewing any notes so, hopefully, that's okay. Basically, I'm coming here today because I wear several different hats in this whole issue. I'm a commercial land developer, I'm a residential land developer, I'm a residential homebuilder, and I build commercial buildings. And I'm a farmer at heart. So I kind of cover all the bases. This issue has come up in the last couple of years and it has been very detrimental to us, our company, and businesses like us. And I'm going to start with the commercial development side. We were very instrumental in bringing businesses to Nebraska like the big Tractor Supply Distribution Center, keeping MBA Poultry, having large developments, people that use large parcels of ground, bringing them to Nebraska. One of the issues involved is, when they come here, they say, okay, what do you have available? What's shovel ready? What can we move on? When can we move? Most big industries coming, they want to know what pieces of ground are around that they can get to. If you don't have shovel-ready projects, they're probably not going to look at your community. And so it's really important that we have those. Well, to have a shovel-ready project, you have to have an area of ground that's got infrastructure and is ready to build on. Well, once you do that, what happens is the assessor now has come and said, oops, that's development ground. It's, you know, triple the value of what it was. And so we're really struggling with that issue. I'll give you an example at Waverly. We put in a street so that we could service the new Tractor Supply. Well, the land that's around that street now has infrastructure. It jumped in value. It doubled in the last year to where now we pay, you know, \$50,000 a year in taxes just to have this piece of ground. We have been sitting on this ground for nine years waiting for a buyer to come along. So the absorption rate for a big commercial piece of ground is extremely large. And so it's very important that we have this discounted value so that we don't...we can afford to put in these pieces of ground so we can have places to bring in users for this development ground. Okay? It's very similar on little, smaller phases of commercial growth where you put in maybe some commercial lots and you put in the street. And you have users for two of them but you don't for the other two. So you're going to sit on those. And you know, I've got commercial lots that I've sat on ten years. And the values have just skyrocketed because we hoped to sell them for this but the reality is, over time--time value of money--it's down here. And simply ask that this bill is so important to us because it will encourage us to keep doing what we're doing. Right now, I have no...I would not have the intention of going and putting in a small commercial development because I wouldn't want the extra lots because over a few years, I would have given all my profit back in taxes. So it would not make sense for me to do. And so the availability

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of sites for someone to come in and build on are going to be extremely limited. From the residential side, I used to put in 50-lot phases so that people would have selection and choices. And it would take me a couple of three years, four years to sell out that phase. Now I'm putting in ten lots because that's how many lots I can put in in one year that I can know that I can, hopefully, sell and I won't have to be hit hard with the tax burden. That is the reality and that's what's happening. And small towns...I do a lot of developments in small towns, small communities. They beg me to come there. They need residential lots. I don't want...and I've done it. You know, I put some in Aurora, Tecumseh, Waverly. And the problem I have now is, I put in a small street with ten lots. I still have nine lots after two years. But once I'm getting hit with those taxes fully assessed, I've completely given back any profit in five, six years. And so the desire to do it is completely gone. And so I ask that you really consider this bill. We really need it in order to continue to do our job of developing lots and giving people the ability...giving choices. [LB885]

SENATOR HADLEY: Are there question? Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. Would this valuation mechanism result in a lesser value than what you paid for the property? [LB885]

BOB BENES: No. No. It would...it's my understanding and what we've done in the past is, you pay for the property here, you improve it with some certain amount of infrastructure, and then it has a new value. And then what they do is, they discount that value back down. Sometimes, usually, it's like a 50 percent on all new lots. And then after a year or two, it goes to 60 percent. They had a formula that they used down at the county assessor. And so never was it lower than what you purchased the ground for. [LB885]

SENATOR SCHUMACHER: Thank you. [LB885]

SENATOR HADLEY: Maybe...if you don't know, please say so. But what...do you know what discount rate they use to...because if you use discounted cash flow, you've got to take the future cash flows... [LB885]

BOB BENES: Sure. [LB885]

SENATOR HADLEY: ...and discount them back? [LB885]

BOB BENES: You know, it was a little hidden secret that I think they kept in a drawer, in their top drawer. But I really think that it was...I know in my instances, they used to tell me that it was a 50 percent and that it would jump a percentage every year. And the county assessor had a formula that they used and I don't recall the exact formula.

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[LB885]

SENATOR HADLEY: Okay. Thank you. Any other question? Seeing none, thank you.  
[LB885]

BOB BENES: Thank you. [LB885]

SENATOR HADLEY: Next proponent? [LB885]

MARK HESSER: (Exhibit 9) I have a handout too. Mr. Chairman, members of the committee, my name is Mark Hesser, M-a-r-k H-e-s-s-e-r. I reside at 2111 The Knolls, Lincoln, Nebraska. I am executive vice president of Pinnacle Bancorp and I'm here on behalf today on behalf of Pinnacle Bank and also on behalf of the Nebraska Chamber of Commerce and Industry in support of LB885. During my career I've been directly involved in lending to residential and commercial real estate developers and also actively involved in economic development. The current practice by some county assessors of valuing lots at their individual market value is unfair and a disincentive to development. It leads to less inventory, increased cost for the developers, and ultimately increased cost for the consumers. The developers have to recover those extra taxes they pay. If they put in smaller amounts of lots, it costs more to put in the street each time so it raises their cost. This practice has been a barrier to growth in Lincoln and would be a barrier to growth in any other community where it is utilized. Assume I open up a new residential development and in my first phase, I put in and plat 70 lots. And I can begin selling those lots for \$40,000. The county assessor would immediately say that my lots are now worth \$2.8 million and that's what I will pay my 2 percent, give or take, property tax level on. There's no way I could sell those lots to anybody for \$2.8 million in one time or even over a year. I would have to greatly discount that value if I sold those 70 lots right away. That's the simple concept. The...you've talked a little bit about the methods. The appraisal guidelines...as banks, we have to have an appraisal on these. They use that discounted model. It's regulated in the appraisal guidelines. The county assessors use the same commercial appraisers to value these properties. They don't go out themselves. Whether it's a development or a commercial building, they hire private appraisers to appraise those kinds of properties. So the methods are defined out there. I'm not going to give you the exact term but the certified appraisal guidelines would be the guide, in my opinion, for that. I think the committee should also consider making this change for not just counties over 150,000, but everywhere in the state. As Mr. Benes testified and as a banker with banks in many rural areas, it's just as important if we put ten lots in Central City, that they not be assessed at the value that one lot is going to sell for. You all know the small towns. If you put in a development with ten lots, they can sit there for five years. They can sit there for ten years. So I would urge you to pass this legislation but to change it to apply to all counties in the state. I'd be happy to answer any questions you have. [LB885]

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SENATOR HADLEY: Are there questions for Mr. Hesser? Senator Schumacher.  
[LB885]

SENATOR SCHUMACHER: Thank you, Senator Hadley. We're singling out a single group of real estate here for different treatment as far as valuation. And we're required to uniformly, proportionally value things by our constitution. Have you looked into that issue at all? [LB885]

MARK HESSER: I don't believe you are singling out. I think what the county assessor's job to do is to assess a piece of property at what it's worth. And my example of those 70 lots, once I sell that first lot for \$40,000, the 69 lots should be looked at as one property, as a group of development. And I don't think there's anything in the constitution--I'm not an attorney, I'll let someone else answer that--that would require you to say you have to look at each one separately because it's 69 lots that remain. As a developer...a developer would say it's going to take a certain absorption rate that the appraiser factors into the discounted value, whether it's four years, five years. So I don't think you are. I think what you're trying to do is say, what is this worth today? Just like you do all other properties. [LB885]

SENATOR HADLEY: Senator Pirsch. [LB885]

SENATOR PIRSCH: Well, thank you. So...and I'll...I won't ask any follow-up questions. The line...it looks like on page 2 of the green copy, it says "one hundred fifty thousand inhabitants or more" for those counties this would affect. And so we'll...I'm not going to touch on that issue. I do appreciate, though, your statement. You think that this should be more broadly applied to Nebraska, is that right? [LB885]

MARK HESSER: Yeah. I think the practice, as I said, raises the cost. First, it's a barrier to putting in a development. Secondly, if they do put in a development, it raises the cost which, ultimately, makes the lots more expensive in Central City or any other town if they have to do this. I mean, it's just math. They've got to recover those costs and you're driving up the price on the consumer with this practice. [LB885]

SENATOR PIRSCH: Yeah. Well, I do know, I had a chance to meet with the Norfolk and Madison Chamber of Commerce yesterday. And they had indicated one of their big problems is finding adequate housing up there, that there was employment opportunities but housing seemed to be one of the biggest, if not the biggest, problem. Is that fairly reflective of a lot of these cities and towns around the state? [LB885]

MARK HESSER: Well, we're in business in many cities across the state. There's a number of reasons that we don't have residential developments in some of our communities. A lot of it's just the pure absorption rate. But is certainly a barrier that adds to it because it's a big up-front cost. [LB885]

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SENATOR PIRSCH: Thank you. [LB885]

SENATOR HADLEY: Any other question for Mr. Hesser? Thank you. Next proponent? Welcome. [LB885]

SCOTT SANDQUIST: (Exhibit 10) Good afternoon. My name is Scott Sandquist, and for the record, my name is spelled S-c-o-t-t S-a-n-d-q-u-i-s-t. I'm here today to testify in support of Senator Harr's LB885. I'm a native Nebraskan, a "Linconite" since 1970. My family business is commercial construction and I wish to describe a big problem that I have with respect to Lancaster County Assessor's recent changes in approach to computing and creating assessed values of development land and Nebraska's correlating lack of county to county consistency in county assessor calculation methodologies of development lots for resale. I believe LB885 can correct current unrestrained antidevelopment approach to assess valuations of development lots. To increase business, contractors often purchase development land, lots for sale, to build and to resell the lots, not necessarily in that order, unfortunately. To support my construction business, I purchased some commercial lots for office buildings to build a small office park. And that was in 2007. We sold the very first lot almost immediately and constructed a new office building for the purchaser. As you probably recall, a few months after that with several more potential buyers at our doorstep, the Great Recession was upon us. Recession negatively impacted new office building construction more than any other categorical building type, in my opinion. Despite all the new construction we see today, office building construction remains comparatively very weak even here in Nebraska. Equally important to me, I still own those four remaining unimproved lots since 2007. They're quite expensive to own and doubling of assessed values make the lots even much more expensive to own. I wish to make a couple of key points. The first point I wish to make is concerning the remaining four lots that I still own. And I pay debt service, property taxes, and maintenance every passing year. Every year we lower the selling prices to reflect the mortgage balance. To my horror, last year I received notice that the assessed values on these four remaining lots was increased by just over 100 percent. With this additional negative impact on my efforts to earn a living, I may now be forced to selling these lots at less than we actually paid for them just to bail us out. The second point that I really would like to make is that lenders typically require commercial property to be refinanced every five years, unlike a home or residential property you might get a 15-year mortgage or a 30-year mortgage. But commercial property is different. You have to get it refinanced every five years. Hence, a new appraisal is required with each refinancing. That commercial appraisal includes two key amounts for multiple building lots such as we're talking about. One, there's an appraised value. I've heard terms used today, market value, retail value, whatever. But that retail or 100 percent amount, for lack of a better term, is often reflective of a developer or lot seller's asking price. Secondly, the appraised value...there's a second appraised value. It's a significantly discounted value, perhaps 50 percent to 67 percent

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of the retail value. Every lender ignores a licensed appraiser's retail value and uses only this significantly reduced value for financing purposes. This value intends to reflect what a lender might be able to sell the lots for in the event of a foreclosure or anybody having to sell all the lots at once. I truly believe assessed values of lots for resale should reflect a similar approach of reduced valuation such as Lancaster County did until just recently. That's essentially all I have to say, and ask for your support. [LB885]

SENATOR HADLEY: Thank you, Mr. Sandquist. I guess what I'm hearing is, is that, basically, developers are going to have lots for a tremendous length of time. Is that what I've been hearing here? [LB885]

SCOTT SANDQUIST: Well, that's certainly been my situation and I would suggest, yes, that's true. [LB885]

SENATOR HADLEY: Okay. [LB885]

SCOTT SANDQUIST: I mean, if you have a development, you're not like, perhaps, a homebuyer or somebody who wants to build for themselves, you purchase one lot. That's an entirely different scenario. It's when you have a collection of lots, it just takes time. [LB885]

SENATOR HADLEY: And it may sound like a facetious question but it's not. If you're not selling, is the bank willing to lower their interest rate that they charge you because you're not being able to sell the lots? [LB885]

SCOTT SANDQUIST: I haven't been that fortunate, personally. [LB885]

SENATOR HADLEY: Okay. I just wondered. Yes, Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Thank you, Senator Hadley. When you got the notice that your values were doubling, did you appeal that? [LB885]

SCOTT SANDQUIST: Yes. [LB885]

SENATOR SCHUMACHER: Any luck? [LB885]

SCOTT SANDQUIST: A little bit, not much. They're still...the revised assessed value still exceeds my sale price, what I would sell one at a time. [LB885]

SENATOR SCHUMACHER: Thank you. [LB885]

SENATOR HADLEY: Senator Hansen. [LB885]

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SENATOR HANSEN: Thank you. Thank you for coming in today. Appreciated your personal story about those lots. What were the lots before you developed them into saleable lots, farm ground, houses, commercial lots? [LB885]

SCOTT SANDQUIST: They were originally farm ground, as is most land. And they were...this was a small office park in part of a...as part of a larger redevelopment. So they were just unimproved. [LB885]

SENATOR HANSEN: Unimproved lots? [LB885]

SCOTT SANDQUIST: Yes, entirely. [LB885]

SENATOR HANSEN: Okay. Do you have any idea what the...I mean, you bought the lots so that's your price. Do you know what they were valued at as farm ground? [LB885]

SCOTT SANDQUIST: No, I don't because when I bought them they weren't technically farm ground. They were...a developer bought farm ground 20 years ago... [LB885]

SENATOR HANSEN: Okay. [LB885]

SCOTT SANDQUIST: ...and started the development, which is still ongoing. And I bought from that developer. [LB885]

SENATOR HANSEN: From the developer. So you're the second, third...you're the third owner of the land, anyway, at least. [LB885]

SCOTT SANDQUIST: At least, yes. [LB885]

SENATOR HANSEN: So what price should it be valued at? At your buying price? [LB885]

SCOTT SANDQUIST: I would suggest that it would be an approach where similar to what it was until last year. It was...there was a discount of 50 percent, is what was explained to me by the appraiser when I protested. And that... [LB885]

SENATOR HANSEN: And it went up 100 percent in one year? [LB885]

SCOTT SANDQUIST: Actually, it was like about 101 percent. [LB885]

SENATOR HANSEN: Sounds like farm ground. [LB885]

SENATOR HADLEY: That thought crossed my mind. [LB885]

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SCOTT SANDQUIST: The only thing is, unlike the farm ground, these lots didn't increase in value, they went down. [LB885]

SENATOR HADLEY: Any other question for Mr. Sandquist? Thank you very much. [LB885]

SCOTT SANDQUIST: Thank you. [LB885]

SENATOR HADLEY: Next proponent? [LB885]

ROGER MORRISSEY: Senator Hadley, members of the Revenue Committee, Roger Morrissey, Douglas County Assessor. I'm here today to talk about subdivision analysis, really I think is what we're talking about. And I'd like to start off by saying that sales price is a fact. What somebody bought a property for is a fact. A list price, what I ask for a property, is also a fact. Value is an opinion. And the state's definition of value, which is 77-112, states in there that actual value is the most probable price expressed in terms of money. That's an opinion. Probable price is an opinion. That's what we do as appraisers, is to value property. That opinion is a range. Actual value is not a point estimate. The only two people that have to do a point estimate really is the assessor and the appraiser that's doing it for a financial institution because they're going to lend off a point estimate, not a range. Same thing with the assessor. They're not going to calculate the individual property taxes. The definition goes on to say that there are three approaches to value to look at when arriving at actual value. And one of those is the cost approach. And on vacant ground, we'll throw that out as far as vacant residential developable land. The sales comparison approach is looking at sales that have sold recently. We're looking at prices; what a willing buyer and willing seller have paid for a property. That's a price. The assessor values property as of January 1 of each year. The market changes. Interest rate changes. Supply and demand change. Those are things that we look at. I say that in those subdivisions that we're looking at are newer subdivisions, we do use the sales comparison approach. If there's a new subdivision that has 100 lots and 10 of them have sold, I've got ten prices. The other 90 haven't sold. Why? There isn't a demand. I mean, the developer isn't sitting there or the builder isn't sitting there saying, well, I'll wait. You know, they want their money and they want to turn the property. So if the range of the property of those ten sales is between \$23,000 and \$28,000 a lot, then we've got our range. But those lots that haven't sold aren't worth that much. There hasn't been a buyer. The market hasn't absorbed those lots. And at ten a year, you've got a 10-year period that you're going to have absorption for those lots if the market stayed constant, which it doesn't. We've already said that. Sometimes the market speeds up. If lumber costs go up, maybe that slows down new construction. Interest rates go up, slows down new construction. Interest rates go down, we're going to have more new construction. So the assessor is to look at property January 1 of each year. We also use the income approach. And I think the county

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attorney, Mr. Thew, is a good person and a good attorney. I've sought his advise myself, personally, as the assessor in Douglas County. But as far as saying a discounted cash-flow analysis results in an investment value, that's not necessarily true. It's only an investment value if I say I want 15 percent return on my money. As an individual, then, that becomes an investment value. If I go out and talk to different bankers and I find out that the rate of return or a yield rate that somebody would be looking for over a 10-year period is 7 percent, 6.5 percent, 7.5 percent, then I'm in that range for what the yield rate would be for going out with my discounted cash-flow analysis. Also, on those lots that are being held that haven't sold, I've got holding cost. I've got development fees, I've got maintenance fees, I'm paying property taxes--not me as the assessor, of course--but if I was a developer or builder or property owner. The word discount just makes the hair on the back of my neck stand up. It's not a discount. We're giving an opinion of value, what we feel is actual value. And it's not what those other ten have sold for if it hasn't sold. It's below that as of January 1 when we're looking back. So it's not a discount. It's...there's some absorption that has to go in there, there's some holding costs that have to be held by the developers. There is a cost of development method also that is taught by the International Association of Assessing Officers that basically looks at the sale price minus cost and holding cost and development cost that goes on, that is one of the ways to look at it. So in closing, I would just say that I agree that fairness is really the issue here. And it's not a discount that we're giving. It's an opinion of actual value of those remaining lots that haven't sold. And I agree with state statute 77-201 that says all property shall be valued at actual value. And one side note, I agree with the Lancaster County Assessor that this will be additional work for the assessors as far as paperwork, etcetera. So with that, I would entertain any questions. [LB885]

SENATOR HADLEY: Thank you. I have a quick question. Have you done any post-sale analysis where you have valued a lot that...or a number of lots in a particular point in time and then they are sold within the next year, to see what the actual selling price was versus what you valued those at? [LB885]

ROGER MORRISSEY: Yeah, we look at that because that's a sale assessment ratio. And then, you know, we're graded on that for different types of property, so. [LB885]

SENATOR HADLEY: So are you pretty close, then? [LB885]

ROGER MORRISSEY: Well, it all depends what neighborhood, I mean, what addition it is. And each addition or subdivision...one could be more popular than the other. And one that's selling fast, you know, we're going to be behind on. And that's where we have to pick up the next year, that next January 1. So I...you know, we look at each individual subdivision and just see what number of sales have gone on during the past year and how many we have left, is basically what we do. [LB885]

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SENATOR HADLEY: Okay, because I was thinking of the term of discounted cash flow, you take the future sale price,... [LB885]

ROGER MORRISSEY: Right. [LB885]

SENATOR HADLEY: ...discount it at some rate... [LB885]

ROGER MORRISSEY: Right. [LB885]

SENATOR HADLEY: ...to get a value today. [LB885]

ROGER MORRISSEY: Right. [LB885]

SENATOR HADLEY: And then...and you maybe do that for two or three or four years according to...depending on how long they hold them. [LB885]

ROGER MORRISSEY: Right. [LB885]

SENATOR HADLEY: And then, eventually, that lot is sold. And kind of what it sold for versus what... [LB885]

ROGER MORRISSEY: Yeah. No, we haven't done that. [LB885]

SENATOR HADLEY: Okay. Any other questions? Seeing none, thank you. [LB885]

ROGER MORRISSEY: Thank you. [LB885]

SENATOR HADLEY: Next proponent? [LB885]

JERRY STANDERFORD: Good afternoon, Senator Hadley, members of the committee. My name is Jerry Standerford, J-e-r-r-y S-t-a-n-d-e-r-f-o-r-d. I'm a homebuilder and a developer from Omaha and I'm here on behalf of the two companies that I manage, Sherwood Homes and Lane Building Corporation. I'm also the immediate past president of the Metropolitan Omaha Builders Association and I'm here on their behalf also. I'm here to speak in favor of LB885. Our companies have been in business for over 40 years in Omaha and we typically build between 75 and 100 houses annually. We secure lots for these homes in several ways. We develop raw ground, we buy large groups of lots from developers, or we buy lots one at a time in subdivisions in areas where we need them for a sale. When we develop our own lots or buy in bulk, we keep the lots in our own inventory until we build a house on the lot. So we don't develop lots for sale to everyone else. We exclusively hang on, keep these lots for our buyers and our people to sell. Given that it often takes one to two years to produce a lot, it is not feasible nor is it cost effective to bring five or ten lots to the market at a time for us. The most cost

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effective method of development is to produce a four- or five-year supply in our operation. The current method used to value lots in Douglas and Sarpy County takes into account the supply and demand. The supply and demand for a lot is a large factor in the value of the lot. Often lots brought on at the start of a development and sold immediately command a full price. But if the lots are not built on in an expeditious time frame, they often decline in retail value. This is why the assessed value of the lots must include the absorption rates as well as supply and demand. I believe that LB885 gives the assessor the ability to apply these factors to their calculation. As we climb out of this economic downturn that had a drastic impact on residential construction, the value of the lots will increase and be taxed accordingly. However, in the next downturn, which historically happens in new construction, the value will adjust fairly and equitably. Thus, I would encourage your support for LB885. Thank you for your time and I'm happy to answer any questions. [LB885]

SENATOR HADLEY: Okay. Is it Mr. Standerford? [LB885]

JERRY STANDERFORD: Yes, sir. [LB885]

SENATOR HADLEY: I only chuckle a little because we heard in this committee a lot, especially this year and last year, with people who own ag land who are in making the argument that we shouldn't value theirs at market value because they don't want to sell their land. [LB885]

JERRY STANDERFORD: Correct. [LB885]

SENATOR HADLEY: And now we have a situation where we have developers who want to sell their land but for whatever reason aren't able to. [LB885]

JERRY STANDERFORD: I understand. [LB885]

SENATOR HADLEY: So they want...so you would like to have the value lower because you'd like to sell it but can't. Is that a fair statement? [LB885]

JERRY STANDERFORD: That's correct. But the lower value is really representative of what it's worth. [LB885]

SENATOR HADLEY: Okay. [LB885]

JERRY STANDERFORD: I mean, it's what we're...I...for example, in 2006, there was a subdivision on Dodge Street in Omaha, luxury subdivision, luxury houses. We paid anywhere from \$95,000 to \$105,000 per lot for lots in there. A few houses...a few lots were sold. There was a Street of Dreams there. Two years ago, those same lots--which we still own some of and the developer owned--a lot of those lots were on the market for

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\$64,000. That's pretty indicative of what we see out there. At the same time, I had lots in...during that same period when things kind of fell apart in Omaha, I had lots on the market from anywhere from \$26,000 to \$32,000. When I say on the market, available to build houses, for our customers to build houses on. And for a period of time I thought this is so ridiculous that we're not selling houses and these lots are so overpriced. I told my agents to list every lot that we had, that they were available to them, to their buyers for \$17,800 for a period of 30 days. Thirty days we didn't sell one house at \$17,800 so you tell me what the lots are worth. [LB885]

SENATOR HADLEY: You know, I agree entirely. And from a years ago theory, the present value of the future selling price should be the current selling price. [LB885]

JERRY STANDERFORD: Sure. [LB885]

SENATOR HADLEY: And so, theoretically, the discounted cash flow should give you a value of what the lot is worth today. [LB885]

JERRY STANDERFORD: Theoretically. [LB885]

SENATOR HADLEY: Any other questions? Thank you, Mr. Standerford. [LB885]

JERRY STANDERFORD: Okay. Thank you. [LB885]

SENATOR HADLEY: Next proponent? Do what your physical therapist tells you to do. That's the only advice I can give you. [LB885]

WARD F. HOPPE: Well, thank you. [LB885]

SENATOR HADLEY: I know from experience. [LB885]

WARD F. HOPPE: I'm glad I came here for that advice. My name is Fred Hoppe, F-r-e-d H-o-p-p-e. Actually, it's Ward F. but I go by Fred. I'm here representing the Nebraska REALTORS Association, the REALTORS Association of Lincoln, Nebraska, and the Home Builders Association of Lincoln, Nebraska. I'm a lawyer but, like Bob Benes, I wear a lot of different hats. I develop real estate myself. Apparently, those people I represent don't pay me very well because I have to have a side occupation. But I want to point out just a couple of things. In Lancaster County where I live and work, we're taxed 100 percent of the price of the lots we have to sell. Not the value, because of all the discounting discussions you've heard before. We're taxed at the price of the lots we have for sale. If I have 50 lots, I'm taxed 50 times the price I would sell one for if I could sell it right away. All right. That's a big distinction. It interferes with economic development because when I go down to 21st and N Street, where I'm starting a new project of 63 row houses, I can't plat all 63 row houses at the same time or I'm going to

start paying full price for taxes on every lot. So what I have to do is go break up the platting process into little chunks so that I can affordably carry those lots without paying full price for taxes. And when I do that, that limits the choice that my buyers have to buy homes in that little subdivision because the first ten lots that I'm platting out of the 63, they're clustered together because those are going to be the first ones I build out. But if somebody looks at the entire subdivision and wants one of the lots over on Antelope Creek, that's not in that first plat. If they come to me and say they want one of those lots, I have to do a separate plat to get those out of the bulk to keep the prices down. So what it does, it...particularly in Lancaster County, I'm not the only one who's doing that. That's the practice now. When we plat lots, we plat little tiny chunks instead of the luxury that they have in Omaha of platting a bulk in appropriate sizes for the availability and choice of customers. We have to do it in little chunks. And when we do that, it puts us in a bad situation compared to the other counties where they're not treating...they're not valuing using the same processes. That is worse and most important in the commercial setting that Bob Benes talked about. One of the cardinal rules about economic development is, you have to have the lots there ready to build on when that magic customer comes down the street. And if you don't have them there, you may lose the customer. Well, that's the difference between the platting process in time. That puts Lancaster County developers and Lancaster County economic development behind the eightball of the other counties. And one of the things this bill can do is provide uniformity, particularly if it's amended, as suggested several times before, for all the counties in the state. And I would probably have a lot of examples. Most of them would be repeats from what's been said before so I won't comment. But I will answer any questions that anybody would have in that regard. [LB885]

SENATOR HADLEY: Questions for Mr. Hoppe? I guess I have one quick one. How is this different than if you developed a strip mall and it had ten units in it, they are all finished and you lease the first one. How should the taxes be assessed on the other nine that you haven't leased yet? [LB885]

WARD F. HOPPE: Well, first of all, there are a couple things that do make a distinction. Normally, if you had a strip mall you don't have it individually platted into little units. Okay? So...and if it's not individually platted, it's developed as one...or it's taxed as one parcel anyway. Normally, the income approach is used on those income properties. And when you use the income approach for valuation, that brings in the discounted cash value concept by itself. You can go in and protest your taxes based on vacancy rates that you have in those properties, same as you would with an apartment building. If you have an apartment building that runs consistently at 20 percent vacancy, you go in to pay your taxes and say, hey, wait a minute. This doesn't produce 100 percent income based on each and every unit. It's only producing 80 percent. So you get a discount of value based on the vacancy that's in that property. The concept is the same in a certain case or certain aspects when you have a full subdivision. Granted, when we sell a lot, we want to get full price for it. Price is different than value. You have to look at it as it

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produces an income through its entire life. That is, once the last lot is sold, that's how we judge whether or not we make money on the project. And we have to estimate when we're doing it and setting prices, holding costs and all those other things in it. Does that make sense? [LB885]

SENATOR HADLEY: Makes sense. Any other questions? Seeing none, thank you sir. [LB885]

WARD F. HOPPE: You bet. [LB885]

SENATOR HADLEY: Next proponent? [LB885]

ANN POST: (Exhibit 11) Good afternoon. Senator Hadley, members of the Revenue Committee, my name is Ann Post, that's A-n-n P-o-s-t. I'm here today on behalf of the Lincoln Independent Business Association in support of LB885. Now you've already heard from previous testifiers about previous valuation methods, about recent changes to those valuation methods that have resulted in increased carrying costs for developable property, and how this bill hopes to use the income valuation approach to remedy those problems. So I won't go into more detail about that and won't reiterate that point. What I do want to reiterate is that the effects of the new application or the changes in interpretation of state law of valuation methods are extremely harmful to Nebraska's communities, that the lack of shovel-ready properties slows growth in our communities and that what this bill would do is simply to clarify current law, allow for appropriate valuation of property held for development by taking into consideration the actual market forces at work and the actual value of the property in its current state. This bill allows developers and builders to ready more property for development and it removes barriers to growth. Growth is essential to a healthy economy. Growth through new construction and development creates temporary construction jobs. It creates the facilities and infrastructure to attract new businesses, new jobs, and new residents. It increases supply and demand levels in the local economy, leading to a larger and healthier economy both in Nebraska's smaller, more local communities and also, ultimately, throughout the state. And it is for these reasons that LIBA supports this bill and would ask this committee to do the same. [LB885]

SENATOR HADLEY: Are there questions for Ms. Post? Seeing none, thank you. [LB885]

ANN POST: Thank you. [LB885]

SENATOR HADLEY: Next proponent? [LB885]

DaNAY KALKOWSKI: Good afternoon, Mr. Chair and members of the Committee. My name is DaNay Kalkowski, that's D-a-N-a-y K-a-l-k-o-w-s-k-i. I'm appearing today on

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behalf of a client of mine, Eiger Corp. They are a commercial developer in Lincoln, Nebraska. They developed the regional mixed-use shopping center at 84th and Highway 2 that has land both on the north and south sides of Highway 2. I'm really just appearing today to sort of reiterate the support that you've already heard from others testifying about the impact of the way that the county assessor in Lancaster County is valuating property on commercial developers. Without this amendment, which is imperative, Eiger will be forced to dramatically change its practice of preparing and holding an inventory of lots that are available for immediate sale. And obviously, everything that they've said about causing the need, then, to break it up into smaller pieces, less available for sale, all of that does is contribute to rising costs for end users and less available opportunity for users to have a choice. I'd be happy to answer any questions but we'd certainly appreciate any support of the bill. [LB885]

SENATOR HADLEY: Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony. Was this a problem all along or did something happen in the last year or so that triggered this? [LB885]

DaNAY KALKOWSKI: Something happened in the last year that triggered it. Previous to 2013, the county assessor had been taking into account the time period for sale of lots that are being held in inventory for both residential and commercial. So as a result of that county attorney opinion, the Lancaster County Assessor changed their methodology in 2013. So the result of that is everybody who held lots for inventory in residential and commercial got 2013 tax bills that were at least double what they had been the year before because they'd taken away any kind of discounting or any kind of consideration for the time value that the lots were being held. [LB885]

SENATOR SCHUMACHER: Did this happen in other counties too, if you know? [LB885]

DaNAY KALKOWSKI: Not that I'm aware of. But that's really what precipitated the need, I think, for this bill. [LB885]

SENATOR SCHUMACHER: Thank you. [LB885]

SENATOR HADLEY: Any other further questions? Seeing none, thank you. [LB885]

DaNAY KALKOWSKI: Thank you. [LB885]

SENATOR HADLEY: Any other proponents? Anyone in the opposition? Anyone with neutral testimony on LB885? [LB885]

LARRY DIX: Senator Hadley and members of the Revenue Committee, my name is

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Larry Dix, spelled L-a-r-r-y D-i-x, appearing today in a neutral capacity on LB885. And what I really want to call your attention to as we work through this piece of legislation--and I know that there's some discussion about having this apply to all counties--but if we specifically look at line 11 on here: if two or more vacant lots or unimproved lots in the same tax district are owned by the same person are held for sale or resale, such lots may be included in one parcel. And Senator Schumacher, I think, started to go down this path. When you get...certainly what happened in Douglas County, Lancaster County, certainly in some of the rural counties, but if I read this--and somebody is going to read this this way--I could own...and, Senator Hadley, I can own a lot in the original town of Kearney, and you know where that's at, that part of the county of Kearney. And I could also own another lot in Altmaier Acres in Kearney. Now if you're familiar with that area, those two places are not anywhere close to each other. But I could go to the assessor, as I read this, and say I want those valued as one lot. So we really have to work on that language somehow. Now it may be one lot within a subdivision. But there has to be a little bit more specificity here because, as a taxpayer, I could own multiple lots within the city of Lincoln and I would be in the same tax district. But I could own them all over the city and go and make this request. So I just want to make sure we sort of address that component, something in there I think that we need to look at. So with that, I'd be happy to answer any questions that you may have. [LB885]

SENATOR HADLEY: Mr. Dix, "the county assessor" on line 21, "shall utilize the income approach, including the use of discounted cash-flow analysis." How would the assessor do this, because they're going to have to figure out some estimate of when that lot is going to be sold, what value that lot is going to be...or whatever price that lot is going to be sold at, so they've got to figure a holding period, then they've got to figure a rate of interest, and then discount that back to find, basically, the current value? Is that... [LB885]

LARRY DIX: And I think earlier when Mr. Morrissey was testifying and stating that from an assessment point of view, that's an opinion of value as to how they try to determine that. And we see it...I see it more in areas where there are active subdivisions. Now I know we have some situations in our small communities where someone will go and carve out the ten lots. But we see this a little bit more in active, larger, metropolitan areas where people are going out, developing a subdivision that may have 50 lots. And so then that becomes a determination of that assessor to try to come up and use the discounted flow analysis. The discounted flow analysis is an item that is recognized in the International Assessing Association manual. And so there is discussion on that and you'll find that in the IAAO manual. [LB885]

SENATOR HADLEY: So would the assessor have to take into account carrying costs and such as that when they're trying to use this method, you know, the interest paid, upkeep of the lots? [LB885]

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LARRY DIX: I think that's up...it's one of those where you try to look out to the future. It's one of the challenges of assessing in vacant lots. I think I remember, you know, many, many years ago that was always sort of a challenge in how do you assess the vacant lots when a subdivision comes in? I think you do the best you can with the information you have. It's, again, an opinion of value and it's not always right. You hope that it's very close. It's sort of like when, a lot of times, people will come in and say, well, the assessor put this value on my house. It's an opinion of value for mass assessment. It's not an opinion of value, necessarily, for the resale, it's mass assessment. And I think many times we get mixed up in the mass assessment versus the opinion of value that real estate appraisers will put on a piece of property when it is for sale. And so we've got to look at that a little bit different in a mass assessment arena. [LB885]

SENATOR HADLEY: Okay. Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you, Mr. Dix. Apparently, this was triggered, at least in Lancaster County, by a county attorney's opinion. Have other county attorneys issued different opinions or just not looked at it? [LB885]

LARRY DIX: I don't...I'm not aware of any other opinion other than this one. And quite honestly, I was made aware of this opinion--I think Senator Harr had a conversation with me and sort of asked about it--and that was really the first that I had been made aware of the opinion. [LB885]

SENATOR SCHUMACHER: Would we accomplish the same thing with an Attorney General's...as this bill, maybe, with an Attorney General's Opinion that came to the opposite opinion? [LB885]

LARRY DIX: We could. We could. [LB885]

SENATOR SCHUMACHER: Thank you. [LB885]

LARRY DIX: Yeah. [LB885]

SENATOR HADLEY: Any other questions for Mr. Dix? Thank you, Mr. Dix. [LB885]

LARRY DIX: Thank you. [LB885]

SENATOR HADLEY: Anyone else in the neutral? Senator Harr, would you like to close? [LB885]

SENATOR HARR: I would. Chairman Hadley, members of the Revenue Committee, I

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want to first take a chance to thank all those who took the time to come and testify today. To address the issue with Mr. Dix, we can always improve the language. The language in here was based on language we got working with the Department of Revenue, but we can make it better. It does say contiguous lots and in the same tax district, so I'm not sure if some of his concerns may already be addressed in the bill. I'd like to recap some of the testimony too. So people ask, how does...how can Walmart sell at such a deep discount compared to the mom and pop store? Well, the reason is because they buy in bulk. And when you buy in bulk, you expect a discount. So if I buy 1 lot versus 100 lots, I expect to pay a different price. That's the situation we have here, where you have...it's the opposite. A developer sells one lot. Would they like to sell the other 99? You bet they would. But if they were to sell those today, they would have to do it at a reduced price. So the value of the other 99 is not the same as the value of 1. And so to get to your question, Senator Hadley, if a property is assessed last year at \$25,000 and the next year it sells for \$35,000, does that mean the assessor was wrong the previous year? No, not necessarily. What it could mean is that the market finally caught up with the absorption so that last year if they had sold that lot, they could have only got \$25,000. But because now there is increased demand, because the other lots have sold around it or there's new population coming into the area, now it is worth \$35,000. So past price is not a guarantee of future price. And so it's not...just because last year was assessed at a different value doesn't mean it was wrong. It just means that's what the value was a year ago. If we take the value of 1 and applied it to the other 99, I can almost guarantee you, if that buyer went to the bank with that value and asked to loan against it, a bank would say that property isn't worth that much. A bank would get that. They would say, you're right. We got...if you're going to buy 99 lots, it's not worth the same as that single one because there's a discount, there's the reduction because you're buying in bulk. It's a simple...and there isn't the market to develop all 99 lots. So I think this is a very good piece of legislation. I can't read my own handwriting. Oh, your issue, sorry, Chairman Hadley, about discount rates vary. And the answer is, you're right, it does. And it is...I don't want to call it voodoo, but it is an art and less precision because there are a lot of factors that go into it. And so it takes, in spite of his simple looks--he's still not here, is he, Morrissey--in spite of his simple looks, he is a very sophisticated man. And he understands what goes into determining the value. This is what he does for a career. This is what he does for a living. He oversees thousands, hundreds of thousands of lots. So he knows what to look for, how quickly they sell and how...or don't sell in a subdivision. So it's not...well, it is difficult. And maybe it's cumbersome and, he admits, a lot of work, it doesn't mean you can't get at that value or that assessed value. I also have a rough draft of some language that we talked about the three ways of valuing property: comparable sales, income, and cost to build. If a county assessor, after looking at the income approach, doesn't feel that that is proper, this language would allow for an appeal process to say, hey, maybe we need to look at a different way. And that addressed some of the issues you might have. I have copies here, I can hand them around. I'll have a formal amendment by the next time we Exec that will take this language and put it in proper form. With that, I'd be willing to answer

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any questions you may or may not have. [LB885]

SENATOR HADLEY: Questions for Senator Harr? Senator Schumacher. [LB885]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Senator Harr. In your comments you just may have hit on something that's curious. You said, well, if he went to a banker and asked to take a loan out against the other 99 lots, he surely wouldn't get 99 times the sale price of the first lot. Do you know, if--let's assume the landowner had the property free and clear and he did go to that banker and said, I've got 99 lots that I'm willing to pledge as security for a loan. What formula...what would the banker start out with as his value of the property that he could loan against? [LB885]

SENATOR HARR: If I were a banker, I would look at the income that that property produces. [LB885]

SENATOR SCHUMACHER: But you don't know...in the commercial banking world, obviously at that point, their income is virtually zero because it's not selling. [LB885]

SENATOR HARR: Well, they would, you know...well, I would concede they'd look at future value and what they think it will be worth down the road. But they wouldn't give you...they would have a reduction for that reason to say, yeah, down the road it may be worth what that first lot got. But it sure as heck ain't worth that today. And so then they'd try to figure it out and they have their own formula. And that's what you have auditors for, to figure that out. [LB885]

SENATOR SCHUMACHER: And that's what I'm curious. And what would they...when you say they have their own formula, what is that formula? Certainly, they'll loan something against it even though... [LB885]

SENATOR HARR: Yeah. And that may vary from bank to bank. And there is a certain level of interpretation of what you think it is. [LB885]

SENATOR SCHUMACHER: There has to be some regulatory oversight from somebody saying, you know, your value, your loan portfolio is too high or too low. So that would be interesting to know. Thank you, Senator Harr. [LB885]

SENATOR HARR: After 2008, I think we learned there may not be as much oversight as you think. [LB885]

SENATOR SCHUMACHER: Well, maybe it's more than what they want now, though. [LB885]

SENATOR HADLEY: Senator Harr, sometimes I have to put things in very simple ways

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to understand them. The basic problem is that it is difficult to sell these lots in a, what we would consider, a normal time that most things are resold. Is that a fair statement, that it's the time between acquisition of the lot, improvement of the lot, and the fact that the holding period is longer for commercial and residential lots than most other products that we think of? [LB885]

SENATOR HARR: Yeah. There may only be...there may be 99 lots but there are only five interested sellers at this point. So... [LB885]

SENATOR HADLEY: Five interested buyers. [LB885]

SENATOR HARR: Sorry, you're correct, 5 interested buyers, not 99. And it's based on the assumption that there are 99 interested buyers, is what Lancaster County is doing. [LB885]

SENATOR HADLEY: Oh, how times have changed. I moved to Kearney in 1991 and couldn't find a lot. [LB885]

SENATOR HARR: And I'll be honest. There are some small towns I'm amazed that the housing costs more per square foot than Omaha. [LB885]

SENATOR HADLEY: Kearney is very expensive. [LB885]

SENATOR HARR: Well, everyone wants to be near you. [LB885]

SENATOR HADLEY: I doubt that very much, Senator Harr. With that, we will close the hearing on LB885... [LB885]

SENATOR HARR: Thank you. [LB885]

SENATOR HADLEY: ...and close the hearings for the day. [LB885]