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Revenue Committee
January 22, 2015

[LB68 LB71 LB76]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 22, 2015, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB68, LB71, and LB76. Senators present: Mike Gloor, Chairperson; Paul Schumacher, Vice Chairperson; Lydia Brasch; Al Davis; Burke Harr; Jim Scheer; Jim Smith; and Kate Sullivan. Senators absent: None.

SENATOR GLOOR: Good afternoon and welcome to the Revenue Committee public hearing. My name is Mike Gloor. I'm the senator from District 35, which is Grand Island. I'd like to welcome you all. The agenda is in the back of the room and we will follow the agenda today. A couple of general rules. If you have a cell phone, congratulations for being in the electronic age, but please turn it off or get it on silent ring. We are going to do our hearing today in this order: We'll have the presenter, proponents, opponents, then those in a neutral capacity, and then of course the senator will be given the opportunity to close. If you are going to testify today, and we encourage that for those of you who have an interest, please fill out one of the testifier forms, bring it with you when you come up to testify and hand it to the clerk. If you would like to be recognized that you're here, fill out the sign-in form in the back and you can make comments on that. We will enter that into the record. If you have copies when you come up, we will need ten copies. I think that's pretty close count. We'll need ten copies. If you don't have copies, please signal one of the pages you see moving very quietly and efficiently behind me and they'll make sure that we get copies out to us. Please speak into the microphone, and that's a reminder not only for those of you who are testifying but for the senators because our poor transcriptionists sometimes have problems picking up our voices. So that's to be kept in mind. Let me do a couple of introductions. Our committee counsel is Mary Jane Egr Edson who's on my right. The clerk is Krissa Delka who's at the far left, and our research analyst is Kay Bergquist and she's on the far right down there. And with that, I will ask the senators to introduce themselves and I'll start with Senator Scheer on the left side of the table.

SENATOR SCHEER: I'm Jim Scheer from District 19, which is Madison County and just a portion of Stanton County.

SENATOR SMITH: Jim Smith, District 14 in Sarpy County.

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

SENATOR SCHUMACHER: Paul Schumacher, District 22. That's Platte and part of Colfax and Stanton Counties.

SENATOR GLOOR: Senator Davis.

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SENATOR DAVIS: I'm sorry. Senator Al Davis from District 43. I represent north central and northwest Nebraska, 21 percent of the state and the largest district in the state.

SENATOR HARR: Burke Harr, Legislative District 8 from Omaha-Benson area. My district is the size of his ranch. (Laughter)

SENATOR DAVIS: No, isn't it smaller?

SENATOR HARR: Yeah, yes.

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

SENATOR GLOOR: Thank you, Senators. Our two pages today are Colin, who's over here on our left, and he's from Wayne, and Donnie on our right, and Donnie is from here in Lincoln. And with that, we will begin our hearing with Senator Schumacher's LB68. Senator Schumacher, and this is your day, actually it's almost...we talked yesterday that most of us know shark week on the Discovery Channel. This happens to be Schumacher week in the Revenue Committee. (Laughter) [LB68]

SENATOR SCHUMACHER: (Exhibit 1) Thank you, Senator Gloor, members of the Revenue Committee. It's sure good to see all the proponents in the back of the room for my bills. (Laughter) The bill today, the first one up is to eliminate the stepped-up basis on inherited real estate. Just as a bit of background for those of you who weren't in on the committee hearings the last couple of years and the tax modernization procedures, we heard repeatedly over and over that property taxes were too high. And that proclamation was made more often than not by people in the agricultural community that because of the land inflation were relatively high net worth people. We also did some head scratching. Came up with a little minor reaction in terms of the property tax credit that we passed last year, putting some money toward that. But basically we were stymied and may continue to be stymied by some realities that we have only three sources of income to float the boat in financing our government. One is the property tax. We're heavy on that. Everyone admits we're heavy on that. It's part of a three-legged stool. But it's integral and it's local, and it is focused a lot on agricultural real estate in particularly the rural areas. We have the income tax. Pretty much general agreement that 6.84 percent is on the high end of normal. Some people say it's on the low end of high. But there's not much room to rob from that to pay toward something in property tax relief. And then we have the sales tax, and pretty much general idea is, and it's probably accurate, that that hits the folks making...families making \$20,000 to \$120,000 a year the hardest. If you're making a million dollars a year, you don't necessarily have that much more proportional purchases in the state of Nebraska than the folks making in the low six figures. It's not proportional. It's not quite fair. So you start looking at that

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situation and you say we are boxed in. And you realize that that has to be the wrong answer because it's not what people have been told is going to happen, that somehow there's going to be property tax relief and the other two sources of income are going to either stay the same or maybe even go down. And so it was almost enough to make me pray. But then Guido appeared and Guido says, understand something. I break your kneecaps if you don't come up with at least some ideas. And so I recalled one of the hearings in which I think we were discussing inheritance tax. And there was a gentleman testifying why we need to get rid of the 1 percent county inheritance tax, how terribly onerous it was. And the example, I think, that was being tossed around was that grandpa had \$5 million dollars worth of farmland and grandpa dies and his heirs have to pay 1 percent or \$50,000 in tax in order to get that \$5 million distributed to them and how terrible that was. And we had a bit of a discussion then about how terrible it was. Because you see in the case of what's been going on with the inflation of land prices and the rule changes regarding estate taxes an odd result happened. Grandpa maybe bought that...I think I used an example in the statement of intent here, grandpa bought a quarter section of land for \$500 an acre and turns around and sells it for \$10,500 an acre. Profited \$10,000 an acre on that quarter section. If we apply our normal way of taxing, 6.84 percent, to that profit of \$1.6 million, grandpa would have to pay about \$110,000 in state income tax. Because grandpa dies and the heirs turn around and sell that same piece of property for the same amount of money, the heirs pay no income tax at the state and the federal level because magic happened. They got a stepped-up basis--\$1.6 million dollars of income moved tax free. Now why might that have been? I mean, why did we ever write such a thing into our law? Well, we piggyback on the federal people and the federal people always do everything right. And there used to be not so long ago rather significant estate taxes at the federal level and at the state level so that regardless of your income appreciation on a piece of property what its net value was on the day you died, you paid a tax on and it was pretty healthy. And in Nebraska's case, very healthy. And quite frankly there was thought when I was in law school that that tax would get stiffer. The deduction, usually a few hundred thousand dollars, would go down so that there would virtually be no deduction. Well, shows what they know in law school because it went the other way. And politics in Washington took the federal estate tax exemption up from \$250,000 I think in the 1970s to today \$5 million and a couple can use their unused portion, so effectively \$10 million passes free of the federal estate tax, which covers the great bulk of all estates. Okay. Well, after the federal government headed down that direction, the same thing that always happens happened again. Some states got rid of their estate tax, because most all of them had it because it interacted with the federal tax and you got some credits back and forth. But some states said, okay, we want to attract people to our state and we're going to get rid of the state estate tax. Well, lo and behold, you can all imagine what was argued in these Chambers with a fair amount of validity. They're doing it. They're getting rid of theirs. We got to get rid of ours. Okay. We got rid of ours. And that made it possible for \$1.6 million to be exempted from income because, well, there was that estate tax. It seemed unfair to hit them also with an income tax. So what was picked was the estate tax. Then

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it went away and the no income tax part was left behind. So if you're looking for a source of money for property tax relief, if that's truly a big deal, then you got to look for a big pot of money that you can apply the tax rate to. And it turns out that treating heirs the same as you would treat grandpa for taxation purposes, using the same records grandpa would have used for figuring the amount of income, you find a big pot of money. And I kind of went about it a little different way than what the Revenue Department and the Fiscal Office did when I first looked at the situation and I have a handout for you. It was something from the University of Nebraska, kind of interesting. Apparently we've got about \$45 million of agricultural land. And really if you look at what's marked page 23 out of the photocopies there, there wasn't much land inflation and this wasn't a big issue from, as far as this thing goes back, '79 or '80, all the way through the early 2000s. In fact, '99 and 1980 are virtually the same number as far as the average price of farmland in the state. So this wasn't an issue until really it became an issue starting in the mid-2000s. And I roughed it out, I did the multiplication of the average value of land times the number of acres and came up that we've got about \$150 billion worth of land, give or take. And I multiplied that times our 6.84 percent and I came up with a figure of about...figuring land turned over every 60 years, about double what the Revenue Department came up with. But, nevertheless, whichever way you guess it, we're looking at big numbers. I think the fiscal note shows that even they figure it at \$60-70 million a year. Big numbers. Now that money, we don't want to tax that and go to the spending party with it, put back into a property tax relief mechanism. For lack of creativity, the property tax credit fund, but there may be other mechanisms that we could stick that money into to produce property tax relief. So it's basically that idea that I bring to the committee. And I recognize, in fact, an attorney contacted me and said, well, we'll just beat your system because we'll roll it all through an LLC or a corporation and then they'll get the stepped-up basis on a stock. So if we get serious about this, we'll have to address that particular issue and apply the same stepped-up basis rules to land to corporations or LLC that have substantially all their assets in real estate. Some legitimate concerns. How do the heirs know what grandpa paid for it? That issue has been addressed same way that what grandpa would know what he paid for. And the Tax Commissioner I think believe has got authority to make some guesstimates and exemptions and assumptions and assessments in order to come up with a number if there is no number. But basically it changes nothing in that other than what would occur if grandpa sold the farm right before he died instead of the heirs selling it right after he died. Simple concept. It is also farm friendly, farm family farm friendly because this tax doesn't occur, it doesn't happen as long as the family keeps the farm. You got to sell it. But when you do sell it, there's a huge amount of money moving, and that counters the argument that sometimes we hear relative to property taxes, and that is, golly gee whiz, it's such an unfair tax because we can have a poor year, a crop year where it didn't rain or cost of fuel was up or something else happened and we don't have the money and we shouldn't have to go to the local bank and pay them interest to get money to pay our taxes. And that has some validity. But when there is a big pot of money, then the counter should be true. And so as much as I scratch my head and say, you know, is

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there a reason not to get some property tax relief during this mechanism, using this mechanism, I cannot find a reason that we should not use this as a way to raise property tax. And there may be one additional reason why we should jump into, and states generally jump into this first, because the federal government smells the same pot of money. And I think it was a subject the other night of the President's address regarding how found money might occur there. So states, if they're smart, might jump into this particular thing. And so this is eliminating the stepped-up basis on real estate and taxing the money upon a sale. The heirs still get 93 cents on the dollar. They will be much more focused on the 93 cents on the table than the 7 cents the state has taken for property tax relief. And maybe there will be a little bit more in the estate because they will have had some of that money cycle around and be there from the saved property taxes. It's a mechanism. I bring it to the committee to put in the pot of possible answers to our predicament, and I'll be happy to take any questions. [LB68]

SENATOR GLOOR: Senator Schumacher, I don't recall the Governor mentioning this in his state of the state as one of the solutions, so I think my question really is, have you vetted this with anybody or did this come from the Schumacher think tank that's famous in Columbus? [LB68]

SENATOR SCHUMACHER: This comes from the Budweiser, I mean, Schumacher (laughter) think tank. This is not anybody's bill. No agency, no lobbying group. It is what I think we all have an obligation to do as senators, and that is take the little experience we gain here in the short time that we're here and say, okay, can I come up with any answers. And, no, it's not been vetted with anyone. It is...if it has any value, the committee can take the credit for it. [LB68]

SENATOR GLOOR: Okay. Thank you. Other questions? Yes, Senator Davis. [LB68]

SENATOR DAVIS: I've got a couple of questions, Senator Schumacher, and thank you, Senator Gloor. Interesting idea. Have you got any idea, Senator Schumacher, how much real estate sells on the part of family members who don't live within the state? [LB68]

SENATOR SCHUMACHER: You know, I don't have that statistic but let's just use common sense. Baby boomer generation, look at your own people that you know, people in your family. I come up with roughly 50 percent of the kids have moved out of state. Family of six, three have moved out of state. And that's an excellent point that you raise, Senator Davis. That money that we don't tax at all that represents the product of our economy and our growth that's vested in that agricultural real estate or any real estate, for that matter, because this is not limited to agriculture although it could be in this bill, leaves our economy to go buy homes, invest in businesses, contribute to the net worth and economic well-being of our sister states. And if no other reason we should at least get a nip at that money as it flees across the border. [LB68]

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SENATOR DAVIS: And then my other question, you said \$60 to \$70 million is what you thought you could raise through this. [LB68]

SENATOR SCHUMACHER: I came up with more than \$100 million, but the fiscal note is in the \$60-70 million range. [LB68]

SENATOR DAVIS: And was that based on agricultural land only? [LB68]

SENATOR SCHUMACHER: No, I think that's it. [LB68]

SENATOR DAVIS: That's the whole state. [LB68]

SENATOR SCHUMACHER: Right. [LB68]

SENATOR DAVIS: Thank you. [LB68]

SENATOR GLOOR: Senator Harr. [LB68]

SENATOR HARR: Thank you, Mr. Chairman. If I bought a stock in 1984, let's say I bought Apple stock or my grandfather did and passes away, does it get a stepped-up basis of the value of it the day he dies or is it the value of when he bought it? [LB68]

SENATOR SCHUMACHER: If it passes by virtue of his death rather than a gift to you, he gets a stepped-up basis. [LB68]

SENATOR HARR: He also gets a stepped-up basis. [LB68]

SENATOR SCHUMACHER: Right. And now that isn't included here and it isn't included in here for one very good reason. Because if you had a whole lot of stock, you had a million dollars worth of stock, you could move that stock with your domicile. It's not taxed in Nebraska if you're not a Nebraskan. And so grandpa has got one foot on a banana peel and the other in the grave and grandpa changes his residency, grandpa is out of here. If he's got \$5-10 million estate because you're talking substantial money that is moveable. Land is not that way. Why pick on land other than it's hard to hide and impossible to move is another reason. And it comes to me from a trip I took right after I was in law school. A couple, three investors heard that there was land for 25 cents an acre in Brazil. And so we took off for Brazil. And we were going to get a big piece of farmland for 25 cents an acre. And after we got done talking to the Egyptian who said he owned it, the church who said the Pope gave it to them, some other guy who said that somehow he homesteaded it, and we finally ended up at the governor's office in I think the state of Piaui or something like that and who said we own it and we will give you a deed for 25 cents an acre to how much ever of it you want. And, you know, we

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were ready to get the checkbook out. And then they said, well, now you recognize...and we had flown over it and actually landed on it, you recognize that you will have to bring your equipment and your army up this river in order to create a landing spot and you'd have to carve it out and then you have your army there because we're not going to provide you with any law enforcement. We're not going to provide you with any roads. You're on your own. You've got a piece of paper. And you suddenly realize what land is worth without law and the government. You have no easements across your neighbor's property. You have nothing to stop somebody else with a bigger gun to plant your property or harvest it. It's value lies in the protection of the state to its specific geographic set of coordinates. [LB68]

SENATOR GLOOR: Other questions? Senator Sullivan. [LB68]

SENATOR SULLIVAN: Thank you, Senator Gloor. Thank you, Senator Schumacher. I can always count on you to be creative. Under your proposal any revenue derived from this you're suggesting goes right to the Property Tax Credit Cash Fund, right? [LB68]

SENATOR SCHUMACHER: Didn't want that Education Committee to come anywhere close to this money. (Laughter) [LB68]

SENATOR SULLIVAN: Okay. Just wanted to get... [LB68]

SENATOR SCHUMACHER: That's not necessarily a smart idea. That's where we ended up last year. That's where we threw some aid, threw it in the same spot. That's why they have committees who can amend things if that's what wisdom says should be done. [LB68]

SENATOR SULLIVAN: Okay. Thank you. [LB68]

SENATOR GLOOR: Senator Smith, then Senator Scheer. [LB68]

SENATOR SMITH: Thank you, Mr. Chair. Senator Schumacher, what prevents this same strategy from being used for the transition of business, small businesses in our state? [LB68]

SENATOR SCHUMACHER: As long as they are the type of businesses that can't possibly move out. I mean, you own a local bank that has a bank charter, you're not going to be able to move that out very easily. And I think there's some technical sourcing rules that maybe legal counsel can inform us. If you were owner of a small bank and moved out of town, out of state, and sold your bank stock whether or not that would be sourced in the state you...you would report it in the state that you were living in or in Nebraska. And I'm not clear of that. That's a technical answer I can't give you. But if you just owned a whole pile of highly liquid GM stock and you'd be out of here. [LB68]

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SENATOR SMITH: Not a stock but a business incorporated in Nebraska. [LB68]

SENATOR SCHUMACHER: This conceivably if you could define out what that business is and that business couldn't be moved out of here before you passed away and taken with you, then there's technically nothing that says that the stepped- up basis couldn't be denied in other categories. [LB68]

SENATOR SMITH: Thank you. [LB68]

SENATOR GLOOR: Senator Scheer. [LB68]

SENATOR SCHEER: Thank you, Chairman Gloor. Senator Schumacher, is there additional dollars other than the 6 percent that we're talking about here that would be applicable as far as the inheritance tax on the county basis? [LB68]

SENATOR SCHUMACHER: Typically our county inheritance tax--this doesn't change that--is 1 percent on close heirs and just for rough figures an average of 9-10 percent on nieces and nephews, and then on mistresses it's 18 percent. [LB68]

SENATOR SCHEER: But there is some additional dollars that would flow out. [LB68]

SENATOR SCHUMACHER: There is. There's 1 percent of the county inheritance tax. [LB68]

SENATOR SCHEER: So, I mean, I don't want the misinterpretation that you pay your 6 percent and it's home free regardless of who inherits it. I mean, there is some additional cost. [LB68]

SENATOR SCHUMACHER: There still is that county inheritance tax, yes. [LB68]

SENATOR SCHEER: And the other concern I have, it's like we're picking on ag ground really to the extent that every other investment that a person can make is portable, it's nontaxable, and when your first impression was we're looking for property tax relief, it's sort of to me the property tax shift because those that own the farm ground and the ranches that are asking for property tax relief essentially are getting all the tax from them when they finally do pass away. And then the tax relief, based on your bill, goes into the property tax credit. So those that are looking for it the most, i.e., the farm and ranch, don't even get the dollars going directly back to those areas. It's put in the property tax relief where those that are residential and everyone else and their dog in the state would get the same proportionate amount back. So I don't see that as a huge relief coming back to the agricultural area... [LB68]

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SENATOR SCHUMACHER: The... [LB68]

SENATOR SCHEER: ...specifically to the agricultural area that realistically is going to be providing 80 or 85 percent of these dollars I would suspect. [LB68]

SENATOR SCHUMACHER: No, I don't think it's...there a lot of urban real estate that is sold and that passes to heirs. So I'm not sure that assumption is accurate. But it is distributed in proportion to the value of your particular asset. And this is...the property taxes will still be big with or without this. This cycle treats every piece of property equally in that...or every bit of profit from real estate equally and puts it back toward the value of the property under the credit or some other mechanism that we put together. This idea does not have to be...this particular draft of it says it includes all real estate. One thing Committee might look at, say something like we'll talk about in a bit on the next bill up, that we only apply this to ag real estate because we do have under our constitution the ability to apply different taxing mechanisms to different kinds of assets and look at ag differently. But I think the math isn't so discriminatory. I think there's a lot of urban property that is sold and is looking for property tax relief here. [LB68]

SENATOR SCHEER: There might be. I suspect though that with residential turning every five years you're not going to have huge valuation pools that you would have versus agricultural ground that maybe turn more generational than on a yearly cycle. But, you know, that's six-one or the other. The other question, and you may not know the answer as well, you've already said of the one way to beat the system would be in LLC or incorporate, which at least the folks that I'm familiar with is already pretty prevalent in the agricultural area. Obviously not in residential but in agricultural area there's a lot of people that already have done that. So how much of this pot of gold is already excluded by virtue of that? [LB68]

SENATOR SCHUMACHER: How much do we want to have excluded because we can bring that back in by making these same rules apply to LLCs whose principle asset is real estate. That's kind of up to the discussion, and that's the purpose of the bill is to identify a mechanism that we may choose or not choose to use, but we're not hopelessly lost at sea because we can't raise general income taxes and we really shouldn't raise general sales tax, and so we really end up doing nothing when people are clamoring for something. And this does not raid the cash reserve. It doesn't touch the cash reserve. [LB68]

SENATOR SCHEER: Well, my concern is that it really doesn't address the property tax concerns of those that I've listened to to the extent as you get more and more unequalized school districts and those property taxes are going up in large amounts, not the 2.5 or 3 percent that more urban areas because of the budget limitation. But because of the loss of state aid they're not only going to pick up their additional in budget but they're picking up whatever amount the state had provided them before. And

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it seems sort of like a double sword here that we're hitting the rural folks with from that standpoint. It doesn't get long-term property tax relief to those that have seen such accelerated rates in the amount. And I guess from my perspective not focusing on the mill levy or the values but the check. And most of the rural people that own ag and ranch ground could care less what the valuation is. They could care less what the mill levies are because those are man made, but they're writing the check. And over the last five, six, seven years those checks have in most places at least doubled. And that wouldn't be the case for residential or business I would suspect. [LB68]

SENATOR SCHUMACHER: Right, but at the same time so is their net worth and so is the value that's going to be transferred to their heirs tax free. And nowhere else in our society do we let such huge amounts of income...I shouldn't say nowhere else because I think there's some ESOP plan or something with income taxes that we have here in Nebraska, but... [LB68]

SENATOR SCHEER: Well, certainly you can do the same thing though with any stock. [LB68]

SENATOR SCHUMACHER: You could but that stock would... [LB68]

SENATOR SCHEER: I mean, let's face it. Most of the wealthy folks that do not invest in dirt, and I suspect as well this might limit the investment in dirt which would then create even a more hardship on rural areas because if I know if I invest in this dirt, when I pass away it's going to be taxed relatively. You said yourself... [LB68]

SENATOR SCHUMACHER: You're going to pay the same income tax that if you didn't pass away. [LB68]

SENATOR SCHEER: No, not necessarily because if I took that same amount of dollars, bought Nucor stock or some other stock on the exchange, when I die it does get the step-up and, yes, you can play around with it but this specific bill deals with real estate. [LB68]

SENATOR SCHUMACHER: Right. [LB68]

SENATOR SCHEER: And I think it does...if this were passed as-is, it would have a detrimental effect not only on the income of those that pass way as far as the states but it also would have detrimental effect on the values of their investment. If you want to call it their 401, their farm or ranch property, those big values that we've talked about would be diminished because there would be less and less people that might be willing to purchase that ground. And if there's not demand, it's supply and demand, if there's not demand and we still have the same supply because we still have the same amount of dirt, those values will fall. And I think from my perspective, again, speaking exclusively,

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that hits most hard on the farm and ranch communities. [LB68]

SENATOR SCHUMACHER: Who have enjoyed the benefits of the 93 percent that they will still get. Huge amounts of money. [LB68]

SENATOR SCHEER: And Warren Buffett's heirs will get to enjoy 100 percent of those values, so. [LB68]

SENATOR SCHUMACHER: I think he's giving most of his to charity though. [LB68]

SENATOR SCHEER: Believe me, I think his kids get a little bit, Senator, so, and they will get the 100 percent not 93 percent. Thank you, Chairman. [LB68]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Schumacher. [LB68]

SENATOR SCHUMACHER: Thank you. [LB68]

SENATOR GLOOR: We'll now move to proponents of this bill. And as a reminder, we're not using lights today but we would ask, I would ask, that you keep your comments to five minutes or less. Any proponents of this bill? All right. We'll move to opponents of this bill. [LB68]

JUSTIN BRADY: Senator Gloor and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Realtors Association. And I know all of you are probably saying, now why do the realtors care about how land is transferred upon death. Well, their concern in talking to, looking at studies, you know, price helps dictate all of this of sales of property, they believe that this could have a hampering effect on the sale of property. That if the parties that were inheriting it took the lower basis and then were faced with paying the income tax, they may choose or more of them would choose not to sell the property at this time or in their lifetime and it would again be passed on. And from the realtors' standpoint, they obviously are in the market of selling property and anything that hampers that, they tend to oppose. So based on that they're in opposition to LB68. And with that, I'll try to answer any questions. [LB68]

SENATOR GLOOR: Thank you, Mr. Brady. Are there any questions? Senator Harr. [LB68]

SENATOR HARR: If I was able to get ag land period, 7 cents on the dollar, would that be a good price? [LB68]

JUSTIN BRADY: It would be a good price. [LB68]

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SENATOR HARR: Okay. Thank you. [LB68]

SENATOR GLOOR: Senator Davis. [LB68]

SENATOR DAVIS: So what is the logic behind thinking people aren't going to sell their property to pay a 7 percent tax? [LB68]

JUSTIN BRADY: I'll be honest, there was a very lengthy discussion among the realtors on that, and that was a point some brought up, that is this really going to be a hindrance. I mean, and they...I don't know that in the majority of time it will be, Senator. But I think there may be some that say...obviously people who are inheriting it if they need the resources or the income or want the resources off that will sell it. I mean, their economics will dictate that. If they don't need it, they may say why sell it. Why pay the 7 percent now? We'll hang onto it. [LB68]

SENATOR DAVIS: People buy and sell stocks all the time, paying capital gains and taking capital losses all the time. That's the whole structure behind most investment wealth today. So this would seem like a lower rate and would not be inhibiting for people who wanted to move out of agricultural or residential property into another investment type. [LB68]

JUSTIN BRADY: That's true if they are in need of the resources I guess I would say is based on what the realtors' discussion was anyway. [LB68]

SENATOR DAVIS: Thank you. [LB68]

SENATOR GLOOR: Other questions? Seeing none, thank you for your testimony, Mr. Brady. [LB68]

JUSTIN BRADY: Thank you. [LB68]

SENATOR GLOOR: Senator, good to see you back in the building. [LB68]

KRISSA DELKA: Senator Gloor, I'm sorry I have to interrupt. Our tape recorder is having some problems. [LB68]

SENATOR GLOOR: If you'll give us a second, please. But the clock is running (laughter) for what it's worth. [LB68]

LAVON HEIDEMANN: That's the story of my life. [LB68]

KRISSA DELKA: All right. Go ahead. [LB68]

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SENATOR GLOOR: Thank you, Krissa. [LB68]

LAVON HEIDEMANN: Senator Gloor and members of the Revenue Committee, I am Lavon Heidemann with Nebraska Farm Bureau, that's Lavon, L-a-v-o-n, Heidemann, H-e-i-d-e-m-a-n-n, and it is good to be back in the building. I'm here today, I'd like to testify in opposition to this bill. It does kind of present a little bit of dilemma for Farm Bureau because we do appreciate the fact that Senator Schumacher on a daily basis thinks outside of the box to try to accomplish things. And he did that with this bill and something that we, myself and Farm Bureau, has been focused on for years, and that is property tax relief. And this bill actually accomplishes that and we appreciate that. At the same time, however, our members for years and years have continuously worked to reduce the taxes on capital gains at both the state and the federal level. Because LB68 would fund the property tax relief by eliminating a stepped-up basis and increasing the tax on capital gains, we must oppose it. Farming is a very capital-intensive business. Our national organization has said that land accounts for 79 percent of assets owned by farmers and ranchers. On average, farmers and ranchers own their land for 30 years during which time it increases value by five to six times. And to put this personally, for me which I farm, my father, the farm that I live on bought that for \$75 an acre in 1949 and I live on that farm today. And without that stepped-up basis, if I would ever choose to sell, or if I pass it on and my son decides to sell, there would be a significant tax load at that time. There are instances where if this farm, if I give it to my boy, he wants to farm and if it doesn't fit in his operation he wants to take this quarter, sell it, and purchase another quarter unless he does a tax exchange will lose quite a bit of that value by the time he finds another farm and purchases that. So this is a significant hit with the rising valuations of land. Senator Davis talked about how much of this land is owned by out of state, and there was a discussion on this. One of our concerns is that there is a significant amount of agricultural land that is owned by out of state, and if you throw this...take away the stepped-up basis, they're going to say we're not going to sell it. We're going to hang onto it for an investment purpose and keep the whole principal. And we fear at Farm Bureau because of this there's going to be less land for beginning farmers to actually be able to purchase and start farming, that they'll...these people from out of state will let some land company manage it for them and it might be available to rent but maybe not to own. So that definitely is a concern for us. Senator Harr, and this is a little bit off the subject, but you mentioned something about stocks. Would this apply to that? That is one thing in the rural community, in the ag community, we have always questioned because my retirement fund is my land and that's all there is. There isn't anything else. And every year my retirement as the valuation has gone up, I now for a small farm pay \$25,000 worth of property taxes every year. Before I take any retirement money out, if I would be retired, before I take any retirement money I am going to pay \$25,000 just to carry that investment. You can have that money in stocks and bonds, and until you sell it you can hold that and pay absolutely nothing. And Senator Scheer brought up I thought a lot of good points to think about, that the fairness of it and you're

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actually targeting, I think, ag land probably more. The very thing that I think the focus seems to be in the Legislature this year is to try to help ag land. And if you would do this, I believe it would actually put a large burden on the people that are trying to sell ag land and I realize there would be some help but it would be spread out also to commercial and residential. For these reasons, Farm Bureau opposes LB68 and I would be happy to answer any questions that you might have. [LB68]

SENATOR GLOOR: Thank you. Are there questions? Senator Harr. [LB68]

SENATOR HARR: Thank you. Thank you, Mr. Lieutenant Governor. Diversify. That's the key. You know, if I have a stock I don't get any...a dime out of it until I sell it. You might get some, but generally you're going to pay capital gains or you're going to pay income tax. So any investment there is going to be a tax at some point. And I understand your concern, but at the same time you're still getting the land at 7 cents on the dollar. That's a pretty good return on investment, especially since it's not yours. Wouldn't you agree with that? [LB68]

LAVON HEIDEMANN: There might be some sweat equity into it besides that. [LB68]

SENATOR HARR: Yeah. [LB68]

LAVON HEIDEMANN: You tend not to focus on what you get but what you don't get. [LB68]

SENATOR HARR: Ah, see I'm a half-glass full or half-full guy. But you would agree with me, if I would offer you land right now at 7 cents on the dollar you'd probably buy it, wouldn't you? [LB68]

LAVON HEIDEMANN: Correct. I would rather have it at 100 percent like you would get stocks and bonds though. [LB68]

SENATOR HARR: Yeah. Well, no, you're paying tax on your stock and bonds. [LB68]

LAVON HEIDEMANN: Capital gains. [LB68]

SENATOR HARR: And how much is capital gains? [LB68]

LAVON HEIDEMANN: Six point eight four, isn't it? [LB68]

SENATOR HARR: Pretty close to 7, right? Yeah. All right. [LB68]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Heidemann. [LB68]

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LAVON HEIDEMANN: Thank you very much. [LB68]

SENATOR GLOOR: Other opponents? Seeing none, anyone who would like to speak in a neutral capacity? Then we'll move to closing. Senator Schumacher. [LB68]

SENATOR SCHUMACHER: Thank you, Senator Gloor and members of the committee. Senator Heidemann just pointed out another reason why this bill is fair with the retirement example. Okay. And we're going to be hearing retirement things the way it looks, too, this year again. Employer in the typical urban retirement situation, the employer pays into the retirement fund and gets a deduction. So the money isn't taxed there. And the theory on that would be and always was up until recent time that when the employee takes the money out of the retirement fund they pay the income tax there. And presumably since they'd be in a lower bracket it might be a little less. So the money was taxed at least once as income in the standard model. Now we've been asked and to a certain extent have yield to the asking, well, let's give somebody over 65 the ability to take some of that money out and not be taxed. And it'll remain to be seen how much more we buy into that argument and let that money go in and out not taxed. But it's small amounts of money in comparison to the millions in farmland. However, if that money was put into a plan, at least most plans, there have been beneficiaries. And if you die without burning up, spending all the money in your retirement fund, your beneficiaries, if it's vested money, they get it. And guess what happens to them? They pay Nebraska income tax at 6.84 percent. Okay. So it's another one of those cards on the table for us. I'm happy to answer any questions if any may have, otherwise I'm ready to rest on this one. [LB68]

SENATOR HARR: I have one more, Senator. [LB68]

SENATOR GLOOR: Senator Harr. [LB68]

SENATOR HARR: Could you buy life insurance to pay for that tax? [LB68]

SENATOR SCHUMACHER: I suppose you can buy insurance for anything. [LB68]

SENATOR HARR: All right. Thank you. [LB68]

SENATOR GLOOR: Seeing no further questions, thank you, Senator Schumacher. And we'll end the hearing on LB68 and move onto LB71. Senator Schumacher. [LB68]

SENATOR SCHUMACHER: Same song, different tune. Basically trying to address the issue equitably of the problem that has been created in the ag sector by rapidly inflating land prices. Land prices gone up because they aren't making any more of it and because people want to have a piece of land maybe close to their property, maybe

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because they want to show that they're as big a person as the next bidder, maybe because they're afraid of the stock market, maybe because they don't like the local bankers, not going to pay them any money on interest. And so...and maybe because they just had a whole series of years of really good crops and crop prices. But, whatever, land has been rapidly inflating, and that has caused some of the aberrations that we see in the property tax situation. Now this particular measure focuses on only the agricultural sector because that is where a great deal of the inflation has taken place. And where you see at farm auctions several bidders all with good-sized checkbooks trying to run the other ones up and causing escalation in prices. I think most of the people figure that if there is any downturn in prices it'll be very temporary because you do have substantial amount of borrowing power, substantial wealth in the ag sector. So this may be with way too complicated in math and I'll ally some of the assessor's fears and concerns in just a second. Says let's take the price of land back in 1993, and I was told that that value would be easy to determine by several people, and let's inflate it according to the consumer price index. And then when it's sold compare that number to the sales price and levy a 7 percent sales tax on the sale. Oddly enough the math on this one works out just about the same as the math on the other one for about the same tax except you don't have to be dead in order for this tax to be triggered. That's one of the differences. And all the money goes back to agriculture. The urban sector does not share at all in this particular tax fund. Simple 7 percent tax on the excess price that's paid. I understand now that some of the assessors maybe read too much into this bill and think that they're going to have to reassess the property under the way that it's written now at its 1993 level, and they don't have those numbers and they don't have the information anymore. And it'd be really hard for them to do it and this is an unfunded state mandate and the list of reasons go on. But fortunately mathematics does wonders. And if you again look at the handout that I handed out you'll see that basically for a long period of time there was no land inflation until 2004. So when I sat down and said what if. Is there an easier way to do the math on this? I came up with a very much easier way that comes up with roughly the same outcome. And that is instead of putting a 7 percent tax on the spread between what land should be and what it is, you put a 5.5 percent sales tax on the sales price, and you don't involve the assessors, you don't involve anybody. It's not quite as tailored as the other one would be, but then again when you buy a car and you pay less than what the assessor's book says it should be worth, you pay on what the assessor's book says it should be worth. And this comes up with a very close approximation. If indeed the committee should choose to look seriously at this provision and think that, well, it would be too much work for the assessors, that they don't have the records, we can approximate the same result with the same effect by just a flat tax on all the purchase price of land, come up with the same number or very close to it. So only difference in substance is this is triggered on every sale not just a sale that occurs involving a decedent's estate. It is exclusively on land that's eligible for the 75-65-type agricultural discount and all the money goes back to the agricultural sector. I put these features in this particular bill so we'd have some apples and oranges to compare. We might want to make a hybrid bill if any of these

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ideas have merit as a way to pick up \$50-100 million a year for property tax or maybe even for education, but for one of those kind of things. It has...and if we really wanted to see some activity we'd suggest both of them be passed. But (laugh) I get enough opposition with just one. So that's my presentation on this one. I don't want shark week to take forever, and I'd be happy to answer any questions. [LB71]

SENATOR GLOOR: So, Senator, this would create the Agricultural Property Tax Credit Fund? [LB71]

SENATOR SCHUMACHER: Right. [LB71]

SENATOR GLOOR: Relief fund. Okay. Other questions? Senator Scheer. [LB71]

SENATOR SCHEER: Thank you, Chairman Gloor. Senator Schumacher, just...I'm not processing well I don't think, but... [LB71]

SENATOR SCHUMACHER: I might not be talking well. [LB71]

SENATOR SCHEER: Well, no, no, no. I think it's me but that's fine. I understand the process where they pay it and it goes...the Lincoln goes back to the counties. How is it going to be redistributed back to the ag individuals? Are you doing it by valuation? You talked about units, so that was what was sort of throwing me off. [LB71]

SENATOR SCHUMACHER: The language, the distribution language, isn't something I dreamed up. They pulled that from, I think, the way present credits are distributed. [LB71]

SENATOR SCHEER: Okay. So it's essentially the same manner that we would... [LB71]

SENATOR SCHUMACHER: Right, right. The only...how to get the money first idea is the thing that I cooked up. How to get rid of it is something that's already on the books in another area or we might dream up another reason, way to get rid of it, so. [LB71]

SENATOR SCHEER: And the 7 percent as I'm reading is only on the excess not the... [LB71]

SENATOR SCHUMACHER: Right. [LB71]

SENATOR SCHEER: If the value should be at \$15,000, if you pay \$16,000 an acre you're paying the 7 percent on just the additional thousand. Is that correct? [LB71]

SENATOR SCHUMACHER: Right. And I understand that is causing some assessors some consternation because they don't have the records that if, and it wasn't intended

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that they'd even be called in, too, because they do have the records of what the land was valued at but not the why they valued at it as I understand. And they don't want to get involved in the middle of that. So mathematically applying looking at what you would come up with for a tax using the mechanism, the more particular mechanism described in the bill, and just applying a lower tax rate to the entire purchase price you come up with about the same number. And so that may be entirely easier and if we should have some wild fluctuations in land, maybe a percentage rate or something, it'd have to be reviewed five, ten years from now. [LB71]

SENATOR SCHEER: So the value, it talks about inflation adjusted, not market adjusted. [LB71]

SENATOR SCHUMACHER: Well, it'd be...your market is what it's going to sell for under the way it's phrased in the bill now, and then you would inflation adjust that. But because of this, what is a starting number that we're going to subtract off, you know, what was it worth back in '90? Apparently there's some consternation as to how you would come up with that number and how you would justify it if somebody contested it and all that. There's an easier way to get to the same tax number result in the same proportion, and that is just flat on the sales price. [LB71]

SENATOR SCHEER: Well, I guess my concern is if it's inflation it's taking other things that are not relative to farm ground prices into effect, and this all has to do with farm ground. If it's just farm ground and we're going by market prices, then if I buy a quarter from you for \$10,000 today and 30 days from now Senator Smith buys one from Senator Sullivan and it's \$11,000. And if I was, seemed to pay a thousand too much, it should only have been \$9,000, so I'm paying it on the thousand between \$9,000 and \$10,000, but now is \$10,000 the new base because that was the new base for that? So Senator Smith would only be paying on the difference between the \$10,000 and \$11,000 rather than the \$9,000 and \$11,000. You know, how will you keep track of that value adjustment? [LB71]

SENATOR SCHUMACHER: There is no new base. As it's written now, you look back to 1993 as it is. If you just say let's forget about looking back, let's just do a flat tax on the sales price, considering the testimony we've heard today, it's 30 years down the road. Unless you're a land speculator, you're not rolling that over and over again, and I don't think it...I mean, it's one of the issues that you put into the mix as to whether or not this mechanism is viable. But, you know, unless you're into land speculation you're not going to be paying this over and over again. [LB71]

SENATOR SCHEER: Well, perhaps. My concern is listening, for example, this morning to the Governor, if indeed we're going to be producing twice as much product on the same amount of land and at some point in the future as crops continue to...the yields to increase, if the value for those crops on a per bushel basis continue to increase. I mean,

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they've been literally cut in half, so if they'd literally go back to where they were at 8 bucks and then move forward, the value of the ground is truly justified. This is not excess value. I mean, that's a fair return on that ground at that price for crops. And so I'm losing a little bit if the fair price is a fair price to me of what the ground can substantiate as far as the value of product. [LB71]

SENATOR SCHUMACHER: I guess we're getting off into a little bit of economics and theory here, but the ground, even if it appears as half or twice the crop, is still the ground. The increased production is because of the farming mechanisms and the business practices. It doesn't have anything to do with the ground. The ground probably hasn't changed very much unless they leveled it or contoured it or something. [LB71]

SENATOR SCHEER: But it does in relationship to the value. [LB71]

SENATOR SCHUMACHER: The value of the farmland is reflected in the property taxes. This is a financing mechanism and it's a way that money from the point of sale can be applied to reducing the over the 30 or 60 years that the farmer owns it, reducing the taxes. [LB71]

SENATOR SCHEER: Okay. So are we using then the appraised value as the base? [LB71]

SENATOR SCHUMACHER: If, and I am fairly satisfied in my own mind rather than worrying the assessors, rather than mess around with any base, we just, we amend the bill to simply say X percent of the sales price, period. [LB71]

SENATOR SCHEER: Okay. So rather than some adjusted value or appraised value, it's just going to be a flat rate. [LB71]

SENATOR SCHUMACHER: You come up with the same bottom line in a lot simpler way. The only disadvantage is, is you don't have any individualization. It's more like buying that car and whatever it says the car is worth in the books, that's what they're going to ding you for rather than what you paid for it. And if there's wild fluctuations down or up, the Legislature may have to look at that percentage number at some point down in the future and adjust it. [LB71]

SENATOR SCHEER: Thank you, Senator Schumacher. Thank you, Senator Gloor. [LB71]

SENATOR GLOOR: Senator Brasch, you have a question. [LB71]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you, Senator Schumacher. I'm very pleased that you are looking at how to help property tax.

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However, knowing that you're looking for 25 cents an acre farmland in Brazil, that concerns me a little bit. (Laugh) And then I'm looking at the...your premise statement here is that the same time of the sale of farmland there's a large amount of money on the table, you're looking at a large amount of money on the table. But it reminds me of the saying that...there's a proverb, I think it's Native American Indian, is you don't get a longer blanket by taking one end of it and sewing it onto the other. So it seems like you're trying to take property tax and sew it onto the end of the other to make a shorter blanket. We're looking for some relief here. I don't know...but you're still looking at taxes within the same occupation or community. So if you would want to sell your law business, you know, to another law business, do you add on another 7 percent to the buyer above and beyond what the taxes are to promote that? I don't see how you're helping here on either of these two bills. What's the solution? What are you...you're taking...and maybe we need to just talk outside of committee on where you're finding relief here. [LB71]

SENATOR SCHUMACHER: Basically, you're property tax bill will be less but now where there is no income tax bill there will be an income tax bill after you're gone and looking at the bottom side of a daisy. And that's what's happening here. It is...wanting property tax relief down without and still have a big chunk of your income going through your heirs basically 100 percent tax free. You can't have your cake and eat it too is kind of the other saying that counters that. You do get property tax relief. Undoubtedly another \$60 million toward ag property tax relief a year. The penalty is the kids when they grab that money off that table in that lawyer's office, only get 93 cents instead of a dollar. [LB71]

SENATOR BRASCH: Okay. I see a little bit. You're just looking at different mechanisms to take more payment from the heirs other than inheritance tax. [LB71]

SENATOR SCHUMACHER: And less payment from grandpa while he's paying property taxes. [LB71]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB71]

SENATOR GLOOR: Senator Davis, that side of the room. [LB71]

SENATOR DAVIS: Thank you, Senator Gloor. Interesting concept, Senator Schumacher. A couple of questions. And I keep coming back to this 5 percent. So you're...after you've crunched all the numbers you finally said, look, we could just put a tax on at 5.5 percent. Is that right? [LB71]

SENATOR SCHUMACHER: Right, and get the same result and a lot simpler administration. [LB71]

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SENATOR DAVIS: So having been around in the '80s, which I know you were too, and it was a very unpleasant time in agriculture as anybody who was here then knows. At that point, we were seeing deteriorating ag values. So the 5.5 percent tax part of it concerns me. I'm much more comfortable with this appreciating value. You and I have talked a lot about out-of-state landowners and how do we...how can we become Florida or Colorado or one of those kind of states. And I think this is one of the ways that you look at maybe trying to access resources from elsewhere. Would you say that was true? [LB71]

SENATOR SCHUMACHER: Well, I mean, clearly on the sale of this, not in all cases, his grandpa might be selling his own land. But in the typical situation grandpa dies with it and it ends up with the heirs and in this particular case the heirs would be contributing toward our revenues and to our property tax relief for the other grandpas that are out there yet. [LB71]

SENATOR DAVIS: So what about the personal property that would be on a piece of ground like a pivot or what about the buildings on the farm? Are those going to be in the mix on the valuation when you determine the valuation? [LB71]

SENATOR SCHUMACHER: I would guess that we would look at the land value and the personal property or fixtures would not be part of it. [LB71]

SENATOR DAVIS: Strip off personal property and the residential property and... [LB71]

SENATOR SCHUMACHER: Right, right. [LB71]

SENATOR DAVIS: Okay. Thank you. [LB71]

SENATOR GLOOR: Senator Harr. [LB71]

SENATOR HARR: Thank you. I guess to follow up on Senator Brasch's comment or question, unless we're doing a tax increase aren't almost all these property tax bills in essence a tax shift from one section to another? [LB71]

SENATOR SCHUMACHER: Well, the... [LB71]

SENATOR HARR: Or excuse me, a tax cut. Because I don't see an overall lessening of the overall amount collected. [LB71]

SENATOR SCHUMACHER: The overall amount collected under any of these things... [LB71]

SENATOR HARR: On your bills, yeah. [LB71]

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SENATOR SCHUMACHER: Right. The rest of it, it's a shift. I mean, and you get back to the introductory statements I made under the previous bill and we got two other places that we can get the money from. We can take money from the working families, make them \$20,000 to \$120,000, through a sales tax mechanism and we can apply those toward tax relief for wealthy estates or we can raise the income tax. And we already know what is thought about that, that some people think the real...income taxes...that would be heading in the wrong direction. [LB71]

SENATOR HARR: Okay. Let me ask you another question. You have two brothers. One owns a farm and the other one lives in town and owns a hardware store. And both very capital intensive businesses. What would be the difference in property tax rates between the two right now? [LB71]

SENATOR SCHUMACHER: I think that...well, right now the one that owns a farm would get 25 percent discount right off the top of equal value because he's ag, maybe 35 percent if we do an adjustment to 65 percent taxation, and the guy in town would pay on 100 percent of the value of his property. [LB71]

SENATOR HARR: Okay. Thank you. [LB71]

SENATOR GLOOR: Senator Scheer. [LB71]

SENATOR SCHEER: Thank you, Chairman Gloor. One quick thing because I think you're thought process was back to the previous bill when you talked about the seller getting 93 percent. This bill is on the purchasers. Is that not correct, that the purchaser pays the 7 percent or the 5 percent? [LB71]

SENATOR SCHUMACHER: The purchaser would pay it, and I would guess that would be somewhat, hard to say how much, reflected on what the purchaser was willing to pay. [LB71]

SENATOR SCHEER: Probably, but technically the seller is getting 100 percent of whatever the sale price is. The surcharge is going...is being paid by the purchaser. [LB71]

SENATOR SCHUMACHER: Right. [LB71]

SENATOR SCHEER: Okay. Thank you. [LB71]

SENATOR GLOOR: Seeing no further questions, thank you. [LB71]

SENATOR SCHUMACHER: Thank you. [LB71]

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SENATOR GLOOR: We'll move to proponents, supporters of this bill. We'll move to opponents of this bill. Afternoon. [LB71]

TOM PLACZEK: Good afternoon. Chairman Gloor and members of the Revenue Committee, my name is Tom Placzek, T-o-m P-l-a-c-z-e-k. I am the Platte County Assessor and the legislative rep for the Nebraska Assessors Association to NACO. I believe that the genesis for this bill originated last summer when Senator Schumacher and myself had a conversation and this was in the midst of all the property tax angst going on this last summer, and I've headed one of the hearings. And Paul in his usual fashion is always thinking outside the box and he asked me about the value and how far could we go back and that sort of thing. And I think that's where the misunderstanding came about between what he originally proposed and now all the assessors are starting to gang up on him on this, is he asked how far we'd go back and I said, well, we can go back...in our county we can go back to '87 easily. And that was it. Well, what I didn't tell him and I didn't know this is what he was thinking is there's no way we can replicate the '93 value. All those land class valuations, that information is gone, history. So as you all know, in 20-plus years of farming there's been irrigation added, marginal ground has been changed. There's been splits. Land has been split off and things like that. Lots of changes. Probably, at least in Platte County I would say probably 80 percent of the transactions are no longer the same. So you can't do an apples to apples comparison. And so when this first came out, this bill, and I'm reading this and I'm like, oh my gosh, there is no way we can replicate the '93 value to come up with the basis for what was just sold today. If they added irrigation it's like, I have no idea what the irrigation prices were in '93, so I can't do that. I e-mailed Senator Schumacher and he e-mailed me back and we went back and forth on stuff and I was getting some assessors bombarding me with concerns about this. There is just no...this is basically unworkable for us and that's our problem. I appreciate his attempt to try and solve an unbelievably difficult task that all you senators have, but for us it just doesn't work. We can't come up with that basis to start with. So you have nothing to figure out the difference and what that 7 percent. Now if what he is proposing is just a 5.5 percent on the sale price, we're out of here. We don't care. You know, because it doesn't affect us and it's a real simple way of doing it if that's the way you want to go. But there's just as it currently is written, it just doesn't work. And so from that standpoint, you know, we are definitely opposed to it. The other...a couple other questions I came up is we're always figuring out sales ratios. Now we're talking about excess of value of property. Well, is the market value of a piece of ground that sold for a million bucks, is that the market value? Or is it less the, quote, unquote, excessive amount? I mean, isn't the market value what two...a willing buyer and a willing seller are willing to negotiate and pay? That's the market value. And if we're not going to use market value, then we can't use market value on anything because it's a business. These people are...that buyer and seller bought that piece of ground and negotiated it all in good conscience. Nobody was holding a gun to their head. At the time they thought it was a good business decision to buy that piece of ground. So some

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of this talk in my opinion about the excess of value of farmland is...I guess I'm not sure there is excess of value. In Platte County, there's almost no outside sales or purchases of ground. It's all local farmers. They've made those decisions based on their own business interest to expand their operations. A piece of ground came up and never come up again in the next generation, they decided to buy it. Whatever it took. Did somebody maybe bid them up a little bit? That's probably true. I mean, it happens in every other aspect of life, so. But that's, I guess, maybe beyond what I should go on to. But that's where getting back to the original bill, it just doesn't work for us. And if Senator Schumacher wants to go with that amendment, like I said, we're out of here and we appreciate all the work he's done for us. (Laugh) And...because he's been a friend to NACO and we appreciate all his help. So I'd entertain any questions you might have. [LB71]

SENATOR GLOOR: Thank you, Mr. Placzek. And thank you for self-disclosing your part of the think tank that may have (laughter) spawned... [LB71]

TOM PLACZEK: The Schumacher think tank? [LB71]

SENATOR GLOOR: Senator Harr. [LB71]

SENATOR HARR: Thank you. First of all, if you know of any land for sale on 7 cents on the dollar, please let me know. I'd be willing buy it. [LB71]

TOM PLACZEK: I'd be in there with you. [LB71]

SENATOR HARR: Yeah. I guess a couple of questions I have is, and I don't know if I completely understand Senator Schumacher's bill, but if you made the basis year starting this year or last year, would you be content with the bill at that time then? [LB71]

TOM PLACZEK: I'm sure we could make that work. Yeah, because we would have all the values and it would have to...yeah, I don't know why that wouldn't work. You'd probably have to over time continue to shift it, but...because at some time we just...at some point you finally get rid of records. And so if you were to move it forward all the time I think you could make that work. It would be a lot of work I'm sure a lot of assessors don't want to deal with. It would also, I think a problem could occur with...people would get trained in this but obviously the brokers and people working with this, they're going to have to get this information earlier in the process instead of, hey, I'm closing at 3:00 this afternoon, it's now 1:00. I need this information. It's like, wait a minute, guys. We weren't waiting here at the phone for you to do this. You're going to have to change it. And quite honestly people get pretty upset with us when we don't do it right away. But, yeah, if you're using last years value, yeah, that's pretty easy. We've got the land sheet. We could show you what happened, what it was, and what the price is now. [LB71]

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SENATOR HARR: Thank you. [LB71]

SENATOR GLOOR: Seeing no other questions, thank you. [LB71]

TOM PLACZEK: Thank you very much. Appreciate it. [LB71]

SENATOR GLOOR: Other opponents? Anyone who would like to speak in a neutral capacity? [LB71]

JESSICA KOLTERMAN: Hello. [LB71]

SENATOR GLOOR: Good afternoon. [LB71]

JESSICA KOLTERMAN: Senator Gloor and members of the Revenue Committee, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I serve as the director of state governmental relations for Nebraska Farm Bureau and I come before you today on their behalf. I am here in a neutral capacity today on LB71. We'd certainly thank Senator Schumacher for his continued interest in property tax relief and we appreciate the work he has done to think outside the box and look at some of these issues from a different perspective. We find one aspect of this legislation, which is the creation of a specific and separate fund relating to property tax credit relief for ag land, quite intriguing actually. And although we do not have a specific policy on it we believe it moves in the right direction in addressing high property taxes that burden farmers and ranchers, which is something that we could support. We're unsure, however, how our members would feel about the idea of a tax on the excessive price of sales on agriculture land as the idea isn't directly covered by our policy. But also in general our members expressed interest in examining other tax sources to provide property tax relief, but they tend to lean more towards a broader source and we think this would not be a broad source and we're not sure that it's something they would support. A tax in LB71 could be problematic in that sense. Also, we're not sure of the dollars of that could actually be raised through this as we believe that only around 1 to 2 percent of the total land in agriculture is sold in any given year. So while we like the idea of targeting property tax relief to agriculture, we do have concerns about the funding source and, therefore, we appear in a neutral capacity today. I will continue to work with the committee on these issues and be happy to answer any questions you have. [LB71]

SENATOR GLOOR: Ms. Kolterman, and why is it that the feeling is only 1 to 2 percent of the... [LB71]

JESSICA KOLTERMAN: That's just a general number that we in looking around kind of came up with and what we believe is transferred. [LB71]

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SENATOR GLOOR: It's not anything that's got some solid documentation behind it but it's some common sense maybe. [LB71]

JESSICA KOLTERMAN: Yeah. I was given that number by Jay Rempe who did the research, so I can't tell you exactly what the citing is. [LB71]

SENATOR GLOOR: Okay. [LB71]

JESSICA KOLTERMAN: But I could certainly find out and get back to you. [LB71]

SENATOR GLOOR: Okay. If you would, please. [LB71]

JESSICA KOLTERMAN: Sure. [LB71]

SENATOR GLOOR: Questions? Senator Brasch. [LB71]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you, Ms. Kolterman. And I appreciate your testimony today because that was my question here. I'm just not sure how we're finding some tax relief here. I'm trying to think on it some more and, you know, when we look at how taxes...since it was pointed out how they dramatically jumped since 2004. I think the Revenue Department just released some numbers, 167 percent. And is it residential only 40 percent in property taxes or...and so we're looking at how we can make the tax more fair. And so you're coming in neutral thinking that this could possibly be a solution but... [LB71]

JESSICA KOLTERMAN: Well, the part of the bill that we really liked is the idea that you would be creating a separate fund that would be targeted specifically to agriculture property tax relief, ag land property tax relief. [LB71]

SENATOR BRASCH: I see. Okay. [LB71]

JESSICA KOLTERMAN: I think our concern is taxing agriculture to provide agriculture relief is probably more of a neutral concept. [LB71]

SENATOR BRASCH: Yes, and that was...you phrased it better than I could. But, yes, looking for some relief is good. As Senator Harr talked about a shift, I'm looking at fairness where 3 percent of the population pays 30 percent of the taxes. You know, we need to level it out better and...but I appreciate your coming up here and verbalizing what I will speak with Senator Schumacher about later. [LB71]

JESSICA KOLTERMAN: And we appreciate Senator Schumacher looking at this issue and certainly understand where he's coming from and looking at all the options that are out there. [LB71]

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SENATOR BRASCH: I have no other questions. Thank you. [LB71]

SENATOR GLOOR: Are there any other questions? Seeing none, thank you. [LB71]

JESSICA KOLTERMAN: Thank you. [LB71]

SENATOR GLOOR: Anyone else in a neutral capacity? Seeing none, Senator Schumacher, you're recognized to close. [LB71]

SENATOR SCHUMACHER: Looks like two down, one to go. In response to Senator Harr's question what if we just started out last year, the result of just starting with last year would be that there is...would be very little tax generated because it wouldn't capture the large appreciation. And, therefore, that's why you have to go back, if you look at this value general thing, at least back to somewhere around 2003-04 where the rapid rise in land prices started in order to get any bang for your money out of it, otherwise we're not accomplishing much. This is...you know, we're looking at various mechanisms that do not shift between sectors and which provide some relief or some place that we can come up with something that will make a difference in the property tax bill more than maybe a candy bar a week or something. So I submit these to the committee. I think they're tools. When we get right down to crunching as to what we want to do, they might find a place in the toolbox. [LB71]

SENATOR GLOOR: Senator, did you, in the middle of your presentation, opening, sort of change this, amend it already to a 5 percent of sales price? [LB71]

SENATOR SCHUMACHER: Yes. Because of what the discussions I've had with some of the assessors, including Tom. It seems to me if we can get the same amount of money with a simpler formula and do substantially the same thing, let's do it. The only downside is that this not automatic adjustment. A future Legislature may say, well, you know what? Land prices have really skyrocketed up or they've really leveled off, we need to adjust that 5.5 percent. [LB71]

SENATOR GLOOR: Okay. Senator Harr. [LB71]

SENATOR HARR: Thank you. And thank you, Senator Schumacher. And I realize it wouldn't raise a lot of money in the beginning, but I think over time that fund would grow and we have to start somewhere. And so I'm trying to start at a date where we have the information certain. I think that's why...I realize you couldn't do anything to now but Senator Brasch said 3 percent of the population pays 30 percent of the tax, which means 3 percent of the population owns more than 30 percent of the land, which is an interesting stat in and of itself. And I need to think about that a little bit. [LB71]

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SENATOR SCHUMACHER: If... [LB71]

SENATOR HARR: But that would be of the value, yeah. [LB71]

SENATOR SCHUMACHER: And if the inflation adjusted mathematics has any appeal to the committee, I might suggest that we find out from the assessors just how far they can go back because if in fact they can go back with decent numbers to somewhere around 2003-2004, then they shouldn't have the difficulty that they described going back to the early '90s. So the tools are here. If we want to play with them we can. [LB71]

SENATOR GLOOR: Given your close connection with the assessors our guess is that you'd be the person who would in fact do that follow up. [LB71]

SENATOR SCHUMACHER: I'll follow up on that and find out where...how far can we go back with reasonable certainty. That way we'd be marginally more fair because it'd be individualized. It'd be like, what did you pay for your car instead of what your car is worth according to the book. Simplicity is always good on the other hand too. [LB71]

SENATOR GLOOR: Senator Sullivan. [LB71]

SENATOR SULLIVAN: Thank you, Senator Gloor. Senator Schumacher, have you speculated at all on if this would stymie land purchases or not? [LB71]

SENATOR SCHUMACHER: What do you think? (Laughter) You finance land purchases. There's very little that would stymie a land purchase. (Laughter) [LB71]

SENATOR GLOOR: Senator Scheer. [LB71]

SENATOR SCHEER: Thank you, Chairman Gloor. Senator, you're the attorney so I'm assuming you've checked this out. But I hear so many times about different things that we come up with as brainchilds that are not constitutional. Are we fairly certain that having a separate fund exclusively only for one part of real estate works? And I don't know. I'm just asking. [LB71]

SENATOR SCHUMACHER: I think I looked at the constitution on it. Our constitution addresses property taxation. This is income or sales taxation in this case. I don't think that applies. And clearly by implication the constitution contemplates a different taxing mechanism with regard to ag. So I think we've got two levels of cover there. Somebody brings a lawsuit, that's what we hire the guys and the gal in the black robe for. [LB71]

SENATOR GLOOR: Seeing no further questions, thank you, Senator Schumacher. We'll close the hearing, and we'll move to hearing on LB76. [LB71]

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SENATOR SCHUMACHER: Okay. LB76 is the result of a couple of accountants, having a conversation with them, and they were explaining how little income taxes are sometimes paid by people who make money. And one of the things that stood out to them in the tax returns that they prepared was an unintended consequence of our generosity when it comes to earned income credits and helping people out with homestead exemptions. We have a thing and it's a good thing for business called the net operating loss carryforward. You're rolling along making a couple hundred thousand dollars a year and you have a bad year or you make a big 100 percent depreciable investment and deduct it all in one year and you have a loss. Your income is negative for that one year. And then you have...you can apply that toward future years. So the next year you can be back up making a couple hundred thousand dollars a year in real money and say, well, I'm going to now take my net operating loss, apply it toward that, and my income is zero. And I'm suddenly, on paper, poverty stricken and I sure need an earned income credit because I'm entitled to that because I'm poverty stricken. And I need a...I'll qualify for a homestead exemption because I'm poverty stricken. And I just have \$200,000 a year or \$200,000 more in the bank than I did a year ago. And so what this basically is and I would have liked to have done it for more things because there's other things that are triggered by being poverty stricken than zero income. But they are all tied in with some federal programs and I was basically in researching it and told that look at the feds do not allow you to dig into the background of poor people in their finances that much. So this is limited to only two things that Nebraska has control over because they're our deals, our earned income credit and our homestead policy. And this says when you figure your qualifications for those things you cannot use your loss carryforward. You're just...you're not what this was meant to apply to. And consequently thanks but no thanks on giving you that check. It's not a lot of money involved, unlike the other things we've talked about today. I think the fiscal note shows it \$1 to \$2 million, but that's \$1 to \$2 million that these folks who never were intended to be helped by earned income credit and by homestead exemption are taking their people who are in business and kind of because of our accounting flukes coming out with a little more than I would think we were contemplated when we put these programs in. And so that's the nature of this particular bill. It just doesn't allow you to carry that loss forward. You can do it for everything else, all other purposes, but you don't get in on these earned income credits which is a refundable credit. It comes right out of the state treasury and the homestead exemption. [LB76]

SENATOR GLOOR: Senator Schumacher, have you looked at this enough to know who this would affect the most? Large businesses, smaller businesses, Mom-and-Pop operations? Do you know at this point in time? [LB76]

SENATOR SCHUMACHER: I would guess it would...who it would effect the most and this is strictly a guess, I haven't asked the Revenue Department for this, would be business people who probably are in the neighborhood of making businesses between \$100,000 and \$500,000 a year. [LB76]

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SENATOR GLOOR: Okay. Questions? Senator Davis. [LB76]

SENATOR DAVIS: Thank you, Senator Gloor. So, Senator Schumacher, it's an interesting idea and I think it's something that we ought to explore. But is that data available from Department of Revenue? [LB76]

SENATOR SCHUMACHER: They came up... [LB76]

SENATOR DAVIS: I mean, can we dig into that and find out who really is in this group? [LB76]

SENATOR SCHUMACHER: They came up with some pretty specific numbers in the fiscal note and I don't think you're looking at somebody carrying forward a \$500 loss. I think you're looking at somebody carrying forward probably a loss as a result of the Section 179 deduction where they bought a piece of equipment and show a big expense in one year and deducted it and they have a negative income. But, you know, I think that it's a fair question as to if we can guess the income range of the people taking advantage of it. These accountants kind of just thought it was a big joke that...and they're kind of...I know their clientele are not the Mom-and-Pop who take their taxes to H&R Block or the local thing on the street. They are CPAs and they have an obligation to tell their clients how they can pick up a little extra money and pay their fee I suppose. [LB76]

SENATOR DAVIS: You know, interestingly enough I kind of know some people who fit into this category and they're also eligible for free and reduced lunch. [LB76]

SENATOR SCHUMACHER: And I was going to go after that but then I was told that's federal and I couldn't mess in that sandbox. [LB76]

SENATOR DAVIS: Thank you. [LB76]

SENATOR GLOOR: Other questions? Seeing none, thank you. Proponents of this bill. Opponents of this bill. You're ahead so far. Anyone in a neutral capacity? Interesting. Senator Schumacher, you're recognized to close. [LB76]

SENATOR SCHUMACHER: I'm going to stop while I'm ahead. (Laughter) [LB76]

SENATOR GLOOR: And Senator Schumacher waives. And with that, we'll close the hearing on LB76 and we'll close today's hearing. Thank you, all, for your attendance. [LB76]