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Floor Debate  
April 04, 2019

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FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-third day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is Pastor Johnny Walker from the West First Chapel, McCook, Nebraska, Senator Hughes's district. Please rise.

PASTOR WALKER: (Prayer offered.)

FOLEY: Thank you, Pastor Walker. I call to order the fifty-third day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present, Mr. President.

FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

ASSISTANT CLERK: There are no corrections.

FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

ASSISTANT CLERK: Yes, Mr. President. Amendments to be printed. Senator Clements--

FOLEY: Excuse me, Mr. Clerk. Members, please come to order. Mr. Clerk, you're recognized.

ASSISTANT CLERK: Amendments to be printed, Senator Clements to LB334. There's a all I have at this time.

FOLEY: Thank you, Mr. Clerk. (Doctor of the day introduced.) Now proceeding to the agenda, General File, 2019 committee priority bill. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LR14CA introduced by Senator Wayne. It was read for the first time on January 23 of this year. It's a constitutional amendment to authorize the Legislature to allow cities and villages to pledge property taxes as a part of a redevelopment project for a period not to exceed 20 years if more than one-half of the property is in the project area is extremely blighted. The bill was read for the first time on January 23 of this year, and referred to

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the Urban Affairs Committee. That committee placed the bill on General File with no committee amendments. There is an amendment pending from Senator Groene.

FOLEY: Senator Wayne, this CA was previously debated on the floor, but it has been a while. Why don't you just take a couple minutes to refresh us on this, please.

WAYNE: Thank you, Mr. President, and members of the Legislature. LR14CA would propose changing the current constitutional Article VIII, Section 12 of the Nebraska Constitution which authorizes TIF financing. Again, let me repeat. This is currently in the constitution and we are changing what's currently in the constitution. For a little history, in 1978 TIF was authorized by the voters of Nebraska specifically authorizing TIF in our state constitution. This authorizing language again is Article VIII, Section 12, which LR14CA will amend. While the vast majority of details of how TIF operates and are laid out in statute, the provision limiting TIF projects to 15 years is also in our constitution. The 15 years is also in our constitution, so there's no way to extend TIF repayment from a period of 15 to 20 without first changing our constitution. Under LR14CA the Legislature would authorize to the extent of maximum allowed time for the repayment of TIF related indebtedness from a current 15-year limitation to 20 years if more than one-half of the property in the project area is designated as extremely blighted. The definition of extremely blighted is existing statutory definition put into law in 2018. The extremely blighted definition can be found in Section 18-2103 (13) and is defined, which in the area of, one, the average unemployment rate is at least 200 percent of the statewide average, the average poverty rate exceeds 20 percent. Much discussion around LR14CA last week focused on the definition of extremely blighted with some members concerned at the definition being in statute and instead of the constitution. Let me be clear, colleagues, I cannot support an amendment seeking to put definitions in our state constitution. The constitution is not a place for definitions. The current definitions also make reference to census tracts and census data collected by the federal government. If we put definitions in the constitution, even a small change to census process at the federal level would eliminate our ability to use extremely blighted language. For those members who are concerned about future legislatures tweaking or changing the definitions down the road, let me just remind you that since 1978 substandard and blighted was in existing statutory definition. Since 1978, the definition have been substantially amended just once. Just once since 1978, and that was in 1984. In 1984, they amended-- this body amended the definitions of substandard and blighted. So, again, to think that there will be a runaway legislature in the future is just not accurate based off of past of what has happened. I recently also heard, just to clarify, the argument that 20 years in retail, then they'll do it again in another 20 years and the property tax will never be on the rolls. That's just not true. After 20 years, it can't go back on the rolls or it can't be designated as extremely blighted unless it still meets the statutory definition. And this statutory definition is more narrow than the current substandard and blighted definitions and it is targeted, focused for those areas that have been left behind in the state. Thank you, Mr. President.

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FOLEY: Thank you, Senator Wayne. Senator Groene, you have FA26 pending. It's been a while, why don't you refresh us on that amendment, please.

GROENE: Thank you, Mr. President. Why did I bring this amendment? I've studied TIF for over 20 years. It is obvious that unless this body clearly defines that of its constitutional purpose is redevelopment of truly blighted and substandard older areas of a community. The facts are there have been, since 1978, those in the economic development community that have distorted its use for their financial gain--cornfields on the edge of town instead of the core of the city. That is why I brought this amendment to LR14CA. I have examined again the TIF projects in Nebraska. In Omaha, they all had origins in the area east of 72nd Street. But around 2009 or so, they have been popping up in west Omaha. That is wrong. I have handed out to you the list of counties and communities that have TIF projects from the most recent Community Development Tax Increment Financing Project, projects from the report of the Community Redevelopment Tax Increment Financing Projects from the Department of Revenue's Property Tax Assessment Division. Take a look at how your communities stand in the use of TIF. Specific you take a look at the percentage that is off the tax roll due to TIF, and they're not off the tax roll but they are not given to the local taxing entities, they are diverted. Some of those communities are pretty high. Those are recent developments, but in some of them 30 percent of the whole town, since the town was started 150 years ago, of their valuation is off the tax rolls. Last year, city councils have diverted over 80 million of property taxes from our local government entities for TIF projects. Why? Because property taxes are too high in this state, and it is stymieing development. Businesses are saying to us, we cannot do profitable projects if we have to pay Nebraska's burdensome property taxes. There's been talk about property taxes on the floor on this issue. TIF is a property tax issue, folks. It's diverting, taking away property taxes from local entities, specifically our schools. I fully understand Senator Wayne's frustration with lack of business investment in his community. TIF was meant for his district in 1978. Sadly, he has to come back and redefine a higher level of blighted to attract attention to the need of TIF in his area or redevelopment in his area. That should have never been. That's where TIF should be. It is redevelopment. It's not economic development. If economic development happens due to the redevelopment, that's a good thing. LR14CA should not be needed if communities would truly focus on blighted and substandard areas of their towns. TIF would not be needed if we lowered property taxes. That they were not such a burden to businesses that they will hire lawyers, convince city councils to go around the meaning of TIF so that they can build in a cornfield on the outskirts of town, a Menards in my town, TD Ameritrade in Omaha, I could go on and on. That they cannot afford to pay property taxes to be a profitable venture. The problem with TIF and why we are standing here, we are arguing about the drug we need to address the illness, high property taxes. I've looked at the transcript of last week's debate. It focused on TIF. It was a good debate. What happened the next day was different. Which is, which it should have been. Senator Wayne and I were saying the same thing, just talking over each other. TIF is being abused. He's looking for another answer to try to get it used correctly, and so am I, which I plan on bringing a

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bill next year, those of you who read my column in my paper. And I've talked to Senator Wayne about that.

FOLEY: Thank you, Senator Groene.

GROENE: Thank you.

FOLEY: Debate is now open on LR14CA, and the pending amendment. Speaker Scheer.

SCHEER: Thank you, Mr. President. I have a true, life story I'd like to share with the body this morning. Back in the 1960s, Norfolk flooded literally every year. It's sort of appropriate as we talk about things this morning. And they addressed the Corps of Engineers. They wanted to build a flood-control project. So the Corps came out and designed the flood-control project and the dikes for a 100-year flood. But Norfolk, because it had been flooding literally every year for the last decade, wanted more protection than that, so they literally took that 100-year design and they made it twice as wide, and they designed it twice as deep. Now, the Corps would only pay for its portion of that original 100-year dike, which is fair. That's what they've done across the country. But Norfolk didn't feel secure with that design. So what they had to do is they had to come down to the Legislature and they said, Mr. legislators and Mrs. legislators and Ms. legislators, whoever might happen to be here at that time, we have a problem. We have a flooding problem. And in order to fix that flooding problem we have to be able to fund that, our portion, but we can't afford to do that in 15 years. And that's what the statutes say. Can you please give us the ability to bond for 20 years, and I might have the 20 to 25 or the 15 to 20 incorrect. And by the way, the caveat, I didn't look this up. I've got to thank my wife for this. There's always the woman behind every man, and there's the brains behind the brawn, so however you want to put it, that's fine, but Kris actually found all this information Saturday night as we were at home just doing a little bit of research. And so the Legislature approved that. And I'm sure when they had the discussion on that bill, people on the floor here, myself probably included at that time, would have said, you're nuts, you don't need to spend that much money. You don't need that long to pay it off. The Corps knows what they're doing, so build what they're going to, you can fund what they've suggested, and get on with life. But the Legislature didn't. They passed that. Three weeks ago when Norfolk was flooding, they had obese flood-control dike and the depth maintained the water from coming in to Norfolk by all of 8 inches. If they had not built that to the size and scope that they did, literally Norfolk would be under water. Now, do I think that this is going to be the solution for north Omaha? I don't know. Could I be one of those naysayers that said, nope, Norfolk, you don't need anything that big? Probably would have been. But looking back historically, Norfolk knew what they needed. They were fortunate that the Legislature agreed with them, and if they hadn't, Norfolk would be facing immense devastation today.

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FOLEY: One minute.

SCHEER: So I don't know if this is going to fix north Omaha or if it will fix some of the other areas in the state that quantifies for this, but if they think it will, I think I've got the obligation to let them try. This isn't something I'm going to let them try to do, but it's something that we have to let the state of Nebraska decide if they want to enlarge this scope for this purpose. It's not my job to promote. But looking back historically at where my community was 50 years ago and where it's at today, I can only thank not only the forefathers that were around when I was 10 years old, but I have to thank those folks that were here and those 49 individuals that voted to allow us to exceed that limitation because if we had not had that opportunity, Norfolk would not be what it is today. And so, I will support this because I don't know if it's the answer.

FOLEY: That's time.

SCHEER: Thank you, Mr. President.

FOLEY: Thank you, Mr. Speaker. Senator Kolterman.

KOLTERMAN: Good morning, colleagues. Thank you, Mr. President. I stand in support of LR14CA and opposed to FA26. I've worked in economic development for my community for probably over 20 years. TIF is merely an economic development tool. It's a tool that all communities can use. And as you look at the list that Senator Groene has passed out, there are many communities in this state that have taken advantage of that tool. If you talk to people that deal with TIF, you'll find that TIF bonds get paid off early in most cases. So while you might set a bond at 15 years, in many cases they're paid off after eight or nine years. To Senator Groene's comments-- excuse me. He says you're losing property taxes. Well, you can't lose something you don't have. And I will tell you that when TIF is used, they still pay their base property tax. That doesn't go away. The property taxes they were paying at the time, they continue to pay, and the rest of the money goes towards the bonds, paying off the bonds. To give an example of where this is used in my community, and contrary to what Senator Groene has indicated, in Seward, Nebraska, we're developing a virtual rail campus south of Seward and it is in a cornfield, but it also is right next to the rail for the Burlington Northern. We've had many people look at that and, in fact, we've been doing this for about four years now, maybe five, with the State Department of Economic Development, and we're also partnering with the Lincoln Area Partnership. We're doing that simply because it will create new jobs and, in fact, last week we announced the first company that's coming is Scoular. Now Scoular is going to put a state of the art pet food manufacturing facility on that rail campus, and they're going to create 100 new jobs, good-paying jobs. And at the same time they're going to put a \$50 million investment in our community. So if we're going to continue to grow, we need to have the tools available, and the

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reason I support this is I like to see north Omaha grow just like Senator Wayne has a vision for it. There's no reason that they shouldn't have the same tools available, and if it means that we make it super blighted, then we do that, but the reality is if we expect our communities to grow, if we expect our state to grow, to bring in more revenue, to bring in more taxes, payroll taxes as well as a future property taxes, then we need to have the tools available. So to say that we shouldn't be doing something like this, I believe is wrong. I think we need to do everything we can to grow the state. If we grow the state, it will have a positive impact on our property taxes because we're growing the base. So with that, if Senator Wayne would like any more time, I'd yield the rest of my time to him. And I would encourage you to support LR14CA. Thank you very much.

FOLEY: Thank you, Senator Kolterman. Senator Wayne, 1:30.

WAYNE: Thank you, and thank you, Speaker Scheer, for those words. I do think it's important to understand that while this is for my community, we did pass out a map where it does touch on other areas, and that is historically because of one of our special legislation rules where you can't-- it's very hard to write legislation that targets particularly north and south Omaha, so what we try to do is find census tracts that are in and around north Omaha, and we found those census tracts. And what you'll find out is, although Thurston County is not considered north Omaha, they have some of the same poverty levels and unemployment, so they would fall under this. There's a spot out in Scottsbluff, there's a couple spots in Lincoln, and a couple spots in Grand Island. But the purpose behind this definition is to narrow it down as close as we can to key areas that are extremely blighted. I thought we did a lot of work last year with LB874, and we addressed Senator Briese's and Senator Groene's concerns around tightening up the reporting, making sure there's more community input, making sure people are notified in ways that they make sure its certified or regular mail, the neighborhood associations are notified. And it worked, Senator Groene, up in Ashland, and you were up there giving speeches and the community was engaged and they made some differences up there on how they did their TIF. It didn't maybe meet everybody's expectations--

FOLEY: That's time, Senator.

WAYNE: Thank you.

FOLEY: Senator Wayne, you had your speaking light on earlier, and the pages are not certain if you turned it off or if they-- you turned it off. Very good, thanks, Senator. Senator Groene, you're recognized.

GROENE: Thank you. Let me finish up where I left off. As I said I've looked at the transcripts of the debate. I said clearly I was not filibustering his bill. That remains clear today. What happened

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last week was extended debate. Nobody was watching the clock. We just kept talking. When I said I was done debating I was looking for the vote and I'm not going to defend myself anymore. When I say I'm going to filibuster, I'm going to filibuster. When I say I'm not filibustering, I am not filibustering. My concern, as other senators was, about the definition in past history the abuse of TIF. I am fully in favor of what Senator Wayne would do if he can contain it there and nobody hijacks it. As to Senator Kolterman's comments about they will not build it and it wouldn't exist. Folks, if it wouldn't exist, we are dead and you have absolutely no faith in the free market system. Businesses are businesses. I call them sharks and I admire them. I'm part of that industry. If there's something available to add to profits and cut costs, they will do it, but they will build, that is what they do. And they will build where the customer base is, and they will build where their natural resources are they need. Read the story in the front page of the World-Herald. I didn't see anywhere in there where the Carson's Financial Services Company on west Omaha is taking TIF. I tried to look it up. I don't see where they did. I admire Mr. Carson. He's a businessman, and he's also a community member who's willing to pay his taxes, apparently, unless somebody tells me otherwise. That is what businesses do. They don't take advantage of tax breaks. They become part of the community and pay their taxes and hopefully work with this body to lower those taxes, those property taxes, which the Revenue Committee has worked very hard to come out with a bill that hopefully everybody supports to lower property taxes. If you remember right, my concern was not with Senator Wayne. It was not trusting people who use TIF sometimes in certain communities who justify the ends for other reasons than redevelopment of blighted and substandard areas. No, I'm not TIFing today. But I am not pulling my amendment at this moment. Senator Wayne and I had a conversation earlier. I will pull it after an hour or so, so we can go on to Select File with this bill. But we need to discuss property taxes, and that's what I hope some of you do. Be the good doctor. Talk to the patient about the illness, not the amount of pills you can prescribe to address the illness. The illness is high property taxes in this state. It is stymieing business, it is stymieing growth, it is causing those who succeed in this state to move out when they retire. Tax breaks, tax credits, messing with the income tax brackets, TIF is all the placebos we use for an illness in the state of Nebraska called high property taxes. That is why I get frustrated--

FOLEY: One minute.

GROENE: --let's address the illness, not keep throwing sugar pills at it. That is what we need to do for the next 30-some days, and that should be our number one mission because that is the number one concern of the people in Nebraska, high property taxes. At the end of the day if there's not property tax relief, I don't think this thing, this amendment has a chance on the ballot. All we have to do is tell people they're going to give away more property taxes to somebody, and you're going to pay more to make it up. Property taxes passes, I'd probably vote for this if it was on the ballot. If property tax relief doesn't, and that's not a threat, that's just rational reasoning.

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But if property taxes go down, developers probably won't be wasting legal fees and applying for TIF because it's a normal cost of business.

FOLEY: That's time, Senator.

GROENE: So let's have a couple little short talks on property taxes.

FOLEY: Thank you, Senator Groene. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I have appreciated the discussion that we've had on this particular bill. I appreciate Senator Wayne taking the time the first time it was up to answer a lot of my questions both on the mike and off the mike. I know there are many members here who have a lot of familiarity with TIF. I must say over my time in the Legislature the two senators who I think have shown the most engagement on this issue and in many cases, at least in my eye, have been aligned on issues relating to TIF, both the need for TIF in certain circumstances, as well as the concern for lack of accountability and oversight, have been Senator Groene and Senator Wayne. So I appreciate that both of them have engaged on this particular topic and it's, I think in my view, the first time-- maybe not the first time, but one of the rare times where they may have had some disagreement, but I do appreciate the conversation. I will say there's two issues to my mind. One is a policy issue and one is sort of a constitutional issue. The policy issue, I think, is one that we've seen before when it comes to TIF and it's been articulated, I think, by both sides. And I don't think that there is any doubt that TIF can be used for the good, and that there are projects that would not exist but for TIF, and I think Senator Kolterman and Speaker Scheer have both articulated that there are positives that can come from TIF. At the same time, there should be no doubt that there are negatives that can come with TIF, if there's a lack of oversight and that there's a lack of accountability. And you can see examples where if a project would have been developed even without TIF, that having TIF for those projects can erode our property tax space. There's no doubt about that. And I think oftentimes when we sit here and we try to make policies, it's very easy to focus on the one or the two or the anecdotal evidence of positive opportunity from passing a piece of legislation, and not taking a broader picture and a bigger view of maybe what the negative downsides could occur from that legislation years down the road. And so I think having that more fulsome, universal view of how this could both do good things but also do bad things, I think is important. Now, I do think one point on the policy side in favor of Senator Wayne's bill is by narrowing it to extremely blighted areas. What you're doing is saying, look, this is a subset, a small, narrow subset of areas or potential projects that are more likely than maybe a blighted area to actually attract private investments. So I think that's a point in his favor. But I think that sort of ties into the second issue which is a constitutional issue and not in the traditional sense, in the sense that this is unconstitutional, it is an amendment to the constitution. And I think there's a point that's



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been raised by opponents, at least the last time we discussed this particular LR, is that, are we putting significant power, are we opening up the door for future Legislature to change the definition of extremely blighted in a way that would have unintended consequences both for this body and Senator Wayne in particular? And I do think that is a real concern. You could imagine in 2024, 2026, or sometime down the road when all the members of this body are termed out or gone, some legislature having a similar debate today that we're having today. You know, TIF is a good thing. You know, there's good projects. Here's this project from my community, here's this project from this other community. Why don't we expand the definition of extremely blighted. Why don't we make it a little bit more broad. And you could imagine a future body in good faith doing that and broadening this in a way that we don't intend today. And by not having the definition in the constitution or having some stronger safeguard, I think there is real concern that a future legislature could broaden this beyond Senator Wayne's intent. At the same time, I do think that Senator Wayne is right. There are things that we have in our constitution today that we do give the discretion to the Legislature. We do give the Legislature the opportunity to broaden things and be more responsive to the needs of the community at that particular time. So I don't think it is a point that is entirely fatal to this LR to say that some legislature could expand the definition to meet the response, the need for the community at some future time. I told Senator Wayne, when we had this debate last time, that I was going to vote green on LR14 at this stage. I do have some concerns about the possibility that this could be--

FOLEY: One minute.

HILGERS: --abused in the future. Thank you, Mr. President. I do have some concerns. I won't say that I will vote against it at Final Reading if it gets that far. I think it probably will, but there are a few concerns that we'll work through, and I'm going to have some more conversations with Senator Wayne about it. And so, I appreciate the debate. I understand we will get a vote today on this. I don't think it's going to go to cloture. I certainly am not filibustering it. I appreciate the conversation and the discussion, and I am going to vote green on LR14CA. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Senator Brewer.

BREWER: Thank you, Mr. President. I would like to start by running through some questions for Senator Groene, please.

FOLEY: Senator Groene, would you yield, please?

GROENE: Yes.

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BREWER: All right, Senator Groene, the sheet that you handed out this morning that's titled Taxable Value and TIF Excess Value, this is 2018. If we take a look at this, and what I'm going to do is just go to my district so I've got some examples here. If I run down, you got Alliance, and what we're doing is going to go to your far right category and that's in the percentages. Alliance at 3.21, Ainsworth at 2.62, Valentine at 2.49, Chadron, 2.19 and Gordon at 1.12. What is that telling me?

GROENE: That tells you that if the city was valued-- total valuation was \$100, 2.1 dollars or whatever, those percentages are off the tax rolls.

BREWER: All right. So if you jumped to, for example, Wood River goes to 27.09. So you've got Gordon at 1.12, Wood River at 27.09. Do they have more projects or is it just total value?

GROENE: You know, the curious thing I just noticed is if you look at some of these cities, towns with high TIF, 20, 30 percent, they're suburbs of the bigger cities. What is happening is, Ashland, that town, Wood River, they're outside of bigger communities. Developers are going out there in the cornfields and building suburbs, brand new houses in cornfields. It actually hurts the bigger city because out there they don't have the development costs. It's an open, wide open field, and these little communities are grasping on to these commuters and building suburbs with TIF. Has nothing to do with blighted or substandard.

BREWER: OK. Question is answered, thank you. Step away from the mike. [LAUGHTER] All right. Senator Wayne, could I address a question to you?

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes.

BREWER: All right, so we don't mix apples and oranges here. You took the time to have some maps made. There were the two, 8.5x11 with the blue and the red on them, and then there was the larger one that had the entire state of Nebraska.

WAYNE: Correct.

BREWER: So this LR as written, how many of my 13 counties would be affected by it?

WAYNE: None.

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BREWER: All right, so if I look at the Nebraska map, those that are either red, which is just a handful of counties, or those that are blue are the ones that are directly impacted by this LR.

WAYNE: Only the ones that are red are directly impacted. On the big map, the green areas means they're close, but we won't know until next census tract because they have over 200 percent unemployment. And then the yellow ones on the big map means they have over 20 percent, but because to Senator Groene's concerns, you have to have both. Unlike the current TIF statute where it's just one of many factors, you have to have both. That's why it's so narrow.

BREWER: All right, thank you. Last night after the outstanding event that we had at Creighton, and thank you to Sue Crawford and Senator Stinner for making that happen, I had a chance to think a little about this. And, you know, I go to Senator Wayne, I say, listen, in my priority bill, I'm worried about the people of my district, and I want to make sure they have a voice in what's happening. I want to make sure that--

FOLEY: One minute.

BREWER: --the issue of local control's addressed and that my district is able to make sure that the issue they have is looked at, addressed, and gets a fair voice. After reviewing this, I think that this is how you're helping your district. And so, you know, at this point I think that we do need to bring this to a vote, and I think that it is a bill that I will support because I cannot help it, I want to help someone who's focused on their district. So thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. (Visitors introduced.) Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President, and good morning, colleagues. First of all, I would like to thank Senator Wayne for taking the time to really understand the intricacies of tax increment financing and how it can work and in particular how it can work and benefit his community. We, as a body, are facing many, many big issues. Most of them, whether you're talking the issue with tax reform, school funding, economic development, all have to do with how we pay for growing our state. And one thing that I have talked about many times is being sure that we have all the available tools that we can put at the disposal of our economic developers to help grow our state. And that's what this discussion is largely about today is creating an additional tool for, in particular, those highly-blighted areas to grow. There's always a discussion with TIF, and I have said this before, and you've heard people say other things, but TIF has not ever, nor will it ever take money away from schools, counties, communities. Last year with LB874, we worked very hard to put additional controls and fences around the use of TIF. I think we all recognized with the audits that had been done that there had been some potential abuses of TIF, and by tightening up the "but for" test by requiring additional hearings, by requiring additional notices that have to

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go out, we have raised that bar. Now, we have not had time for those new regulations or restrictions under LB874 to show much yet because we just passed that last year, went into effect in August or September. In my district, and thank you, Senator Groene, for handing out the information on communities, I have 20 communities, some larger and some very small in my legislative district, eight of those communities have taken advantage of TIF. I think that's somewhat remarkable. Now, you would expect that to be in Gothenburg, Cozad, Lexington, and Broken Bow, but we've also had Farnam, Anselmo, other communities much smaller, that have found ways to grow their community by the use of TIF. I had the opportunity to be a product of the farm crisis of the '80s to see what happened to communities. And the community of Gothenburg made a directed decision back in the mid-80s that we were going to be a survivor. And to show you how we have grown our community, in 1990 the total tax valuation of Gothenburg was slightly less than \$40 million. According to the numbers that Senator Groene handed out, with the use, and I would say proper use of tax increment financing, with the use of the proper use of LB775, using Nebraska Advantage in a proper manner, our total valuation now in 2018 is nearly \$240 million. That started at 40 million in 1990 and it has now grown to that.

FOLEY: One minute.

WILLIAMS: Thank you, Mr. President. That number shows clearly how we can use these tools, and that's what we're talking about. According to the map, again that of the extremely blighted areas, one of those areas is in my legislative district. We have extremely blighted areas in Lexington, and this would be an additional tool that we could use and effectively use. Therefore, I strongly support Senator Wayne's constitutional amendment and will be voting that way. Thank you, Mr. President.

FOLEY: Thank you, Senator Williams. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good morning. I've been listening to the discussion this morning and I appreciate the conversation. The issue, there are two for me on LR14CA. One is the 20-year issue, and that's not too difficult for me to overcome, but the other issue is the 51 percent. I think that's a difficult thing to determine. Is it 49 percent? Is it 50, is it 51? That's a difficult hurdle for me to get over. I believe Senator Groene's amendment says 100 percent. Pretty easy to distinguish what 100 percent is. Either it's all in the extremely blighted area or it's not. Senator Groene made some comments that I think make a lot of sense. And these are the ones that I think make the most sense. He said, there's a reason that TIF has to be used, and that reason is property tax are too high in Nebraska. And as you look at the document that Senator Groene passed out, if you look on the last page, the second to the last page, you see that in 2006 we had 442 TIF projects. As you move down that column to the bottom, in '14 we had 716, so we were expanding 30 or 40 TIF projects a year until we turned the page, and now we're

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almost 100, 75 to 100 new projects every year. And one says, are people becoming more aware of TIF? Is that why we have more projects? I think not. I think here's the reason that the TIF projects are growing. It's because property taxes are increasing. That's the answer. So, if you went to the doctor and you had a malignant tumor, and he said, we're only going to take out 50 percent, would you be happy with that? No, you wouldn't. And so, we have discovered the problem is, the property taxes are too high, but we don't want to deal with that issue. We want to give them TIF or Nebraska Advantage Act or some other opportunity for them to avoid paying taxes instead of dealing with the real problem, property tax. So I contend the reason these TIF projects are growing is because our property tax is getting worse every year. We fix the property tax problem, we'll have less of a need for TIF. And so I do not support LR14CA because of the 51 percent clause. And maybe Senator Wayne can figure out a way to make me understand or help me understand how that can be better defined. But until we do, I'm not in favor of 51 percent. I would be in favor of 100 percent. But TIF has been an issue that has been on my radar for some time. And when it became front and foremost was when the State Auditor tried to audit the TIF projects that we had. We had 726, I believe, the year he tried to audit those, 766, I think. And he tried to do 33 of them. But he had to cut back to 26 because the other seven did not even have enough information for them to audit. And we maybe fixed some of that last year with our TIF bill, but there's really no penalty for not abiding by the TIF language. And so we continue to do what we've done.

FOLEY: One minute.

ERDMAN: Thank you, sir. And we understand why we do TIF, and TIF is there because our property taxes are too high. So those are my issues with this constitutional amendment, and hopefully between now and Select, if it gets that far, we can have a discussion about the 51 percent. Thank you.

FOLEY: Thank you, Senator Erdman. (Visitors introduced.) Senator Clements, for what purpose do you rise?

CLEMENTS: A point of personal privilege.

FOLEY: Please proceed.

CLEMENTS: Thank you, Mr. President. I stand to recognize Miles Poppleton and Jayger Haag, students at St. John's School in Plattsmouth, Nebraska, in my district. They recently competed in their district's History Day competition where they presented their project, AJ Poppleton; a Triumphant Voice for Human Rights. Miles and Jayger won first place and were invited to compete at the state History Day competition at Nebraska Wesleyan University this coming

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Saturday. Their project involves Chief Standing Bear. Miles is the great, great, great grandson of attorney AJ Poppleton, the lawyer, who in 1879 represented Chief Standing Bear, and sued General Crook in an Omaha court. The trial ultimately led to Standing Bear's freedom from incarceration and gave Native Americans their rightful human status in the eye of the law. Attorney Poppleton represented Standing Bear pro bono, so General Crook gave him his two military-issued pistols and his Civil War cavalry dress sword as a payment. It was also a show of respect since although General Crook had a duty to make the arrest, he was sympathetic to Standing Bear's plight and wanted to help right a historical wrong. The General's sword has been in the possession of the Poppleton family since 1879. Miles Poppleton and Jayger Haag will be on hand in Senator Brewer's office with General Crook's sword from 3:00 to 4:30 today. Feel free to stop down and greet these young men and see the sword if you have a moment this afternoon. I thank these students for highlighting Chief Standing Bear's victory and ask that Miles and Jayger once again stand as we thank them for their efforts. Thank you, Mr. President.

FOLEY: Thank you, Senator Clements. Continuing discussion on LR14CA. Senator Friesen.

FRIESEN: Thank you, Mr. President. Well, if you look on the list of cities that abused TIF in the past, you'll see that Henderson is listed there also. I was on the city council and pushed really hard to do our first TIF project. And when you look through the list of cities that have used this, it is an economic development tool for small cities out in rural Nebraska. And when you look at some of the highest values of TIF that have been used in those cities, you'll find that most of them have an ethanol plant located next to them, and that's what it was used for. So what Senator Wayne is doing is exactly what TIF is designed for. It is the sole reason it was brought forward is to redevelop those rundown areas of cities and to get them rebuilt into something that had a value. But cities have abused that privilege, and they have abused it by TIFing bare ground for big-box stores and everything else you can think of. I still support the premise of TIF when you're redeveloping an area. Do I think 20 years is appropriate? I'm not sure yet. You take a building that's been standing for 20 years and you're still diverting that tax revenue to help pay for it, and it's about time for a remodel, and so you might as well just TIF it again and let's keep it up to standards. But Senator Wayne, what he's trying to do is exactly what TIF was for, and if I could be assured that it would be used this way in those extremely blighted areas, I would be more comfortable with it. But when we talk here on the floor, and I'll get into property taxes because that is the main reason for TIF, our property taxes are too high. And if we would truly have property tax relief and change how we fund our K-12 system, I wouldn't be as opposed to using TIF either, but right now it does divert money away. And I don't care how you want to spin it, once we started using TIF for residential development, you have now entered into the fact that you're going to put more students in a school and not give them any more money, and in some areas that brings more state aid to schools. In some areas, it does not. So it does affect property taxes. One of the things that we keep saying around here is we're going to grow our way out of this. Show me a community, show me an area that has grown their way to lower taxes. It costs

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money to grow. So don't kid ourselves that we're going to grow our way into anything. Lincoln here has reached an agreement with their schools and they don't TIF residential projects here. And you say that doesn't have an effect on schools? Hmm. Why would you reach an agreement like that? The city of Lincoln here they're only valued at 2.49 percent of the city is TIFed compared to, I think, Omaha is at 4.45. I think they have an agreement here not to use it on certain projects, although I'm sure it doesn't have any effect on that. So again, when we look at the property tax picture as a whole, if we can actually come up with a better way of funding our K-12 system so it isn't so dependent on property taxes and makes those taxes so high that they're unbearable, then maybe we can look at a lot more of these different types of projects. Right now in the Advantage Act we rebate real property taxes at some of those companies when they come and locate, we rebate that back to them because it's a high tax. We play around the edges--

FOLEY: One minute.

FRIESEN: --and yet it seems like we get very little done, and I've not seen a community grow their way to lower taxes. With that, I'll yield the rest of my time to Senator Linehan.

FOLEY: Thank you, Senator Friesen. Senator Linehan, 38 minutes-- 38 seconds. [LAUGHTER]

LINEHAN: OK, I'll be quick. Thank you, Senator Friesen. Thank you, Mr. President. I just ask Senator Friesen just to point out if you've got this sheet in front of you, if you go to Douglas County, this is the current concerns that Senator Groene is talking to. TIF is a very hot subject in my district. We have Valley and Waterloo which is the western part of my district on the west side of Elkhorn. You'll see Elkhorn has not got anything TIFed. Valley has 30.25 percent of their property TIFed and Waterloo has 16.9 percent of its property TIFed, and Valley and Waterloo have had tragedy for the last few weeks for the flooding.

FOLEY: That's time.

LINEHAN: OK. Thank you.

FOLEY: Thank you, Senator Linehan. (Visitors introduced.) Continuing debate. Senator Albrecht.

ALBRECHT: Thank you, President Foley. Would Senator Wayne yield to a question or two?

FOLEY: Senator Wayne, would you yield, please?

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WAYNE: Yes.

ALBRECHT: OK, my question this morning for you is in the time that you have lived in your district, has anyone ever gone to the city of Omaha and asked to have any portion of your district TIFed for anything?

WAYNE: Yes, there is actually a lot of TIF in my district. The issue is, projects are delayed and I'll give you one example. Actually right outside of my district, 30th and Fort, which is Senator Chamber's district, there was a new apartment complex that took two years in talking to that owner to start. In talking to that owner, if there would have been an additional five years on the TIF, they could have made the finances work to start that immediately. But instead, they waited for a federal grant to come in and that delayed development for actually three years.

ALBRECHT: OK. So I will come back to a few of those things. So if this goes to the vote of the people and they pass it, have there been any TIF projects in your area turned down in a residential setting, and if so, what would this do for the process? Would they still go to the city of Omaha or would they come to the Legislature to get it passed, and if they do have to come to the Legislature, who actually would be designated to either pass this blighted area in your area or mine?

WAYNE: No, so the current-- actually LB86, I'm bringing some clarifying language to the current definition in outlining the procedures. We assume that the cities would know the procedures would be the same as TIF, current statute, but there was some feedback saying they wanted direct language. So LB86, which will come to the floor as my priority, will outline the procedures and they will be exactly like current TIF. They would go to their local city to get done.

ALBRECHT: OK, and would that be just for the city of Omaha or--

WAYNE: No, that would be for all. So all municipalities currently when they apply for TIF, they go to their city or their municipality and that's what they would do in this case too.

ALBRECHT: OK, and while I appreciate all the emphasis on Thurston County being a blighted area, would sovereign nations be included in this program?

WAYNE: No, only municipalities within Thurston County could do that. I was just citing that as an example of, we were trying to find census tracts to match north Omaha and because there are



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other census tracts across the state, like Thurston, that they would match with the definition of extremely blighted. But only municipalities would be able to authorize extremely blighted areas.

ALBRECHT: OK, so here's another quick question for you. In Business and Labor two years ago, Senator Williams prioritized LB518 and the Department of Economic Development gave a lump sum of money to communities in Nebraska that would like to build homes for work force housing. Would that be something that if this should not go anywhere, would you want to work to see that that might happen for your community?

WAYNE: I think I have a couple of bills that do things similar to that already. LB86, the one I mentioned, would be similar. But I just want to remind everybody that this goes to the vote of the people. So all we're giving is the opportunity for the people to vote on whether they would like this.

ALBRECHT: OK, and knowing that you had a TIF project that was waiting for extra funding, so the extra five years would have helped them, I guess I look at it, because I appreciated the fact that during interim you had some studies about communities that were abusing TIF. But is there any penalty within this-- these bills that you want to change up, is there any penalty for doing something and--

FOLEY: One minute.

ALBRECHT: --not following through or doing it without having the authority to do so?

WAYNE: Yes, and I think this is a very important question. I really do appreciate this question. And Senator Groene right now-- and this goes to both of you guys because we're at the same issue. Right now in statute, anybody who wants to challenge a TIF project can sue the local municipality, and we have granted them taxpayer standing to do so. So if you don't like TIF being used in your area and you feel it's being abused, a group of individuals can file a complaint with the city or the municipality and sue them.

ALBRECHT: And is that already in the bill from last year that you had approved?

WAYNE: That's actually been a statute since 1978. We just reemphasized it last year in our statute.

ALBRECHT: But no one has ever exercised it.

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WAYNE: Yes, they have. Actually Hastings took it all the way to the Supreme Court challenging their TIF, use of TIF.

ALBRECHT: And how did it come out?

WAYNE: I can't recall, but I think the individual lost because it met the statutory definition. But if we feel that it's being abused, as an individual, you can sue. But I'll get back and tell you exactly what happened. I'll push my light on and tell you.

ALBRECHT: OK. Thank you.

FOLEY: Thank you, Senators Albrecht and Wayne. Senator Groene.

GROENE: To clarify some things that maybe I shouldn't even say because it might give somebody an idea. Most TIFs don't go 15 years. And the reason is, by statute we pretty much define that it's the TIF dollars are-- we confiscate-- the city confiscate school from children and schools from NRDs, from counties and the maintainer that takes care of your road, and gives it to the developer, where the city should use it themselves, what was the intent, to upgrade the infrastructure: new curbs, new streets, new sewer lines, new electrical lines, the whole works, level the old building, that's what it was meant for. Most-- most cities follow that. Therefore, the limiting factor is the cost of that infrastructure. That is the bond. And then you collect the taxes to pay off the bond and when that amount runs out, it's been six, seven, eight, nine years. Adding this 20 years will not change that. Business development will still be limited to 15 years because the problem is going to be in housing because we added construction costs, private construction cost: apartment buildings, houses; now it's unlimited, the cost. So they will probably go 20 years. So if Senator Wayne is looking for economic development, this doesn't do it. This doesn't bring businesses to the community. It will bring housing projects, at most. Because the commercial will be limited to the cost of the infrastructure and they'll go 8, 10, 15 years. So this 20 years, basically, is an extension of what we did last year by adding construction costs to work force housing. If that's what he wants, then that's what he'll get, but I know he's looking for more. The reason I brought the amendment is if you look at his map, the map which was very well done--I don't know what I did with it--especially of the inset of Omaha metro. If you look at that, some of those highly blighted areas, the census tracts butt right up against 680. To the north of 680 we all know is open areas. I hope Senator Wayne keeps an eye on this because I will guarantee you one of the first tracts might end up being that north boundary of them highly blighted areas, 51 percent will be the red area, 49 percent will be on the opposite side of the Interstate and they will build on the opposite side of the Interstate and the blighted and highly blighted areas will remain on the south side. That is why I brought this amendment to make sure--I thought I was helping Senator Wayne--to make sure--and I still am trying--to make sure his intent is carried out; that

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100 percent of the area must be highly blighted, highly-- high unemployment, high poverty. I just don't trust. If there's a hole, they'll find it. A rat always does. But I'm still willing to work with Senator Wayne on maybe adding just a couple of words to his CA because he's got more trust than I do. I hope he invites me to some ribbon cuttings in areas that are highly blighted in his area because they took the 20 years and it's not across the 680 in a cornfield.

FOLEY: One minute.

GROENE: Like I said, I'm going to eventually pull this-- I think I, well, let's do it right now. I'll pull my amendment and let's vote on it and then I'll work with Senator Wayne. I'm not giving up. He's going to have to ensure my trust that these projects of 20 years are going to be in his highly blighted areas and not in a pasture on the north side of 680. Thank you. So, I'll pull the amendment.

FOLEY: FA26 is withdrawn. Further discussion on the CA. Senator Vargas.

VARGAS: Thank you very much, Lieutenant Governor. I'm going to keep this brief and then I'm going to yield my time to Senator Wayne. But I wanted to get up and talk about this because, you know, we've been talking about north Omaha a lot and I want to clarify that two years ago when we started expanding this definition of extremely blighted, and actually stating what it means, and as Senator Wayne had said this, we're talking about very specific census tracts that meet criteria. Those criteria are my districts. And I don't know about you, but knowing that there are large tracts of people in my district, not just north Omaha, in south Omaha, that are in lower-income areas but are also some of the highest unemployment areas we see across the state of Nebraska, that screams that there's a problem. And while this may not be the solution, it's a solution to being able to provide some more economic development tools to a region. Because as far as I'm concerned, if we can't get people to then have some more tools, communities, and if we can't create more economic development and create more jobs, we're not broadening our tax base and we need that. Nebraska is growing. But we also then need to then-- it's not enough just to have people, more people coming in and people staying, we need to make sure that the people are here, the majority of them are working. And that there are jobs that are higher than minimum wage jobs, good paying jobs. And so one step in the right direction is giving us a tool like this. I support this and I just wanted to say it on the record, I think this is not just about one tract. And Senator Wayne is very advocating for north Omaha, this is as much of an economic development tool for other blighted areas in Omaha, specifically my district, in District 7. So I ask you to consider that this is a good solution, something that's going to help our state, and I ask for your vote for LR14CA. With that, I will yield the remainder of my time to Senator Wayne.

FOLEY: Thank you, Senator Vargas. Senator Wayne, 2:50.

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WAYNE: Thank you, Mr. President. And colleagues, I really hope you can just take a second from your conversations people may be having and just listen to a couple of things, because Senator Albrecht brought up a very, very good point. So in 1986 or 1988-- 1998, I'm sorry, Hastings actually, F-i-z-k-e [SIC] v. the City of Hastings, went all the way to the Supreme Court over TIF. And what happened in that case was Hastings decided to blight a camping ground that should not have been blighted. A taxpayer sued underneath our statutes where they have taxpayer standing, went all the way to the Supreme Court and the court held that Hastings and the authority, which is the authority who authorizes underneath Community Development Law which is Hastings, violated the provisions of the Community Development Law by declaring a campground site a blighted and substandard area. Because the campground site was not blighted or substandard, it could not be included in their redevelopment plan. There is a tool already in our statute and this would follow the same note to say if a taxpayer wants to object, they can file a suit. And we have precedents of taxpayer winning. Now, I do want to talk about the issue that was raised by Senator Friesen about a retail spot or a building that is being TIFed for 20 years and then after 20 years they re-TIF it. Well, here's the interesting part about that. You can't TIF a current TIF. So at the new TIF, you have a new base. So all that growth over 20 years that occurred and those values of property taxes that went up are your new base for the next 20 years. So you capture all that new growth for the following 20 years. So just remember how TIF works. Whatever your base is, you're paying \$100 and you TIF a project to get to 200; it's only that additional 100--

FOLEY: One minute.

WAYNE: --that is not recognized to the local governments. You still got to pay your base of 100. It's the additional 100 you don't have to pay for 15 years. Underneath my proposal, 20 years if you live in extremely blighted. But then if you want to TIF it again, it's the new 200 value base so you capture all of that. So there isn't just a windfall of property taxes being off the roll. That's just not the case. It's the new base that would be on the roll and the additional increment that would be off. And I hope somebody else can yield me time, because I just want to briefly touch on why it's so important in these extremely blighted areas. And the reason is, the capture. When you do a development in north Omaha, south Omaha or some of these counties that have extremely blighted, your property value won't increase fast enough to make the financing work. That's why we're stretching it out for additional five years because in North Omaha--

FOLEY: That's time, Senator.

WAYNE: Thank you.

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FOLEY: Thank you, Senator Wayne. Senator Hilgers. Is Senator Hilgers on the floor? Senator McCollister, you're recognized.

McCOLLISTER: Thank you, Mr. President. Good morning, colleagues. I'm sympathetic to Justin Wayne's effort here this morning. I've worked with him on a few projects, particularly unimproved roads in Omaha, and he's a good ally to have. I also salute Senator Mike Groene for his constructive efforts to move this bill forward and actually make it better. I served two years on the Urban Affairs Committee and dealt with TIF in my experience then. That was my first two years in the body. And I would contend that what we learned those first two years of my service was there were transparency and accountability issues with TIF. So in that effort, we improved the reporting requirements. Often those reports were not timely and they were often incomplete. So in statute, we put into-- an effort to improve the reporting and the accountability. Secondly, there's notice with regard to TIF projects. And many of the school districts, particularly in Omaha, didn't receive adequate notice when a TIF project was going to be instigated in their area. In fact, there was one area north of Pacific Street that I was very familiar with that the city council then reduced the size of the TIF project to make it more properly a TIF kind of a project. And it's my contention that Omaha has generally, not always, used TIF correctly. I think it has been a useful tool in Omaha's development and I'm glad we've had that opportunity to use it. And I'd agree with Senator Groene, the use of TIF for raw farm ground is unjustified and it should not occur. Thank you, Mr. President. And if Senator Wayne wants the balance of my time, he can certainly have it. Thank you, Mr. President.

FOLEY: Thank you, Senator McCollister. Senator Wayne, if you care to use it, there's about 2:45 remaining.

WAYNE: Yes, and I believe my closing is after this, Mr. President?

FOLEY: That's correct.

WAYNE: OK, and I'll just go right into it all. So what I was saying, I really think it's important to understand how the finances work. And I just want people to step back and understand that if you're in an extremely blighted area and you invest \$100, you're not going to get the same rate of return as if you're not in an extremely blighted area in Omaha, it would be west Omaha. In North Platte it would be the other side of the tracks, as Senator Groene always says. You won't get that higher rate of return. And what that means from a practical standpoint for TIF, if I'm looking at the increased value, because remember, I'm taking bonds out on the increased value, not the current base, the increased value, the projected value, that's a lower number than it would be somewhere else. So if I build a facility in extremely blighted area that costs me a million, it might only raise the property base by 500,000 because the whole entire area is extremely

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blighted. Whereas, if I build it out west, it might actually raise it 1.2. So I have more TIF financing dollars theoretically to play with to build this to make it work. Well, what the five years actually does, is almost like a home mortgage. It's actually the reverse of it, but hear me out. If I have a 15-year home mortgage, my payments are higher than they are if I have a 30 year. So it's a cash flow way of stretching it out to make sure that you capture more financing, more of the incremented value to capture that more to finance the project. That's what we're talking about, the additional tax base that would be created to finance the project and five more years as well. And with that, I'll submit and move to my closing if that's OK, Mr. President.

FOLEY: You may begin your closing, Senator Wayne.

WAYNE: Colleagues, I want to first say, today I'm proud. And I'm proud because we actually had a debate on the issue. We talked about the financing of TIF, we talked about issues, and it wasn't just a complete we dislike TIF from abuses and we're just going to keep saying the same thing over and over. We actually had a dialogue on something that is very, very important for our communities, especially around economic development tools. So, I do appreciate that. And as I said before, the issue I had previously was that process in which I felt betrayed. If you have a vote here and it's a no vote, I'm not going to file additional amendments on your bills. But I felt last time I was betrayed. And I've talked to each individual about this and we've worked some things out, maybe not completely, but I feel like we're moving in the right direction again. That we can sit down and have a conversation and talk and discuss big issues. While this is for my community, I make no mistake about it, there are areas throughout the state that it also touches. If you look at the handout that Senator Groene gave us all and you look at the double digits, many of those double digits, not all, as Senator Friesen said, had ethanol plants. Those ethanol plants provide jobs, they use corn to keep the industry going or soybeans, they are a part of our economic and our industry that keeps Nebraska growing. That is what TIF is good for. That is exactly what TIF is good for. So, yes, they might have some high numbers here, but that's up to their local communities to decide that. So in Omaha, when the local community got upset about some areas of Crossroads and Pacific being blighted and getting ready to be TIFed, they stood up and they changed it. Ashland, they stood up and they changed it. Hastings, taxpayers stood up and they changed it. We have the ability for local control and all we're doing is giving cities, municipalities, the ability to use this tool to help develop their blighted, and in this case, extremely blighted areas. I do want to correct what I said on the record to Senator Albrecht because Winnebago is incorporated and underneath that definition they would be able to use TIF if they so choose to do so because they are incorporated, but Macy is not so they would not be able to, just to give an example. And the reason that is, everyone, is because this is in our constitution. I am not adding things to the constitution. This is currently in our constitution, the 15 years. We are actually cleaning up the language in the constitution and simply adding, if you want to say, a comma and 20 years for extremely blighted areas. I wish, maybe, it wasn't in the constitution, but I'm dealt with the hand that I'm dealt. And I implore you to understand that if

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it's already in the constitution as is, and if the statute defines what TIF is, then don't require these substandard communities and extremely blighted communities to have their definitions in the constitution when we currently don't require that. We cannot set another standard for the rest of the communities when it's already in our statute for everybody else. So I'm asking you to vote green, even if you're against TIF generally, because the abuses you are concerned about don't go away because of this and they don't get bigger because of this. The abuses you are concerned about, we addressed a lot of those last year from the auditor's report.

FOLEY: One minute.

WAYNE: We went line by line and addressed all those issues. We provided more notice requirements. We provided that you have to follow certain things and things must be contiguous. I remember having a floor debate about one part of town was TIFed and another part of town was TIFed and they were all part of the same project. You can't do that after last year. We fixed a lot of those concerns we had. This constitutional amendment would still have to follow those same guidelines. There is no special guidelines at the local level because of this amendment. And in LB86, I will further define extremely blighted and give the process in which municipalities have to use which is the exact same process today for TIF. I just assumed they could read that and understand it, but they want more clarifying language and I'm adding that to LB86. I implore you to vote green. Let's send this to the vote of the people and give our municipalities the opportunity to help those extremely blighted areas with a tool that I think can change their future and can change north Omaha. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Members, you heard the debate on LR14CA. The question for the body is the advance of the CA to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to advance.

FOLEY: LR14CA advances. (Visitors introduced.) Items for the record, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. The Health and Human Services Committee provides notice of committee hearings. And LR78 introduced by Senator Briese, that will be read and laid over. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. Proceeding on the agenda, General File, 2019 Speaker priority bill. Mr. Clerk.

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ASSISTANT CLERK: Mr. President, LB637 introduced by Senator Stinner. (Read title.) The bill was read for the first time on January 23 of this year and referred to the Government, Military and Veterans Affairs Committee. That committee reports the bill to General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Stinner, you're recognized to open on LB637.

STINNER: Thank you, Mr. President. Members of Legislature, I first want to thank Speaker Scheer for including this in his Speaker priority. I also want to state right at the outset that this is a byproduct of the Attorney General's Opinion saying that this legislation is necessary. So LB637 would authorize Nebraska Tourism Commission to make promotional products available for sale directly to the public. Under the bill, these products must be directly related to state marketing campaigns developed and approved by the commission. As you will see, LB637 also authorizes the commission to contract with vendors to produce, sell, and distribute those promotional products. All revenues must be deposited to the Nebraska Tourism Commission Promotional Cash Fund. There have been a number of major events in Nebraska recent history which has brought a significant development to our exposure as a tourist destination necessitating the need for a pro-active marketing effort in the state. As part of this need, the commission must have the ability to develop and sell promotional products as part of its marketing strategy. A couple of years ago, Nebraska was on the path of the total eclipse, solar eclipse, the first time in 38 years that anywhere in the continental United States experienced a total solar eclipse. The August 21 solar eclipse brought an estimated 708,000 visitors and 127 million in economic impact to the Nebraska's tourism industry in lodging and travel. In addition to the direct impact to the state, media coverage was estimated at a value of more than 133 million. This event garnered much needed attention to our state, attracting visitors who have never been to Nebraska and may not have otherwise traveled here. We also had a great successful marketing campaign last year kicking off "not for everyone" slogan. Within a couple of months, the campaign already received 7 million in publicity value and reached more than 800 million people. The state can expect to receive continual momentum from recent developments and with such success comes a need to further develop marketing efforts to match that need. That's why LB637 is an essential tool for the commission to bring growth to our tourism industry. You will also see the committee amendment, AM238, which would add an emergency clause to LB637. A emergency clause is needed to capitalize on the momentum that Nebraska has gained with some of the aforementioned developments I've discussed. Thank you, colleagues, for your consideration. I'd urge your green vote on LB637.

FOLEY: Thank you, Senator Stinner. As the Clerk indicated, there are amendments from the Government Committee. Senator Brewer, you're recognized to open on the committee amendments. Is Senator Brewer on the floor?



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BREWER: Thank you, Mr. President. I'm going to blame that one on Senator Morfeld, he distracted me. All right, this is LB637 was heard in Government Committee on March 1 with no opposition. We advanced the bill to committee with AM238 that adds emergency clause. This is to allow the Tourism Commission to start taking sales of the promotional items as soon as possible. I encourage everyone to adopt the committee amendment of AM238 and vote green on LB637. Thank you, Mr. President.

FOLEY: Thank you, Senator Brewer. Debate is now open on LB637 and the pending committee amendments. I see no members wishing to speak. Senator Brewer, you're recognized to close on committee amendment. He waives closing. The question for the body is the adoption of AM238, Government Committee amendments. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 39 ayes, 0 nays on the adoption of committee amendments.

FOLEY: AM238 is adopted. Is there any further discussion on LB637 as amended? Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor, and good morning, again. I listened to Senator Stinner's opening comments and I was wondering if he would yield to a question.

FOLEY: Senator Stinner, would you yield please? Senator Stinner, would you yield, please?

STINNER: Yes, I will.

ERDMAN: Senator Stinner, I was listening to your opening comments, and I believe you said that 800 million people have viewed our tourism logo. Is that what you said?

STINNER: I hope I did not say, I said 708,000 visitors were estimated to be there. And that benefit of that 708,000 visitors impact was 127 million in economic activity.

ERDMAN: OK. I was quite sure I heard you say 800 million people had viewed our logo and I was thinking that there must be some people in China looking at that because we only have about 300 million here. But it's on the Internet, right?

STINNER: I believe so, yes.

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ERDMAN: Yeah. So I just-- just checking to see if that number was correct because that seemed to be a little extravagant, but just for the record. Thank you.

FOLEY: Thank you, Senators Erdman and Stinner. Any further discussion? I see none. Senator Stinner, you're recognized to close. He waives closing. The question for the body is the advance of LB637 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the advancement of the bill.

FOLEY: LB637 advances. Proceeding now in the agenda, General File, 2019 Senator priority bills. Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB472 introduced by Senator Dorn. (Read title.) The bill was read for the first time on January 18 of this year and referred to the Revenue Committee. That committee placed the bill on General File with no committee amendments.

FOLEY: Senator Dorn, you're recognized to open on LB472.

DORN: Thank you, Mr. President. Good morning, colleagues. LB472, I want to give you a little bit of background on the issues that necessitated the introduction of this bill. Many of you are aware of a federal court judgment imposed against Gage County for the violation of civil rights of six people commonly referred to as the Beatrice Six. The judgment imposed on the county is for \$28.1 million. The county in order to do their due diligence asked the courts to review the judgment, and after subsequent denials, the federal judgment stands. Even during the appeals, the county supervisors were always thinking of how to pay the judgment if it was upheld. Last fall, after the final appeal was denied, the Gage County supervisors, of which I was a member, voted to raise county property tax asking to the maximum amount. We were very mindful of the burden we were placing on the property taxpayers of Gage County. For counties, the primary source of funding is the property tax. Counties are capped at a 50-cent lid in collection of property tax. Last year, Gage County's budget had a levy of approximately 38 cents. This left approximately 12 cents of the remaining levy available. In Gage County, this 12 cents will collect about \$3.8 million per year and will take the county around eight years at this level of property tax rate to pay off the federal judgment. Raising taxes is not something the board of supervisors and I took lightly. We were all concerned about the burden this additional levy placed on the residents of the county and especially the farmers in our area. Consider, about 72 percent of Gage County is noncity land. This rural land is owned by a little more than 25 percent of the residents of the county. The majority of the payment for the federal judgment will be paid by a small majority of the county residents. When the county starts collecting the property tax in

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May of this year for last year's taxes, payment will begin to be made to the five living dependents and the estate of one defendant who has passed. LB472 would create the Qualified Judgment Payment Act. Under this new act, a qualified judgment is a federal judgment rendered against a county for a violation of federal law. This is the only circumstance a county can use to impose a tax under this bill. The county board may adopt a resolution by at least a two-thirds vote of the county board to impose a sales and use tax of one-half of one percent within the county and the tax shall be used to pay, and I state again, only to help pay the federal judgment. The tax will terminate when the judgment is paid. That last paragraph there I've added-- I've introduced two amendments and we will go over those in a little bit. I introduced two amendments to clarify some of that and narrow the scope of-- part of what this bill is and we will be visiting about them a little bit later. The bill allows this tax to overlay all political subdivisions within the county, even if those municipal subdivisions have already imposed a sales and use tax. As an example, the city of Beatrice has a city sales tax. LB472 would allow the county to apply this one-half cent tax to retail entities within the city, as well as any county retail entity or community which has no sales tax. In rural areas, there were just a few city or town hubs of substantial retail activity where the bulk of the sales tax for this is collected. To raise the most sales tax for this federal judgment, the bill allows for this overlay. I want to stress to all of you, this tax can only be used when there is a federal judgment imposed on the county and the tax can only last until such time as the judgment is paid. In Gage County situation, the sales tax will raise approximately \$1.25 million per year. The goal is to pay the judgment as quickly as possible for the Beatrice Six and to remove both the increased property tax levy and the increased county sales tax upon completion of the payment. LB472 also sets out the duties for the tax commissioner for the administration and collection of the sales and use taxes. Currently, a county may enact a sales and use tax for specific purposes set out in Section 13-319. The bill would prohibit a county from imposing a tax under Section 13-319 if the county has approved a sales and use tax under this act. In other words, they could not collect on both of those situations. As I worked on LB472, I wanted to ensure you that this is a very limited tax in use and duration. This is why the tax can only be used to pay off a federal judgment and will end on completion of the payment of the judgment. I do not relish the idea of asking for this sales tax. I do not like to place a financial burden on property taxpayers. However, the county does not have a choice in paying the federal judgment. This judgment is a bill. It has come due. It is owed. I want to close with you some questions and these were some questions that during the duration of our progress through this so-called Beatrice Six, we had these questions asked of us quite often. What would you do if your county had a large judgment rendered against it and the only way to pay for it was through property taxes? Would you seek one more way to help pay off the judgment more quickly and-- excuse me --already overly burdened taxpayers, or are you truly for property tax relief? I ask you to help out Gage County or any other county that would find themselves in a similar situation with a very limited sales tax increase for a very limited purpose and a very limited duration of time. Thank you.

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FOLEY: Thank you, Senator Dorn. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Dorn would move to amend with AM959.

FOLEY: Senator Dorn, you're recognized to open on AM959.

DORN: Thank you, Mr. President, and welcome again, colleagues. AM959 was-- during the discussion in front of the committee, the League of Municipalities were one of the individuals or one of the people that spoke in opposition to them. We had visited with them several times before. Then we were well-aware of some of their thoughts and concerns during the committee hearing; and afterwards, we kept conversing with them. LB959 was mainly developed with talking to the League of Municipalities and visiting with them and their people and we attempted here to more narrowly define the scope of LB472. Part of what we did was we inserted a line in there, or we inserted some wording in there so that if the county board now will need to continue to collect the maximum amount of property tax to be able to use this sales tax. In other words, the sales tax will collect approximately 1.2 million. They will not be able to take that and supplement it for part of the property taxes. The county board now will be required to maintain the maximum 50-cent levy and collect approximately the 3.8 cents of levy. Then they will be able to collect this half-cent sales tax of approximately \$1.2 million and use that to help pay off the judgment quicker. The judgment will then most likely have a possibility of instead of more than eight years, it will put it down in the six to six and a half year range of it paying off. We also added a line in there, the Qualified Judgment Payment Act will terminate on January 1, 2027. In other words, this act, even though Gage County has their judgment paid off and they are not able to use the sales tax anymore, this act will also terminate on 2027. And then we did-- we entered on certain lines in there, on line 2 --on page 2, line 1, strike "4" and insert "6" in the line after 6 after the "judgment" and we inserted "in excess of \$25 million". In other words, this judgment now-- or to use this for a federal judgment, the judgment has to be greater than 25 million, which that is the case with Gage County. And then we also inserted in the line 29 after "full" insert "or after seven years, whichever comes earlier". What we really attempted to do here was narrow the scope of the bill, LB472, so that it does not create the possibility of other counties using it for some other purpose. It narrows the scope so that this restricts it more so that it's specific to just certain situations, mainly Gage County's, but it could only be used in that type of situation. Thank you.

FOLEY: Thank you, Senator Dorn. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend AM959 with AM1143.

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FOLEY: Senator Chambers, you're recognized to open on AM1143.

CHAMBERS: Thank you. Mr. President, members of the Legislature, this is the amendment that I had offered the other day on some other bills. I talked to Senator Dorn about what I was doing, the point that I had intended to make by offering this amendment. I'm going to make a few comments about that, then I am going to withdraw it. This bill that Senator Dorn has is extremely important. It addresses issues that people in Gage County will mainly focus on, namely these taxes, but there are other related matters such as the death penalty, how it is misused by prosecutors to try to extort pleas from people who ought not plead to anything. This case shows that people will enter false pleas, they will make false confessions in order to save their life. And although I quote the scriptures a lot of times here for other purposes, usually mocking, when God and Satan were talking about Job, Job was the stakes, he didn't know it. But what Satan told God, all that a man hath will he give for his life. These people were willing to give up their freedom, their dignity, their self respect, their innocence to save their life. Some scheming, immoral people who knew that they were extorting false confessions from these people, nevertheless, abused, misused, and corrupted the criminal justice system, misled the courts and brought us to where we are here today on Senator Dorn's bill. Because the matter is so important, I'm not even going to make comments about the reason I had for offering this amendment that is pending now on several bills, except to say, that these offerings by me were triggered by things done by members on this floor which I deem to be unethical and dishonest and misleading. That's all that I will say on that aspect of it. I will support what Senator Dorn is trying to do. I have not thought in terms of these people who are going to be paying these taxes, they're citizens of the city and the county and that's a part of being a citizen. But, when Governor Ricketts and his daddy put up almost half a million dollars to reinstate the death penalty, the people in Senator Dorn's county voted to reinstate the death penalty. That's what brought them to where they are now. People's emotions are played on. They don't believe that the system is corrupt in a lot of instances, that prosecutors will behave in an unethical and, I feel, criminal manner, they are even willing to sacrifice people's lives when they know those people are innocent. Blackstone, whose name is famously connected with the law, development of certain principles, said that it was preferable that 100 guilty persons escape punishment than that one innocent person suffer. Six innocent persons suffered. The irony of this case, the irony of life is that the man who maintained his innocence throughout is the one who died. After extorting these pleas from everybody else so that they could escape the death penalty, the death penalty was sought against Mr. White who held out and whom the prosecutors knew was innocent. The judge concluded that since deals had been made with all these other people, there's no way this man would be sentenced to death. But suppose he had been. With the Governor that you've got, the Attorney General that you've got, they would have violated federal law to obtain drugs, which are illegal, to carry out an execution of an innocent man. This is probably more troubling to me than anybody else on this floor because I thought about the death penalty, it's corrupting influence on society, on the law, on judicial processes, and this is one of the worst cases in the

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history of this country where six people at one fell swoop, all innocent, all innocent, five of them had a guilty plea extorted from them in exchange for having the threat of the state taking their life removed. Before my time runs out on this one point that I'm speaking, I would like to withdraw that pending amendment that I had placed on the desk.

FOLEY: AM1143 is withdrawn. Mr. Clerk. Debate is now open on LB472 and the pending Dorn amendment, AM959. The first in the queue, Senator Lathrop.

LATHROP: Thank you, Mr. President; and, colleagues, good morning. I support AM959 as well as LB472. And I wanted to take a moment to recognize sort of the place that Gage County is in, and in particular the place Senator Dorn is in. I think it takes an awful lot of courage for a first-year senator to walk in here and ask us to help him tax the people in his district. This judgment was entered in federal court. It was a violation of civil rights. It's a \$30 million-- roughly a \$30 million judgment. Gage County has appealed this in every way that it could and all the way to the United States Supreme Court where they denied a hearing. There is no further process for this judgment. This judgment is now affixed to Gage County and they need a solution. Senator Dorn has introduced LB472. There was also a bill introduced in the Judiciary Committee and I'll talk about that in just a second, all designed to help Gage County satisfy a judgment for \$30 million and there are no further appeals. Gage County has, and the citizens of this district have, raised their property taxes. They now want to impose a sales tax. I would suggest to you that they have no other opportunity or no other alternative than to do exactly what Senator Dorn is asking for today. I think this bill, as well as the amendment, deserves our support. That said, I'd like to talk about a bill that was introduced into the Judiciary Committee also by Senator Dorn in his effort to represent the citizens of Gage County. That bill would have had the state of Nebraska contribute something towards satisfaction of that judgment. That bill has not moved from the Judiciary Committee. I don't think it's appropriate for it to come to the floor or for the state to be responsible for any part of this judgment. Let me tell you why, because I'm confident some of the board members who have a difficult vote ahead of themselves after this bill becomes law are watching today. I've had e-mails from them and I would like them to understand why the Judiciary Committee is not advancing Senator Dorn's other bill or why the state isn't going to be responsible for any portion of this judgment. There are those things that are county responsibilities and this, I believe, is one of them. If we were to involve ourselves in the satisfaction of this judgment, then we would have the Omaha Public Schools rightly saying, you helped satisfy a judgment in Gage County, help us out with our retirement account. Throw some state money in there, that's not going to happen. We've also had a federal mandate in Omaha to separate our sewers. That's, I think, a billion dollar project with the state and the citizens of Omaha are going to have to absorb. We'd love an opportunity for the state to participate in the cost of that, but that's not how it works. So that bill that Senator Dorn offered as well-intentioned and as thoughtful as it is, is not something that's going to come to the floor. You won't have an opportunity to consider it because I don't believe the Judiciary Committee sees that as an option

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for the state to particulate in this judgment. We were not responsible for it. We certainly had a number of arguments during Senator Dorn's bill about why they thought many people in Gage County think the death penalty and the fact that we have a death penalty is one of the reasons this judgment was ultimately entered against Gage County, but in terms of a direct relationship between the state and this judgment, I don't think it exists. I don't think the state has a responsibility. But I do think this body has a responsibility to get Senator Dorn and the folks in Gage County the tools they need to satisfy this judgment because there's only one thing you can do and that's satisfy it as well as you can. This and their property tax efforts, I think, get that done over six or so years and this bill deserves our support. Thank you.

FOLEY: Thank you, Senator Lathrop. Senator Briese.

BRIESE: Thank you, Mr. President. Good morning, colleagues. I rise today to support LB472 and I'll comment on the amendment here after a bit. Obviously, there's a few ways that this debt can be addressed at the local level. County can chip away at the current rate, relying on property taxes to do it. I think Senator Dorn had a bill to allow the county to borrow those dollars from the state, but relying on property taxpayers to repay that debt. Or we can allow the mechanism here in LB472, which I believe is a fair, more balanced, more equitable method of repaying this debt. Discussion of this bill brings into focus one of the recurring issues faced by this body and that is our overreliance on property taxes to fund local government and the unfairness of a system that places a disproportionate burden on a certain segment of our taxpaying public. And what do I mean by that? On a bill we discussed a few weeks ago, LB183, I passed out a handout that described the disparity in property tax burdens born by agriculture producers relative to their nonag counterparts. In that example I handed out, the ag producer had a property tax-- a typical ag producer had a property tax burden 27 times higher than his friend or neighbor in town might have. That was only an example, but it was realistic. In fact, one testifier at the hearing on LB472 indicated that his property taxes would go up by \$7,300 per year to help pay off this judgment, while the average nonag taxpayers property tax would go up 200 bucks a year. And furthermore, I think as Senator Dorn indicated, testimony at the hearing indicated that only 13 percent of Gage County residents are farmers, but that 72 percent of the tax base is agriculture. All of this suggests that a formula that utilizes property taxes alone to pay off this debt has a hugely disparate impact on certain segments of the population there. The bottom line without this bill, ag producers already struggling from pathetic market prices, owner's property taxes, and the devastating impact of a flood will be further called upon to bail out Gage County. And folks, that's not right. Responsible tax policy should be fair, it should be balanced, and it should be sustainable. And does relying on property taxes alone to pay off this debt represent responsible tax policy? Well, it doesn't sound fair to me and it's certainly not perceived as fair to that farmer who testified at the hearing who pays-- who is going to pay 36 times what a local nonag taxpayer might pay. And forcing a disproportionate share of the burden on to ag producers is hardly a balanced approach. And when one considers a negative impact that relying exclusively on

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property taxes could have on our local ag producers in Gage County, it's easy to question the sustainability of that. Instead, I would suggest the fairest, the most responsible way, the most sustainable method is to expand the tax base to include all taxable sales as is proposed by Senator Dorn in LB472 that spreads the burden of paying for this to some extent. It will be perceived as a fair, more balanced, more sustainable method of addressing this debt. You have to remember, it's still up to the local county board. It's their decision. It's about local control and it's for a limited situation as described in the bill. As for the amendment, I don't know if I support requiring the maximum property tax levy as required by AM959 just to pay this off a year and a half sooner. But at the end of the day, I think I'll defer to Senator Dorn's judgment on that. Thank you, Mr. President.

FOLEY: Thank you, Senator Briese. (Visitors introduced.) Continuing discussion of LB472. Senator Crawford.

CRAWFORD: Thank you, Mr. President. And I rise in support of AM959 and I want to thank Senator Dorn for his hard work to work with those of us who had some concern about LB472 in terms of the precedent that it sets in allowing counties to impose a sales tax within a city jurisdictions. I think that's a concerning precedent, but I realize that this is a very specific situation that Gage County finds itself in and that these kinds of drastic times call for measures that we might not otherwise approve of. And so, I just want to thank Senator Dorn for carefully crafting through AM959 and the following the amendment some restrictions to clarify that this precedent of having the county pay-- county impose a sales tax that is in city municipalities, in municipalities as well, is only in this case only to be used in very narrow cases when there is an extremely high judgment, federal judgment brought upon the city and that only when the property taxes remain at their maximum level and only for seven years or until the judgment is paid off. And those are, I think, all very valuable contributions in terms of making sure that we're being very clear that we're allowing this county property tax to be put in place here in Gage County and only in the cases where there is some kind of extreme situation where a county may really need to impose that tax. I think there's one other criteria that we usually have when we allow a county or a city to impose a sales tax, and that is, generally we require a vote of the people. And so I talked to Senator Dorn about this a bit off the mike, but I wonder if Senator Dorn would yield to a question, please.

FOLEY: Senator Dorn, would you yield, please?

DORN: Yes, I sure will.



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CRAWFORD: Thank you. I just wondered if you would speak on the record for the policy justification for not having a vote of the people in this case, the specific case in Gage County. Thank you.

DORN: You bet, thank you. In 2013, Gage County took on a road bond which is required by a vote of the people and that did pass by a vote of the people. Part of what a road bond is, when you look at as far as the funding is either a want or a need, you need to fix the road or you want to maybe build something. Those to be able to bond then requires a vote of the people. Generally a sales tax also requires a vote of the people. Part of what is a situation here with Gage County, this is not a want, it is not a need, this has been mandated by the courts. This is required of Gage County to pay. At the committee hearing, one of my fellow county board members also made this comment. He made the comment that Gage County did not get to vote on whether or not to raise the property taxes to pay for this judgment. It was mandated. The court and the court systems have mandated that it will be paid. That is part of the discussion that the board had at that time about, should we have the people of Gage County vote on it or should we look at it entering this-- introducing this bill and have it a vote of the board.

CRAWFORD: Thank you, Senator Dorn. I appreciate having that on the record. I will support AM959 and LB472.

FOLEY: One minute.

CRAWFORD: Just wanted to have on the record that we are supporting this sales tax for counties because of the very specific situations that a county might find itself in when it has an extremely high federal judgment and it is using its property taxes to pay that judgment, but still needs more help in terms of paying that judgment, that this is a narrow situation in which we're approving this county sales tax. And that it is not a vote to say that we approve of county sales taxes in municipalities for other purposes. Thank you, Mr. President.

FOLEY: Thank you, Senators Crawford and Dorn. (Visitors introduced.) Continuing discussion, Senator Albrecht.

ALBRECHT: Thank you, President Foley. Colleagues, I just rise today to support LB472 and AM959. I, too, sat as a county commissioner for four years in Sarpy County. I can't imagine a travesty like this happening in any one of our counties. But when I think about the farmers and the burden that they're going to have on themselves, that's difficult for me to swallow, but this is something that has to be paid. I know Senator Dorn has exhausted all avenues, but, Senator Dorn, would you yield to a question, please?

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FOLEY: Senator Dorn, would you yield, please?

DORN: Yes.

ALBRECHT: Who is Gage County's insurer?

DORN: Currently, Gage County's insurance company is NIRMA, which insures most of the counties in the state of Nebraska.

ALBRECHT: And did they have to kick in any funding for this?

DORN: Gage County was not the insurer at the time of the death. In 1985, I don't have the name of insurance company with me, but Gage County had an insurance company from 1985 to 1994. At that time, the county board changed to another insurance company. There were issues there that the county board didn't get along with that insurance company. In 1997 was when the county decided to hire and have NIRMA as their insurance company. So in the middle '90s there, they changed to two different insurance companies. Part of what NIRMA included in their policy, which at the time we don't know why or what for, they included that they would only cover in arrears to August 2 of 1989. The reason that becomes important is the murder happened in 1985. By August 2 of 1989, all of the six were-- they all were charged. Only two of them-- either two or three were at that time sentenced, the others were not sentenced. The county has hired an insurance company out of Lincoln and has pursued that in court why no insurance. The court has already ruled that that August 2, 1989, date is important because they have ruled in NIRMA's favor and said as long as they were all charged, NIRMA does not have to cover. So as we stand here today, and through this whole process that we went through the Beatrice Six, you always heard the comment: Gage County, you have no insurance. That was why through that process in the middle '90s of switching from insurance company to insurance company to insurance company, that line was added in the policy and therefore, as we stand here today, we have no insurance companies. There still are two ongoing court cases trying to, maybe, collect some insurance. If there is insurance collected on any part of that or from any of the policyholders, that will also be used to pay this judgment off which then would be paid off quicker.

ALBRECHT: OK. Thank you. I just wanted that for the record. Thank you.

FOLEY: Thank you, Senators Albrecht and Dorn. Senator Lowe.

LOWE: Thank you, Mr. President. LB472 causes me some concern. I understand what Senator Dorn is trying to accomplish and I can appreciate the challenge his district and he faces. But the

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fact that this unique tax could be brought on by a vote of the county board causes me a lot of heartburn. Five members of a county board can raise your taxes. Only five. And I know that he has got this cranked down pretty tight so that it would be for pretty much this one specific purpose, but it's still five people. I view this new tax much the same way that I would view a levy override. And so I believe this bill should it be amended so the taxing decision goes to the vote of the people on the affected county. Senator Dorn and I discussed this yesterday and I know he was going to spend some time thinking about it if he could support it or change that. And I know he was going to try to contact some people. And so I appreciate his effort. Since our conversation just happened yesterday, I'm not going to vote on this bill today, nor will I speak on it again during General File. I am confident that Senator Dorn and I will discuss this bill sometime between General File and Select File to see if there can be some compromise. And, Senator Dorn, I truly appreciate what you're doing and I believe this is the one reason why you came down here is to get relief for your county. And I want to thank you for that. I want to thank you for being here and having your county your main concern. Thank you, Mr. President.

FOLEY: Thank you, Senator Lowe. Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor. Good morning, again. Senator Dorn, as you have served as a county commissioner and I understand there is probably not another elected position one can have that's more accessible to the public, I get that. And I'm not trying to say that I feel your pain, but I understand somewhat the dilemma that you found yourself in. In 2009, our county assessor was doing things that were inappropriate and we had to do a whole county reevaluation. And I found myself having to find \$500,000 to make up for a new evaluation of our county property. Now \$500,000 is not 30 million, but it was difficult when we had no cash reserve. So it's a difficult position and I appreciate you bringing this to us and allowing us to understand your dilemma and how we can try to fix it. But you and I had a short conversation off the mike and I have a couple of questions that I'd like to ask you if you would yield.

FOLEY: Senator Dorn, would you yield, please?

DORN: I would be glad to.

ERDMAN: Thank you, Senator. So you had mentioned in your opening remarks that your mill levy was 38 mills and then you raised your mill levy. Did you raise it the full 12 mills?

DORN: Because of the judgment and because of the way state statutes are, we could raise to 50 cents the full mill levy that's allowed under our four counties, which is the other-- approximately 12 cents. It was just-- we had in the budget just short of 12 cents left to raise it and we did raise it the full amount.

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ERDMAN: OK. So then you could only raise it 2.5 percent per year, or how did you get around some of those stipulations on the budget increase?

DORN: That's a good question because you also are-- counties are also limited by a 2.5 percent increase each year, or by a super majority vote of the board another percent increase would be 3.5 percent.

ERDMAN: Right.

DORN: We originally, as a board, thought that was how we could come about paying this judgment off.

ERDMAN: OK.

DORN: We found out, though, that no, that is not the case. There are nine exemptions in state statutes for paying off judgments. One of those exemptions is the 50-cent levy lid. So that was the one that we had to use. We were exempted under the 2.5 percent yearly increase. But we were required in state statute to go to the maximum 50 cents.

ERDMAN: OK. So your county, and you mentioned you were a supervisor, is your county a township form of government?

DORN: Yes, it is.

ERDMAN: So there were seven of you?

DORN: There is seven board members.

ERDMAN: Yeah. So that, Senator Lowe, that's a little different because under township form of government it's seven. So you said earlier that you're going to raise about \$1.25 million a year. Was that from the property tax increase?

DORN: No, that is from this proposed half-cent sales tax. The property tax, the 12 cents of levy based on the valuation in Gage County, will raise right at \$3.8 million a year on property taxes, from property taxes.

ERDMAN: So the two together are going to be about \$5 million?

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DORN: If this passes, then this would be an addition to the 3.8 million. This would be about 2. million and roughly raise 5 million. So what that essentially will do, will pay the judgment off quicker.

ERDMAN: OK. So in the judgment that was placed against your county, do you have to pay interest on that?

DORN: Yes. The county is required to pay interest on this.

ERDMAN: So it's a \$28.5 million settlement?

DORN: \$28.1 million, plus approximately \$2 million in lawyer fees--

FOLEY: One minute.

DORN: --because \$1 was awarded, you also had to pay all the plaintiffs' lawyer fees. So it's a little over \$30 million.

ERDMAN: Does the 30 million include the interest that will accumulate?

DORN: No. No, the interest rate was set by the federal court and that will come out to approximately in the neighborhood of a million dollars.

ERDMAN: So when you do that, so when that is done, then you will drop the sales tax?

DORN: Yes.

ERDMAN: Do you have a county sales tax now?

DORN: No, the county does not have a sales tax.

ERDMAN: OK. Thank you.

DORN: Cities in the county do, but not the county.

ERDMAN: Yeah, I understand. Thank you.

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FOLEY: Thank you, Senators Erdman and Dorn. Senator Brandt.

BRANDT: Thank you, Mr. Lieutenant Governor. I'd like to thank Senator Dorn for bringing this bill. I'd like to thank Senator Briese and Lathrop for their comments. I rise in support of LB472. As it currently sits, only 25 percent of the taxpayers in Gage County, specifically the property taxpayers, must pay this federal judgment. This bill spreads the tax load over everyone who pays sales tax in Gage County and will decrease the long-term burden in Gage County for the property taxpayers. Would Senator Dorn yield for a question?

FOLEY: Senator Dorn, would you yield, please?

DORN: Yes.

BRANDT: Senator Dorn, could you tell me on this judgment today what you anticipate the average home and irrigated quarter section to go up in taxes?

DORN: Twelve cents of levy, and I don't have an average value of a house in Gage County. When I explained it to people as we went through this process, I always explained it if you took a \$100,000 house, 12 cents of levy would be \$120 of property taxes. I do not know though in Gage County what the average price of a house is. I would put it somewhere maybe higher than that, 140, 150,000. So if you took 150,000 that would be \$180 a year. On a dryland quarter in Gage County when we estimated that, that was going to be around \$700 on that dryland quarter. An irrigated quarter would be in the neighborhood of \$900. Those are all estimates. Depends on the value of your quarter.

BRANDT: And just to be clear, those are just the increases above what they usually pay for their property taxes?

DORN: That is what the 12 cents of levy will increase.

BRANDT: Thank you. I urge all my colleagues to vote green on AM959 and LB472 and I would yield the rest of my time to Senator Dorn if he would so like it.

FOLEY: Thank you, Senator Brandt. Senator Dorn, 2:40 if you care to use it. He waives that off. Senator Chambers, you're recognized.

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CHAMBERS: Thank you. Mr. President, members of the Legislature, all of those bills that came before the Judiciary Committee that wanted to lay liability and responsibility on the state, I had opposed, made it clear that I opposed them. When Senator Dorn, by whatever methodology he resorted to, has brought a bill like this to us, I don't know why anybody would vote against it, but everybody does what they will do for whatever reasons. I don't think that there are additional arguments that have to be offered to get people to support this bill. But the thing that looms over all of it, as far as I'm concerned, is the existence of the death penalty. The state arrogating to itself the authority to kill people, kill its own citizens, knowing that innocent people have been on death row, more than 168, actually innocent people were taken off death row thanks to DNA. If that many people were taken off due to the presence of DNA, you know that innocent people have been executed. I'm not a religious man. Maybe that's why I have so much sympathy for those that other people want to throw away and say have no value. I'm not a fortune teller. I can't read anybody's heart, if they have one, or their mind, but the state should never take anybody's life, especially when there not only is a possibility but a likelihood that innocent people would die. And guess why those people got off, so to speak? Almost 20 years ago, because I look at these things, I brought the legislation that will allow DNA to be used and if there was any biological evidence from any crime that had been committed, that DNA could be utilized, the DNA from that biological evidence, compare it to the DNA of the person who has been convicted, and you could find that this person was not the one who did it, and at the time I brought the legislation, there was no legislation like that anywhere in the country. You all don't know who you've got among you. You don't know what I think. You don't know how I feel. You don't know what things are important to me, but it's not this Legislature that did it. It's somebody who was scorned, reviled, called vile, and hated by the rest of my colleagues. But somehow I was able to persuade them that we need this kind of legislation. And if it didn't exist in the country for that purpose, you know there was no model that I could appeal to, so I had to use logic, arguments, and as it turned out, the legislation was passed. What would have happened to those six people if they had not given a false confession and there was no DNA? You all would have killed them because you all believe in the state killing, even if it means that innocent people will die. If one person who is innocent can be killed, isn't that enough to show that the so-called punishment or penalty is not suitable? But all those statements are fine words. They do not determine the conduct of the people who are in a position to make sure that something like this never happens again. I had mentioned how the people in that county voted to bring back the death penalty.

FOLEY: One minute.

CHAMBERS: The fact that people voted to bring it back has led people to ask me why will I try again to abolish the death penalty because the people had voted to bring it back. The U.S. Supreme Court said-- I'll turn on my light. I can't finish it in 30 seconds.

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FOLEY: Senator Chambers, you're recognized for five minutes.

CHAMBERS: Thank you, Mr. President. The Supreme Court in 1972 struck down every death penalty law in this country. They did not disturb the convictions, but those appeals could still be made, but there was no death penalty in effect. States began to reenact them, reinstate them, as Nebraska did. But when the court was handing down that decision, a comment was made that applies even in Nebraska, as backward as Nebraska is, as unfeeling as Nebraskans are, as unsympathetic as Nebraskans are, until something comes into their house, affects their family or their friends. The Supreme Court stated that this idea of the state killing goes to the issue of fundamental human dignity. That that dignity is violated when the state kills, especially under the circumstances made available by the existing laws. They said that the ones who get the death penalty are the poor, the unpopular, racial, ethnic minorities. And if the practices that were levied against those people were applied across the board to everybody similarly situated, then you wouldn't have a death penalty. No rich person has ever suffered the death penalty in this country. Wealthy people in this state have committed murder, but not one faced the death penalty. The Supreme Court said this issue goes to such a fundamentally important aspect of human dignity and justice that it is not to be settled by popularity contests, by opinion polls, or by elections. And what people want to tell me is that people voted a certain way, therefore, I should accept the way they voted. Would you want them to vote and say you can be a slave because a majority said you should be a slave? Would you want to have to give a man favors if you're a woman because a majority of those voting said that a woman has to do that? Some things are not subject to be resolved by a popularity contest or an election. And no election, no vote is going to determine how I feel and will act when it comes to a matter of basic, fundamental human dignity. And the reason it means so much to me where other people are involved is because mine has been violated ever since I've been in this world because of my color. I am denied the luxury of human dignity, but because it's withheld from me, I do not say that I want everybody to suffer in the way that I do. I want to do all that I can to make sure that nobody, nobody has to wake up in the morning and think what I think, feel what I feel, know what I know, and come to work in a place like this and work harder than anybody else--

FOLEY: One minute.

CHAMBERS: --knowing that it's in vain. Did you say time, Mr. President?

FOLEY: One minute.

CHAMBERS: I know it's in vain. You all know it's in vain. What I do is a mockery, and it is mocked, but I'm going to keep doing it and I hope that Senator Dorn will understand that my words are not directed at him, except to give him credit for it is within his hands to persuade this



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body to do what now should be done whether we like it or not. We have to deal with the reality, and I'm going to turn on my light one more time.

FOLEY: Senator Chambers, you're recognized.

CHAMBERS: Thank you. Mr. President, as you all might be aware, it's not often that I give accolades to a member of this body. But as has been pointed out, there are people in that county who I don't think will be appreciative of having their taxes raised. I'm sure if Senator Dorn could have found an easier, less painful, less politically dangerous methodology, that's what he would have opted for. But he looked at the reality. He felt that something had to be done. So, that feeling had to be translated into action and it brought him into a body such as this Legislature and he was able to achieve the only thing that was, practically speaking, the only thing available to settle that judgment. But I have to touch on something else. The lawyers knew that there was no hope of winning any of those appeals. Their work was easy. Somebody on the outside might say, boy, they had a hard time. No, they didn't. If I know the outcome and there's only one outcome, it's not hard for me, and I'm making money. The longer I draw this out, the more money I make. Nobody expects me to win. Your county had come back so many times that in one of the hearings before the Eighth Circuit, they said we are very familiar with this case. And the lawyers, I think, verged on unprofessional conduct by having these appeals, these appeals going nowhere and would know that they're not going anywhere. But that's water under the bridge and they will be paid. The "Bibble" said in the form of a question, why do the wicked grow old and prosper? Well, Senator Lowe, I've satisfied that first part. I have grown old. The prospering may or may not come. But having lived as many years as I have, having spent half of my life in this place, having labored as hard as I have, have seen the kind of people who need help and we could give help and we chose not to do it, is a strain. And I think it takes a special kind of creature--I'm not going to say a man; a man couldn't do what I've done--a special type of creature or being to exist that many years, to be rebuffed that many times by the very people who are helped most, and continue to do it. To continue. I haven't even done what Jesus did. I've never gotten a whip and come in here and dealt with you all in the way that I felt like you ought to be dealt with. So I've restrained myself beyond what he did. I will invoke the name of that person because from what I read, I like what he talked about. I like the people he tried to help. And I wish those of you all who say you believe in him, I wish you really did. I wish every one of you was a dyed-in-the-wool hat, heartfelt, soul-drenched believer in Jesus in what he taught. Then I could leave this place and you all would do the right thing. But that's not going to happen.

FOLEY: One minute.

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CHAMBERS: So we have the opportunity today to do that which people may wish was not necessary, but it is essential. And I'd like to ask Senator Briese, would he like to make a wager in the short time that I have left?

FOLEY: Senator Briese, would you yield, please?

BRIESE: No. [LAUGHTER]

CHAMBERS: Sit down. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Dorn, you're recognized to close on AM959.

DORN: Just a couple quick comments on AM959. The intent of that amendment is to help more narrowly focus what this bill is intended to do and that is to help the county with their payment of the judgment. Thank you.

FOLEY: Thank you, Senator Dorn. Members, you heard the debate on AM959. The question for the body is the adoption of the amendment. There has been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please.

ASSISTANT CLERK: 27 ayes, 3 nays to place the house under call.

FOLEY: The house is under call. Members, please return to your desk and check in. The house is under call. All senators please return to the Chamber. The house is under call. Senator Cavanaugh, check in, please. Senator Wayne, check in, please. Senator Groene, please check in. Senators Hughes, Wishart, and La Grone, please return to the Chamber and check in. The house is under call. Very good. Senator Dorn has authorized us to proceed. The question for the body is the adoption of AM959. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 47 ayes, 0 nays on the adoption of the amendment.

FOLEY: AM959 is adopted. I raise the call. Is there any further discussion on LB472? Oh, excuse me, Mr. Clerk, you have an amendment.

ASSISTANT CLERK: Mr. President, Senator Dorn would move to amend LB472 with AM1193.

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FOLEY: Senator Dorn, you're recognized to open on your amendment.

DORN: Good morning, colleagues. This is just a quick insert of a line into the bill. Visiting with another senator in the last couple days, they were concerned about the clarification of how many votes it took of the body of Gage County. What this would do is it says the "affirmative vote of at least a two-thirds majority of all elected members". In other words, this would require whether you had five members at the meeting or seven members, it still would require five yes votes to pass this bill. Thank you.

FOLEY: Thank you, Senator Dorn. Is there any discussion on the amendment? I see none. Senator Dorn waives closing. The question for the body is the adoption of AM1193. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 45 ayes, 0 nays on the adoption of the amendment.

FOLEY: AM1193 is adopted. Is there any further discussion on LB472 as amended? Senator Erdman.

ERDMAN: Thank you, Lieutenant Governor Foley. Thank you, Senator Dorn. It looks like that was a close to unanimous vote as you'll ever get. I was wondering if he would yield to a question.

FOLEY: Senator Dorn, would you yield, please?

DORN: Yes, I will.

ERDMAN: Senator Dorn, your county functions under the township form of government, correct?

DORN: Yes.

ERDMAN: Has your county ever tried to change from a township form of government to a commissioner form of government?

DORN: We've never taken a vote or anything like that. We've had discussion with the townships. The board has had discussion while I was on the board with townships. The townships were definitely not interested in it.

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ERDMAN: Do the townships actually function as they're to function?

DORN: Believe it or not, we have 24 townships in Gage County and outside of one or two that we sometimes have issues with, they are doing a very, very good job of functioning as townships.

ERDMAN: Could one say that having the township form of government could be double taxation and duplicate of services?

DORN: I guess that would depend on how you wanted to look at the situation. Sometimes it could be said that way, sometimes not. Yes, they are allowed to collect so much property taxes. If they did not do their duties or their job though, then that would fall on the county.

ERDMAN: Do you have any of those situations where you, the county, have to pick up what the township should have been doing?

DORN: We may have had that a time or two. If it was, it was a very rare situation. I don't recall one while I was on the board, though.

ERDMAN: Your comment about the functioning of the townships is surprising to me. I've not heard that same comment from other counties who have a township form of government. So I appreciate that information. Thank you.

FOLEY: Thank you, Senators Erdman and Dorn. Is there any further discussion on the bill? I see none. Senator Dorn, you're recognized to close on the advance of the bill. He waives closing. The question for the body is the advance of LB472 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 1 nay on the advancement of the bill.

FOLEY: LB472 advances. Proceeding to the next bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB268 introduced by Senator Friesen. (Read title.) The bill was read for the first time on January 15 of this year and referred to the Transportation and Telecommunications Committee. That committee placed the bill on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Friesen, you're recognized to open on LB268.

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FRIESEN: Thank you, Mr. President. Members of the Legislature, LB268 is a bill that would make it easier for rural residents to improve their level and quality of broadband service. Last year this Legislature passed LB994, which created the Rural Broadband Task Force and made changes in our telecommunications law. I'm pleased to report that the task force has been regularly meeting and will be making recommendations in its scheduled report in November to assist in rural Nebraska in closing the digital divide between urban and rural areas. We have some rural companies that provide outstanding service. For example, my farm has top-notch service because the provider went out, borrowed money, upgraded its facilities, and provided fiber optic to the home in rural areas. However, we have some companies that are not willing to invest in resources to provide that quality of service. It is not equitable when your service is lacking compared to your neighbor living just across the fence from you because he or she is living in another telephone exchange. LB268 changes the criteria for the Public Service Commission to consider when an applicant wants to change companies to a provider who is providing service in a local exchange adjacent to the local exchange where the customer lives. The new provider would have to be willing to provide that service. Current law requires applicants to show that he or she is not receiving the service or will not within a reasonable time in the future receive that service. LB268 will lower that threshold to only require that the applicant prove that he or she is not, at the time of the application, able to receive the services requested. The bill won't solve all of the rural broadband problems, however it will help some rural residents maybe, and maybe get some companies get more interested in providing quality services, particularly if they start losing customers. I urge you to support LB268 and advance to Select File and I would be happy to answer any questions. Thank you, Mr. President.

FOLEY: Thank you, Senator Friesen. Items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. Amendment to be printed: Senator Lindstrom to LB218. The Appropriations Committee will be having Exec Session today at noon in Room 1003; Exec Session, Appropriations at noon, Room 1003. Name adds: Senator Pansing Brooks would like to add her name to LB62.

And finally, Mr. President, a priority motion. Senator Slama would move to recess the body until 1:30 p.m.

FOLEY: Members, you heard the motion to recess. Those in favor say aye. Those opposed say nay. We are in recess.

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FOLEY: Mr. Clerk, please record.

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ASSISTANT CLERK: There's a quorum present, Mr. President.

FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

ASSISTANT CLERK: No items at this time.

FOLEY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following four legislative resolutions: LR59, LR60, LR61, and LR62. Members when we left, the noon break, we were on LB268. Senator Friesen had previously introduced the bill. Senator Hughes was first in the queue. Senator Hughes, you're recognized.

HUGHES: Thank you, Mr. President. Good afternoon, colleagues. I did use my personal priority on LB268. It is extremely important that we get high-speed broadband built out as quickly as possible to rural parts in Nebraska to make sure that we have the same opportunities that are in the cities. I was fortunate, I had high-speed cable buried to my house this summer, but I am on the end of the line. From my place they will build farther down the road. Fortunately for me, I have a very good company, Great Plains Communication is my exchange provider. But sitting on the Transportation and Telecommunications Committee for the last three years now, it has become very clear that there are some bad actors in this arena. Some of the larger companies are-- I won't say dragging their feet, but they're taking a long time, not only to build out high speed, but just to maintain the infrastructure that is currently in place. And the more pressure that we can apply to those companies to do their job and get high speed out to more rural areas, the better off it is, the better off we are, and the state as a whole will prosper. I do have, probably, the most telephone exchanges of anyone in my district. I have several independents. I have some of the statewide companies. And it's interesting how the small independents have taken on debt and built out, you know, that I was very frustrated because in areas more rural than where I live, had access to high-speed Internet because that local independent had made the commitment to their exchange. Now they have a much smaller area than some of the large companies that we're all-- we all know their names, they have a lot bigger territory to build out, but they are choosing not to service all of their customers. They're picking and choosing the areas where they can make the most profit. And I equate this to pushing electricity into rural areas back in the '30s and '40s, you know, Senator Norris did for us in the TVA. That was an expense, but it certainly allowed the entire state to grow and prosper and high-speed Internet will do the same. This is a good bill. That's why I used my priority on it. Thank you, Mr. President.

FOLEY: Thank you, Senator Hughes. Senator McCollister.

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McCOLLISTER: Thank you, Mr. President. Good afternoon, colleagues. I wonder if Senator Friesen would stand for a few questions.

FOLEY: Senator Friesen, would you yield, please?

FRIESEN: Yes, I would.

McCOLLISTER: Senator Friesen, in Nebraska, how is broadband coverage penetration speeds, how is that administered in this state?

FRIESEN: Well, I guess each company decides how they want to build out. Right now, there's like the company that serves me, they've decided to build out and they've built out five, six years ago so we have fiber to the home. Others are more reluctant to spend capital in the rural areas. They've upgraded their systems in the urban areas, but they're-- so it's basically, it depends on the company that's serving you whether or not you're going to get high-speed broadband.

McCOLLISTER: Thank you. In Nebraska is there a governmental body that governs what the cellphone companies do?

FRIESEN: Not cellphones. Landlines are regulated by the Public Service Commission.

McCOLLISTER: Now, is that an elected body?

FRIESEN: The Public Service Commission, yeah.

McCOLLISTER: Yes.

FRIESEN: Yes.

McCOLLISTER: How many states in the country have an elected Public Service Commission, if you know?

FRIESEN: I wouldn't know how many have elected. They all have something like the Public Service Commission. Sometimes they're labeled something else, but I don't know how many are elected or not.

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McCOLLISTER: Now, we also have a Universal Service Fund. Can you tell us about the purpose of that fund and how much money is in that fund?

FRIESEN: Well, there's two different Universal Service Funds. There's one on the federal level. Is that the one you're interested in or-- ?

McCOLLISTER: Primarily the state USF.

FRIESEN: So there's a federal Universal Service Fund and then there's also a state. It's called the NUSF fund, Nebraska Universal Service Fund. A few years ago, I mean I know back in the day when more landlines were out there I think they generated probably around 60 to \$70 million a year, and recently it's dropped off to probably under \$30 million a year, and--

McCOLLISTER: Yeah, and the federal fund is how large?

FRIESEN: I couldn't tell you how large the federal-- how many dollars they put into it. I couldn't tell you that.

McCOLLISTER: We recently looked at a USG publication, the Mark [PHONETIC] publication of around the region, and we looked at some-- some of the statistics with regard to cellphone and connectivity. Did we see that in terms of national ranked connectivity in the Midwest that Nebraska is ranked number two, lowest, just behind Kansas in terms of national ranking in terms of connectivity?

FRIESEN: I didn't read the article. You showed it to me, I didn't go dig it up, but I-- a lot of times there's-- I think that one you showed me was a 25/3 speeds--

McCOLLISTER: Yes.

FRIESEN: --and so in Nebraska, at least, in a lot of the-- I guess under the federal U.S.-- the Universal Service Fund there were a lot of build outs that were only at 10/1.

McCOLLISTER: I see.

FRIESEN: And so that was the requirement back then. So that's probably why we're not as fast in the 25/3 or have as much connectivity. But we probably have been too focused on the 10/1 because that was a federal requirement.



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McCOLLISTER: Well, I looked at some of the statistics in terms of broadband coverage. Kansas is sitting at 81.9 percent; whereas, Nebraska is 82.4. All the other states in the Midwest: Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin, have higher rates of broadband penetration. Any reason why that should be the case in Nebraska?

FRIESEN: Well, I wish it wasn't the case. But I think you have to look at the geography and how everything--

FOLEY: One minute.

FRIESEN: --is laid out. Nebraska, you have high-population centers, but then you have a very large portion of the state that's very sparse. And so I think that sparsity-- as far as a population that is hooked up, we have a high percentage hooked up, but they're in the cities. But our rural areas is where it's so sparse and so far to travel where you can't make a good business case for putting it there, and that's where we're having a struggle.

McCOLLISTER: Thank you, Senator Friesen. Thank you, Mr. President.

FOLEY: Thank you, Senators McCollister and Friesen. Senator Kolterman.

KOLTERMAN: Thank you very much, Mr. President. I would like to thank Senator Friesen, as well as Senator Hughes, for prioritizing this bill and bringing the bill. I'd like to ask Senator Friesen a couple of questions.

FOLEY: Senator Friesen, would you yield, please?

FRIESEN: Yes, I would.

KOLTERMAN: Thank you, Senator Friesen. I just want to make sure that I'm approaching this correctly and you tell me if I'm wrong. So at the present time, I'm with a large company here in Nebraska with my landline and I also use DSL, which brings me a Internet connection which is very slow. And for four years now they've been telling me they're going to upgrade and they're going to bring us some higher speeds. I know, for a fact, in my district there's a company called Mainstay. That's, I believe, where you're connected at, and they did all their county wide homes and took it upon themselves to expand that, is that accurate?

FRIESEN: That would be true.

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KOLTERMAN: Yeah, and they're a small company, but they borrowed the money to do it. Then we got these national companies that are coming in here and they're putting all this line in. In fact, in my home, I'm 150 feet away from three fiber-optic lines that go right through my ditch. And I live about a mile and a half out of town. CenturyLink and Level 3 is one of them, they joined here recently. Windstream is another one, and then there's an independent. So if I understand this correctly, if I wanted to negotiate with one of them to bring fiber into my home, and I'm in a contract with Windstream, I could do that under this bill. Is that an accurate statement?

FRIESEN: I'm not sure. If you would be on an exchange boundary, you can. But if those fiber lines just happen to be running by, I'm not so sure. So it depends on where your telephone exchanges, where those borders and boundaries are drawn, and if you are on a boundary, if across the road it's served by CenturyLink, then yes.

KOLTERMAN: Or Hamilton or whoever.

FRIESEN: Yes, if there's another company there and you're on that boundary exchange, then this would allow you to go to the Public Service Commission and request, if whoever the company was on the other side was willing to accept you, you could request to be transferred to that exchange.

KOLTERMAN: So, I would just tell you that my service is pathetic and I don't get any fast speeds on my Internet. Why are all these small companies then investing in the communities? Are they able to go into a community and not worry about the people on the outskirts of the community?

FRIESEN: Well, again, it varies a lot across the state depending on the companies. There's some really good companies out there that have built out and spent a lot of money, they've borrowed money, they've probably gotten some grants, but they have really approached this in a very aggressive manner because they saw how important it was for their area. But the large companies, like the Windstreams, the CenturyLinks, they're having to invest in capital to upgrade facilities that are in their urban area because there's high competition there. So they're lacking the capital, they say, to build out into those urban areas because you can't make as good a business case. So our goal, I guess, is to find out how we can incentivize them or get them either through other processes, reverse options, numerous other methods, to where we're going to push them to now start to invest capital into those rural areas.

KOLTERMAN: Well, I appreciate what you're doing. I'm going to support this bill and I would hope that as we move forward, if we're going to continue to grow our state, whether it's through

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economic development, we're going to have to have good broadband throughout the whole state. And it's not just for the metropolitan areas or the communities, its for our rural people as well.

FOLEY: One minute.

KOLTERMAN: Thank you, Mr. President. So I think you're on the right track. Maybe this won't affect me yet, but hopefully we can get this done as soon as-- so people will have good, quality broadband. Thank you.

FOLEY: Thank you, Senator Kolterman and Senator Friesen. (Visitors introduced.) Senator Bostelman.

BOSTELMAN: Thank you, Mr. President. Good afternoon, colleagues. I stand in strong support of LB268. I would like to speak a little bit along the lines of what Senator Kolterman just said. I live 32 miles from this building and I have zero Internet connection as far as hardwire or otherwise. I have a landline to my house. We also have cell reception, poorly, but we have it. My landline people absolutely refuse, refuse to connect us in any other way than what we are right now. They refuse to do a fiber, they refuse to do wireless, they flat out refuse it. What this will allow is that if I'm on a border area and if there is a competing company across the line that we can now potentially have access or have-- bring that service into my home. So Senator Kolterman was a mile, mile and a half outside of town. I'm 32 miles from Lincoln and we don't have the opportunity to have broadband. One thing you have to understand, too, when you look at national reportings, there's a federal form 477 that our telecoms, they report connectivity with. And when they do that they do by census blocks. And when they report it, all they have to say in order to be 100 percent coverage, which my area is 100 percent coverage with broadband, all they have to do is say that we can easily provide that service. That's all they have to say and that's 100 percent. So, sometimes when we look at our national reports, especially 477 from the feds, you got to take that with a large grain of salt, probably a block of salt. Because what they're reporting was actually-- is what we're finding is vastly different. In my case and Senator Kolterman's case, both are vastly different. So if we're going to encourage and be able to move broadband out throughout our state more, this is a very important bill. One aspect of many that we're going to have to take, I think, to encourage that type of opportunity, competition, if you will, in order for us to get broadband and wireless services out to parts of the state. And I know I have talked with-- you don't have to go rural, I've talked to people in Omaha that don't have it, inside the city limits of Omaha that aren't connected. So who is servicing them and would this benefit them as well? I think it would. So I would encourage your green vote on LB268 and I fully support it, and thank you for your listening. Thank you, Mr. President.

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FOLEY: Thank you, Senator Bostelman. Is there any further discussion of LB268? I see none. Senator Friesen, you're recognized to close on the advance of the bill. He waives closing. The question for the body is advance of LB268 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 37 ayes, 0 nays on the advancement of the bill.

FOLEY: LB268 advances. Proceeding now to LB352. Mr. Clerk.

ASSISTANT CLERK: LB352 introduced by Senator Morfeld. (Read title.) The bill was read for the first time on January 16 of this year and referred to the Judiciary Committee. That committee placed the bill on General File with committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Morfeld, you're recognized to open on LB352.

MORFELD: Thank you, Mr. President. Members of the body, I'm pleased today to introduce my priority bill, LB352. LB352 enhances transparency to protect against false jailhouse witness testimony, a leading contributor to wrongful convictions. A broad coalition testified in support of this bill, including victims advocates, law enforcement, and the Innocence Project. It is based on a model bill endorsed by the American Legislative Exchange Council, otherwise known as ALEC. And I want to thank Senator Williams, Senator Lou Ann Linehan and Senator McCollister and a few others, I believe, for also cosponsoring the bill. It's not often that you see this amount of different groups on the same side of the issue, but this legislation is an important measure that we can all agree that is needed to protect innocent crime victims, taxpayers, and the public safety. Jailhouse witnesses provide testimony about hearing another inmate confess and expect leniency or other benefits for their cooperation. As you can imagine, the expectation of a reduced sentence or other benefits creates a strong incentive to lie, which can cause a tragic ripple effect in the criminal justice system. Jailhouse witness testimony played a role in 159 wrongful convictions in the United States since 1989, harming innocent people and allowing actual perpetrators to escape justice, and those are just the ones that we know about. Taxpayers are then left to cover the economic costs of these injustices as we have seen in Gage County. Also, victims of jailhouse witnesses, crimes are denied justice when they're assailants get leniency to testify for the state. LB352 provides transparency and protections by requiring the tracking and disclosure of jailhouse witness testimony. First, I want to clarify that we have a very narrow definition of the term "jailhouse witness" in this legislation. The bill only applies to incarcerated individuals who offer testimony about hearing an accused person confess to a crime while they were in jail or in prison together, and receives or reasonably expects to receive benefits for their cooperation. If the witness doesn't expect or receive a benefit, it doesn't apply. Also, if an inmate is going to testify about witnessing a crime in prison, this bill does not apply. I

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have an amendment to the committee amendment that reflects a compromise that I struck with the Attorney General's Office and County Attorney's Association in working with some of our colleagues and that the Innocence Project also approved. I'll discuss that when I introduce the amendment to the committee amendment. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. As the Clerk indicated, there are amendments from the Judiciary Committee. Senator Morfeld-- excuse me, Senator Lathrop, you're recognized to open on the committee amendment.

LATHROP: Thank you, Mr. President. Colleagues, good afternoon. The Judiciary Committee heard LB352 on March 6 and advanced the bill to General File with a committee amendment. Both the motion to adopt the amendment and to advance the bill were approved with six ayes, one present and not voting, and one member absent. The committee amendment, AM761, makes four changes to the original bill. First, it strikes Section 8 of the green copy that provided jury instructions regarding jailhouse informant testimony. The amendment also adds a new section to provide that if the jailhouse informant is offered a plea bargain, or a reduction in either the charges or the sentence, the prosecutor must notify any victim of the jailhouse informant's offenses. AM761 strikes Section 6 of the original bill, which required the prosecution to show that the jailhouse informant's testimony is reliable and replaces it with a hearing process on a motion to be made by the defendant to determine whether the jailhouse informant's testimony should be admitted. The prosecution has the burden of proof. If a court finds by a preponderance of the evidence that the informant's testimony is significantly lacking in reliability, the court shall not allow it to be presented. Factors the court may consider include the relationship between the informant and the defendant, the substance, time, place and manner of the statements between the informant and the defendant, as well as between the informant and the defendant. Other corroborating evidence may also be considered. The last change made to AM761 is to strike some legislative findings, language that jailhouse informants' testimony is generally unreliable. I would encourage your adoption of the committee amendments and encourage your support of AM-- pardon me, LB352. I will note as Senator Morfeld did, that he has an amendment to the committee amendment that becomes a white copy amendment and basically takes the place of everything I just told you about. And with that, I would encourage your support of the committee amendment. Thank you.

FOLEY: Thank you, Senator Lathrop. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Morfeld would move to amend the committees amendments with AM955.

FOLEY: Senator Morfeld, you're recognized to open on AM955.

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MORFELD: Thank you, Mr. President. Members of the body, now this amendment reflects the discussions that I've had with the interested parties in the bill to compromise with the Attorney General's Office and the compromise with the county attorneys as well. As Senator Lathrop mentioned, this actually strikes everything and creates a white copy amendment. You can see it on your computer, but I'll give you a brief summary. This amendment-- the amendment strikes three sections of the green copy bill. This is what it maintains. It maintains the notification of defense requirement, the victim notification requirement, and an amended tracking requirement. It eliminates the jury instruction, it eliminates the pretrial hearing component, and it clarifies the tracking requirement so it's easier for county attorneys offices of different sizes to comply with it. What remains in the bill and what LB352 accomplishes with this amendment is twofold. First, prosecutors will begin keeping searchable records of instances when jailhouse testimony was used at trial or otherwise used to obtain a criminal conviction. Secondly, the defense counsel will be made aware 30 days prior to the trial of important facts surrounding jailhouse informant, including whether or not they have ever done this before and what sort of benefit they are getting for their testimony. This amendment is a significant improvement to the current evidence law in Nebraska while still allowing prosecutors the same tools to do their job. I do want to raise a final point for the legislative record. This amendment strikes a portion of the original bill that provides for pretrial hearing regarding the admissibility of anticipated testimony of jailhouse informants. I want to make sure that the record is clear that this amendment is not intended to eliminate the possibility of a pretrial hearing regarding the admissibility of the proprietary-- of the propriety of the jailhouse informant testimony. Rather, it is being deleted because there's already a current procedure by which a defendant can raise challenges to admission of certain evidence. In addition, the tracking required under LB352, Section 4(1)(d) only requires the prosecutor to disclose those cases where the jailhouse informant testified as a jailhouse informant as it is defined in the bill. And such testimony is actually used in a criminal case or to obtain a criminal conviction. This tracking requirement is not intended to require disclosure about any other cases where testimony was offered when that testimony was not given by a jailhouse informant. I urge your adoption of AM955 to AM761 and your support of LB352 and I appreciate the Attorney General's Office, the county attorneys, and all the other interested parties, including the Innocence Project for working with me on this bill.

FOLEY: Thank you, Senator Morfeld. Debate is now open on LB352 and the pending amendments. Senator Hilgers.

HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM955 and as amended, LB352. I'd encourage your vote in favor of both the amendment and the underlying bill when it is amended, as I hope it will be. And I want to thank Senator Morfeld in his leadership on this particular issue, not just bringing it to our attention and leading on it, but also his willingness to sit down and collaborate with the various stakeholders. We had a number of conversations with the Attorney General, the County Attorney's Office, and the Innocence

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Project, and ultimately what we-- I think what it will be in the bill, if it's amended with AM955, is what really is the most important aspect of this which is ensuring that in this process there is due process. In other words, that a defendant has the opportunity to act on that testimony and to explore through discovery or other means, or as Senator Morfeld mentioned, potentially a motion to strike or a motion to eliminate it to exclude that evidence at trial. And so the most important aspect in my view and as I think these discussions kind of came to light, what we're trying to give is ensure that the defendant has that due process and in order to have that due process, what's important is that they have notice. In many cases, they do have notice now, but this-- with this statute or this bill, if passed, will help solidify that and ensure that they do have notice. If they have notice, then they have the opportunity to do some other things, including that they could, as I mentioned, get discovery, or they could move to strike the testimony in front of the judge. And so what this does, I think, is help strengthen some protections, but it does it within the context of our current system. And so I appreciate Senator Morfeld's willingness to work through these issues. I think as amended, this will get the job that I think Senator Morfeld wants to get done, it will get it done. And I'd encourage you to vote for the amendment and the underlying bill. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Is there any further discussion on the bill or the amendments? I see none. Senator Morfeld, you're recognized to close on AM955.

MORFELD: I just want to thank all the interested parties and also thank Senator Hilgers for his support. Thank you, Mr. President.

FOLEY: Thank you, Senator Morfeld. Members, you heard the debate on AM955. The question for the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 43 ayes, 0 nays on the adoption of the amendment.

FOLEY: AM955 is adopted. Further discussion on LB352 and the pending Judiciary Committee amendment. I see none. Senator Lathrop, you're recognized to close. He waives closing. The question for the body is the adoption of the Judiciary Committee amendment, AM761. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 41 ayes, 0 nays on the adoption of committee amendments.

FOLEY: The committee amendments are adopted. Any further discussion on the bill as amended? I see none. Senator Morfeld, you're recognized to close on advance of the bill. He

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waives closing. The question for the body is the advance of LB352 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 42 ayes, 0 nays on the advancement of the bill.

FOLEY: LB352 advances. Proceeding to LB483. Mr. Clerk.

ASSISTANT CLERK: LB483 introduced by Senator Erdman. (Read title.) The bill was read for the first time on January 22 of this year and referred to the Revenue Committee. That committee placed the bill on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Erdman, you're recognized to open on LB483.

ERDMAN: Thank you, Lieutenant Governor Foley. Good afternoon. I want to start out by thanking the Revenue Committee for bringing this bill out. This is a bill that I've been working on for three years, and I would also thank the Governor's Office and Lauren Kintner. She helped immensely working this bill in a way that would make sense. The Property Assessment Division and Ruth Sorensen have been very helpful as well. So I appreciate their assistance in bringing forward a bill that will change the way we value ag land for taxation purposes. I became aware of the current system in '05 when I became a county commissioner, and I became immersed in it in '09 when I discovered that our current property-- our current assessor at that time was doing things that were not appropriate according to the statutes, and we had to do a whole county reevaluation. So I think my goal today is threefold. First, I needed to describe in a way, if I can, that you can understand the current system that we're functioning under. And the second approach, or the thing that I need to do, is explain to you what this will do when we change the value. And then, third, is the method that we use to do that. So let me begin by trying to describe what it is we currently do. And I will start with a document that was handed to me early on in my understanding of the valuation process. And in 2011, the TERC board, Tax Equalization Review Committee, as well as the Property Assessment Division, paid for a review from an organization in Arizona about how we value ag land. And so what we currently do, and many of you will understand or think that we do a three-year average in ag land valuations, we do not. We do a three-year average on houses and those kind of properties-- or a two-year average on houses and other properties, but on ag land we accumulate sales-- a sales history of three years, and then we figure out what the percentage of assessed value is compared to what it sold for and then we choose the median sale. So a three-year average is never included in the way we value ag land. And so, in the document that was put forth by the Arizona group, they analyzed our system compared to the mass appraisal approach. And what they discovered or what they said about our mass appraisal approach is that if you have a sample of five sales, it is absolutely unreliable. And if you were to increase that sample to 20, it only is twice as good. And so in most counties, the



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ones that I have looked at, less than 1 percent of the ag land sells on an annual basis. So Senator Crawford, here's the situation. So in my county, we sell less than 1 percent of 7,000 parcels on an annual basis. And then we value the other 99 percent, that did not sell, based on less than 1 percent that did sell. I'll give you another example. A few years back in a northern tier of my county, our counties broken into three market areas, we had two land sales in three years. And we borrowed sales from the other counties surrounding us and we got up to ten sales and we drove the price up 10 percent; when, in fact, the two sales in our county weren't statistically provable-- enough proof to change anything. So if I were to say, we have a handful of M&Ms and I need to get 20 percent yellow ones, I only need to get one yellow one to have 20 percent out of five. But if I have 80 M&Ms and I wanted to get 20 percent yellow ones, I'd need to get 16. So the point I'm trying to make is the current system we now use to value ag land makes absolutely no sense in the mass appraisal approach. The other issue we have is several people buy land for other reasons besides agricultural use. And so if that land is purchased with a 1031 exchange, or that land is purchased for other things beside agricultural use such as hunting or recreation, that drives up the value of those people who have bought the land to farm or to produce crops on. And so consequently, we have found over the last 12 to 14 years, ag values have increased in some counties as much as 300 percent. Had my valuation system been in place, those ag land values would have most importantly increased about the same as commercial and residential in that 40, 50 percent range. LB483 is not, I repeat, LB483 is not property tax relief. It is a fair way to value ag land so that we base it on the income production capability of the soil. I have handed you a document and the document is the productivity valuation from the state of South Dakota. So, three years ago when we began to look at changing the way we value ag land, the Governor and I both had bills that were similar, and we brought those out in a bill from the Revenue Committee in the property tax relief, income tax relief, valuation change bill, which was a very difficult bill to understand. Last year I presented the bill again to change the value of ag land. It did not get out, but this year it has. And so let me draw your attention to this document that I have gotten from South Dakota. Let me start by saying this: what this bill will do, when this bill is implemented, and I had the Revenue Department run the numbers for me, my intention for this bill is when the valuation is put in place after my bill passes, if it does, will be exactly the same valuation in agricultural land as we have now. There's going to be no reduction in value of ag land. It's going to be the same value. What South Dakota did is they calculated how much ag land they had and the number was \$18.9 billion in ag value in South Dakota. So they backed into their capitalization rate and they locked it in at 6.6 percent. I have a friend that served in the House of Representatives in South Dakota, then became a state senator. I've had conversations with Berry about what happened and how did you do that? When they implemented in 2010, they took an average of 6.6 capitalization rate and made that the capitalization rate statewide. What they discovered, as I have discovered, Jerry Green is a gentleman who has been helping put these numbers together, Jerry Green has analyzed properties in the eastern counties, central counties, and western Nebraska counties, and he has discovered that to keep the value the same, the capitalization rate in eastern Nebraska needs to be

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in that 6 percent range. The capitalization rate in central Nebraska is probably in the 8 range, and in western Nebraska it's 10. Now, remember, the lower the capitalization rate, the higher the value. And so if we chose a median capitalization rate of 8 percent, say that's the average, we would decrease the value in eastern Nebraska and we would increase the value in western Nebraska. And so, South Dakota for eight years had been making adjustments to their plan and they've had to make those adjustments when their legislature meets because they didn't have a provision set up to make adjustments going forward to figure out how to fix their capitalization rate because their capitalization rate is static, it's been fixed in statute. And so, if you'll turn to page-- it would be page 2, if I could draw your attention to page 2. Now, I'm doing this for example only. I'm not saying this is exactly how we will do it, but this is the example how it can be done. If you look on the middle of page 2, they have listed all the crops that were grown--

FOLEY: One minute.

ERDMAN: Thank you, sir. --all the crops that were grown in that county, the acres produced, the bushels produced, and all that information is available, and then the price and they got the total revenue, and then they figured out what the total production was for that county. And that's how they backed into their capitalization rate and then they went through their scenario of a 35 percent landlord share and all of those things. But I brought that to your attention to show you that we can figure out how much production there is on each soil classification according to the NRCS and some of the other available information that's with the USDA. How much time do I have left, sir?

FOLEY: 18 seconds.

ERDMAN: OK. I will continue this on my next time. Thank you.

FOLEY: Thank you, Senator Erdman. Mr. Clerk.

ASSISTANT CLERK: Mr. President, Senator Erdman would move to amend with AM973.

FOLEY: Senator Erdman, you're recognized to open on your amendment.

ERDMAN: Thank you, Lieutenant Governor. Let me go to the amendment first and if you would, and you have your copy there, I'll go through what the amendment does. As I was working through this with the Governor's Office in trying to figure out how to make this as easily understood as possible, I discovered some things that needed to be changed. And let me draw your attention to page 7, line 27. And on page 7, line 27, all I have done there is I have taken out

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the two words "in bushels," and the reason I took that out is because some crops, Senator Lathrop, are measured in tons. And so I just put "production." And so that was a change on page 7. And then if you turn to page 10, line 19; and on page 10, line 19, we struck "and" and inserted underscored comma; and then after members, we inserted "shall serve as the board's chairman." I had in there that the ag secretary would be-- secretary of ag would be the chairman and we're changing that to be the chairman of the Tax Commissioner. And line 22-- that's what it does on line 22. And then I have stricken line 26. I have stricken the appointed board shall be compensated \$500 a day, and we're going to give those people the usual and necessary expenses like lodging and food and mileage. That's what that does. And then line-- it's page 11 and line 6, strike through the remaining members and those specified in subdivisions 1 (d), (e), and (f) in this section. And then on page 12, it again inserts the name Tax Commissioner instead of the ag secretary-- secretary of ag. So, that's what that does. That's the amendment. It made some sense. One of the things that you have seen, and if you looked at the fiscal note, it's a petty significant fiscal note. I have visited with some people who have worked in the Property Assessment Division, some people who are familiar with how that functions, and after we get this set up, I don't believe there will be a need for additional employees. I think the full-time employees they have will be able to administer what we're trying to do because those employees now are keeping track of all the sales that are recorded in the counties and that will no longer be a service that they will have to provide. So I think they'll be available to do those things that are needed. So I have some other documents that I'd like to pass out. We'll pass these out and-- but let me call your attention to the bottom of page-- the back page, number 4, on the South Dakota model that I gave you. So what South Dakota has done, and you will see what they've done there, they have taken their top-rated soil and meant that was the best soil and so that was a 1.0 in their production scale. And then their soil classifications were based off of that. So if their soil was 80 percent as much production as it was in the Class 1 soil, it would be 80 percent. And so in the middle of that page, they had crops that were produced on that. And then this example, they also had grassland in that same example. And so that's how they arrived at the value, their top soil, the soil in that parcel was four different types of soil. In South Dakota, their soils have initials. In Nebraska our soils have numbers, and I will give you a document to show you what those are. And so consequently-- so in that top number they took 72 percent of the 42 acres at \$90 an acre and they got the numbers there and it's just a mathematical equation how to get the value. So that was a South Dakota example. We have looked at South Dakota, Kansas, and Iowa. I like the Iowa model with the corn suitability rating. I like that model a lot. The only problem with using a corn suitability rating in Nebraska is we do not grow corn in every county in Nebraska. There are several counties that have no corn production at all. And so consequently, using a corn suitability rating, like they do in Iowa, will not work in Nebraska. And so I said that-- I shared this information with you on the South Dakota example for an example of how we may do it. In the bill we talked about a Land Valuation Board, and the purpose of the Land Valuation Board is twofold. One, to be able to present to the county assessors the information they need to make the decisions on the value of production that the soil produces. The second reason, and I alluded to

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that earlier in my comments, in South Dakota they had to wait until they had a meeting of their legislature to make adjustments. I do not want to start where South Dakota started. I want to start where South Dakota arrived at, and that's making adjustments to make it work. And so the Land Valuation Board will have the authority to make the necessary adjustments so that they can make this work going in that we don't have an eight-year adjustment period to make it work right. That land bank-- that Land Valuation Board will have to write a report and be responsible to the Revenue Committee. They'll have to also write a report and be responsible to the Governor. And so there will be some oversight in that regard. And so as we move through the valuation change, it will be an opportunity for the Land Valuation Board to make those decisions based on the information that they've gathered, what the USDA has put together, as well as the NRCS, and that information is readily available, the statistics are there as the commodity prices and those kind of things. And when we get to grassland, I will explain that on my next opportunity how we're going to value that. If you have questions, I will try to answer those. I know there has been some comments and questions that have been brought up by NACO and some other people, and I have looked at those documents and I have answers to most of those questions, I believe. And I will try to answer your questions the best that I can. Thank you.

FOLEY: Thank you, Senator Erdman. Debate is now open on LB483 and the pending amendment. Senator McCollister.

McCOLLISTER: Thank you, Mr. President. Good afternoon again, colleagues. I salute Senator Erdman's effort to go through this process. Lord knows with the increase in land values throughout Nebraska, we need to change our system. So this is a good first effort. I wonder if Senator Erdman would answer a few questions.

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: I'll do my best.

McCOLLISTER: Senator Erdman, I gave you some documents last week that reflected on this bill. I gave you a document from Larry Dix from NACO, Thomas Placzek from Platte County, and finally, a document from Robert Wickersham that had some concerns about this bill. Is that correct?

ERDMAN: You did, sir, and I appreciate it.

McCOLLISTER: That's good. Let's go through some of the issues that particularly that NACO-- that NACO had with this bill.

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ERDMAN: OK.

McCOLLISTER: Now, the first one had to do with the lack of modeling with the-- before the Revenue Committee when you presented the bill. Is there anything that we could do that would better prepare this bill for prime time with some modeling?

ERDMAN: Can you define what you mean by modeling?

McCOLLISTER: Well, take these values that you have presented the Revenue Committee and actually do some modeling throughout the state that would indicate that, in fact, that there's no big net increase in property tax or a big net decrease in property taxes for rural areas.

ERDMAN: Sir, the Revenue Department has done that. I have a document that I can present to show you. They did all 93 counties based on the valuation we currently have, and then they ran that same scenario based on the new valuation and the changes, if there was any, was due to rounding. It was that close. So the value will be the same going in, coming out as it went when we went in, so their valuation is going to be the same. I have a document that I presented to you that may answer some of those questions about modeling, and I handed that document out, and that may be of value, if you--

McCOLLISTER: Thank you. I haven't had an opportunity to review the document, but thank you for that. Secondly, the composition of the agricultural Land Valuation Board, there's no demand to have someone with an appraisal certificate. Is that something that might improve the quality of the bill?

ERDMAN: So if I understand your question, you're asking should there be an appraiser on the Land Valuation Board, is that correct?

McCOLLISTER: Yes, sir.

ERDMAN: OK. I understand your question, and we have a provision in the bill for a certified appraiser. I mean, an assessor, a assessor license holder. An appraiser is a person who develops the value of a certain property on a certain day. I don't know how much training assessors have on mass appraisal and arriving at a value for a countywide appraisal such as an assessor does. We have an assessor on that board.

McCOLLISTER: Thank you, Senator.

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ERDMAN: That would be an opportunity for that person as an assessor and having that information to make that application so that it makes sense. But I don't know that an appraiser would help them any.

McCOLLISTER: Thank you. Well, there are also some constitutional issues that these three documents presented. One of which was the uniform and proportionate issue. Secondly, has to do with the special valuation. And lastly, there apparently been some court cases that would indicate that unequivocal statutory language might be an issue in the bill. Can you deal with those issues?

ERDMAN: What I can-- how I can answer that one is, the current system we have now, because of the fallacies with the mass appraisal approach, somebody, someone should have sued the state a long time ago over those provisions. And what generally happens, and it happens a lot, is when someone like NACO doesn't like a bill, or anyone else, they will say, it's probably unconstitutional. That's the main thing that they throw in your face. Let me talk about NACO just for a second. Senator McCollister, I gave NACO an opportunity, and the assessor who was complaining about this, an opportunity to help me with this bill so that it would be in a manner that they would like it to be. I offered that opportunity to them several times and they chose not to. I don't understand--

FOLEY: That's time, Senators.

ERDMAN: --after the fact when--

FOLEY: That's time, Senator.

ERDMAN: Thank you.

FOLEY: Thank you, Senator McCollister and Senator Erdman. Senator Lathrop.

LATHROP: Thank you, Mr. President. Colleagues, good afternoon once again. Would Senator Erdman yield to some questions?

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: Yes, sir.

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LATHROP: I want to start out by telling you, mostly what I got is a bunch of questions because I have a legal background and plenty of years reading statutes and I'm reading this bill, and for the life of me, I'm not sure I understand it, so.

ERDMAN: OK.

LATHROP: Part of what I'm going to do today if I might, is-- and hopefully other members of the body will benefit from you and I having a-- breaking it down to the simplest aspects of this. But this start out with a bill that we heard a couple weeks ago, doesn't it? That you introduced dealing with valuing property according to the soil types.

ERDMAN: That bill would value land based on the production capability of soil, yes.

LATHROP: OK. And this is sort of built on top of that bill, am I right?

ERDMAN: This uses the same principles.

LATHROP: OK. What are those soil types, if you can remind us.

ERDMAN: What are they?

LATHROP: Yes, sir.

ERDMAN: They're numerous. They are--

LATHROP: Were there five or--

ERDMAN: There's hundreds.

LATHROP: OK. I'm going to start with this principle. Right now we use comparables, so we're valuing ag land the same way somebody is going to value my house. Neighbor's house sells, a couple of neighbors house sells, they figure out what square feet in my neighborhood go for, they multiply my house times the square feet and they say, you know what, Lathrop, that's probably what your house is worth. It's close enough. Right? That's currently what we do with ag land, except that once we get through that process, we knock it down to 75 percent. Would that be fair? I know you may have some problem with where we get our comparables or whether there's

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enough comparables out in your part of the state, but that's generally what we do. Would that be true?

ERDMAN: Basically, Senator, an ag land valuation, we sometimes compare apples to oranges when it comes to ag valuations because of the soil quality. And we have different land-class groupings in different areas in the county and we're not comparing apples to apples in the way we value ag land now.

LATHROP: What you're describing is your complaint with the current system, and my question was, isn't that the current system?

ERDMAN: It is the current system.

LATHROP: OK. And it has this virtue, if you will, and we can talk about your criticisms, but it has this virtue. People understand it. Right? It's comparable sales times what your acres are, whatever it is, and then we get to an assessed value and then we multiply that times .75, and for ag land that's what we base your property taxes off of.

ERDMAN: I can agree that they take the sales price and multiply 75 percent, that's the value, but it's not comparable sales, that's the problem.

LATHROP: I understand. And that's what you're trying to do here.

ERDMAN: That's correct.

LATHROP: So there may be somebody in your county who is sitting on a pile of rocks and somebody on the other side of the county that's got irrigated dirt, that you can tell I'm from the city, right?

ERDMAN: Right.

LATHROP: But that's your point.

ERDMAN: Correct.

LATHROP: And what you want to do now is base it upon the type of soil.



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ERDMAN: Correct.

LATHROP: And the premise there is that soil types will have a particular production capability, and with a particular production capability they'll have a particular earnings ability.

ERDMAN: That's correct.

LATHROP: OK. Now, I know there's hundreds of soil types, you've just told me that.

ERDMAN: Right.

LATHROP: I thought your list in the last bill had it like down to five, or six, or--

ERDMAN: That was one parcel. That's the number of soils on a specific parcel of ground.

FOLEY: One minute.

LATHROP: OK. So do we have a category that's generally ground that we could grow corn on?

ERDMAN: There are numerous soils that will grow corn and the production capability of the soil is listed in the NRCS information.

LATHROP: OK. Can you give me one of those?

ERDMAN: Yeah, 1705. Soil 1705. In Nebraska, we have-- our soils are listed by number instead of alphabetical like in some other states.

LATHROP: Sure, OK. So let's use 1705. That's something somebody could grow corn on without irrigation or with irrigation, because that changes it, too, doesn't it?

ERDMAN: Yeah, it does change it, yes. Yeah, I have an irrigated example as well.

LATHROP: That's OK because I want-- the next thing I want to do is compare it to wasteland. All right. So our 1705 soil type, tell us-- walk us through the process of evaluating how we're going to assess that going forward.

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FOLEY: That's time, Senators. Thank you, Senator Lathrop, Senator Erdman. Senator Arch.

ARCH: Thank you. I just have a couple of questions for Senator Erdman if he'd yield.

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: Yes, sir.

ARCH: As it relates to agriculture land, Sarpy County I'm thinking of here, so it relates to ag land within a-- that's in close proximity to a metropolitan area, how would this vary? Would there be unique differences as to the valuation of ag land that is in close proximity to housing developments, that type of thing?

ERDMAN: No, sir, it would not. The soil will be valued at the capability of its production, and so whether it's near a city or it's 50 miles out in the country, the value is going to be the same because it's the same soil type.

ARCH: OK. So no variance for that. OK. Last question I had was, you said that the goal here is revenue neutral so valuation and property taxation would then net out. How do you see impact of this rolling out in the future? Do you see this remaining at that level? I guess I'm unclear with the formula as to how that could be impacted.

ERDMAN: OK. The goal of doing the change in valuation would be over a period of time, and the bill would use a six-year average. It used an eight-year Olympic average, Senator Arch, and what that means is they throw out the high and low. And so we would determine the value of production based on the price of that commodity that was used in that county for that year, and then it would be an eight-year Olympic average, throw out the high and low and then average of the value-- the average of the commodity prices, and so when the corn was \$7, your value would be a little more. And when corn is \$3, it would be a little less. But what we're going to try to do is we're trying to prevent that run-up in ag value because ag land valuations have slipped some over the last three or four years, but I have a chart in my office back home that shows over a 50-year period, ag land goes up and then it comes back slightly, and then it goes up higher than it was before. And so ag land values may be turning down now, but in the near future they will again rise, and when they do that, ag land values are going to go up, which means the valuation is going to change for everybody and ag land value taxation is going to go up again. So this is an opportunity for us to connect the taxes paid with the production capability of a soil.

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ARCH: So I'm not familiar with the term Olympic average, but it sounds like it's a rolling average so that the predictability of revenue for the counties could remain fairly predictable, not depending upon commodity prices from year to year.

ERDMAN: They would be very, very predictable, yeah, very consistent.

ARCH: Thank you. I yield the balance of my time Senator Erdman if he would like to use it.

FOLEY: Thank you, Senator Arch. Senator Erdman, 2:00.

ERDMAN: Thank you. Thank you, Senator Arch. On one of the documents, Senator Lathrop, that I have at the top it says, 142251 is the legal description. There's about 12 soils there. Let's follow across if you would, 1705 is the soil right at the top, and then the left-hand column four numbers are from the county. Those are actual values in the county. And then the right-hand numbers are the values that would be put in place after my bill is implemented. So let me bring your attention to 1705. 1705 value with the county is \$375 an acre. If you go all the way across to the second column from the right, under my scenario it's 345. That's because that soil number, 1705 will produce 1,500 pounds-- 1,240 pounds of-- 12,400 pounds of grass annually and that's worth \$3.45 based on the production. As you move down that fourth column, you will see the county has the value at 375--

FOLEY: One minute.

ERDMAN: Thank you. --375 and then there's a 410 and then there's a bunch of 375s. In my county, they could just make grass 410 or 375, two classes. When you go clear to the right, those numbers vary based on the productivity of the soil and you'll notice those numbers change, 345, 345, 354, 357, 348 and then you get down to 1895, that's a better soil and that soil will produce more grass and so the value of that acre of soil is \$417. So you see what they're doing now, they're basing the soil based on what they think the value is, and what I'm trying to do is base the soil on what it's capable of producing. That's the difference between what they're doing now and what I'm trying to do. So if 1705 is in the south part of the county, or 1705 is in the north part of the county, it's going to 14, \$17 an acre. Currently, they don't do that. It's whatever that parcel brought over there.

FOLEY: It's time, Senator.

ERDMAN: Thank you.

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FOLEY: Thank you, Senator Erdman. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. President. I do have questions for Senator Erdman, but I'm actually going to take this time for a different issue. I didn't want to add a motion or a floor amendment to take this time so I'm just going to take the moments that I have right now and I'll hit my button again to follow up with Senator Erdman. As I've mentioned this week, April is Sexual Assault Awareness Month. Over the past several years, many Americans have woken up to help pervasive sexual assault is in the nation. I have woken up. From the time I was a teenager, I've been touched by men in an inappropriate way. I've never talked about this. I never even acknowledged the inappropriateness of these actions to myself. I was more concerned about making my perpetrators uncomfortable or embarrassed than I was for my own safety and well-being. With numerous high-profile stories of sexual assault and misconduct, myself and other survivors across the country have realized that we aren't alone and don't have to be silent about our assault any longer. Today, I would like to discuss more than just sexual assault. I would like to talk but the broader problem, systemic sexism. We as a culture have been socialized to accept sexist acts that we allow them to go unchecked. Earlier this week, this body was complicit in perpetrating systemic sexism. I was complicit. I didn't want to be, but I found that though I like to think I'm strong and outspoken, I'm still scared. I'm scared of being categorized as a hysterical woman. I'm scared of being viewed as sensitive or emotional. I'm scared of being pigeonholed as just a fighter for every social cause. I'm scared of people thinking that I'm just speaking to my own issues. So after some sleepless nights, for once not related to taking care of small children, I rise today to acknowledge my mistake. I was sent here to be a voice for the people of my district and the people of Nebraska. I will continue to work to not allow my own insecurity to stop me raising my voice against discrimination, whether it be in a bill or in the actions of a colleague. I do not want to derail any senators' legislation or prevent it from having a full and fair debate, that is not my purpose in rising up at this moment to speak. But I do hope that the body will stand with me in actively opposing discrimination and aggression toward anyone inside or outside of this Chamber. Colleagues, I'm asking all of you to join me, all of you, to join me in being advocates for the marginalized and watchdogs against hate and discrimination. When this body debated the need to expand workplace protections to sexual orientation and gender identity, arguments by-- made by this body in opposition to that bill were saying that it was unnecessary, the members of the LGBTQ community don't face unfair prejudice or discrimination in Nebraska. I would argue that some of the behavior we've witnessed recently on the floor pokes holes in that argument. I ask that the body live up to what its members have said on the floor. If this type of workplace protection is unnecessary, then we should reflect that assertion in our own actions because we as a body represent all corners of the state and we should not tolerate hate, sexism, or discrimination. Additionally, there's a clear and pervasive prejudice against working mothers. There are those who would criticize working mothers for doing what needs to be done to juggle the needs of their children and the responsibilities of work. If you have a job that you need to show up for every day and you have a child who needs your care, you have to

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make compromises. The voters of Omaha felt confident that two such mothers were not only qualified to serve their district, but also capable of managing that balance. It is disappointing that members of this body do not feel similarly. But it is not just the body that is unsupportive of working mothers, it is this building. It is the building itself.

FOLEY: One minute.

CAVANAUGH: When I arrived here for the first day of orientation back in November with my then four-month-old son, it was immediately apparent that there is no space for nursing mothers who work in the building to express milk or nurse other than a stall in the public rest room. I have tried to work with the Legislature and the Capitol Commission to address this issue. The Capitol Commission acted in poor faith with me and my bill, LB70, and purchased what is called a nursing pod. They spent approximately \$20,000 on this pod that we are in a financial crisis and placed it in a public copy room. My bill requires that there be running water available in the mother's room so that women may clean pieces of their pumping equipment. With the current nursing pod, women still have to rely on facilities in the public rest room. I rely on a public rest room. It is my hope that the Government Committee will Exec on this bill this session and move it to the floor. Every single one of my female colleagues cosponsored this bill and it is my hope that the gentlemen in this body will join us in making this building more adequate for working mothers within our walls. Thank you.

FOLEY: It's time. Thanks, Senator Cavanaugh. Senator Blood.

BLOOD: Thank you, Mr. President. I stand, not necessarily in favor or against the amendment or the bill, but I will have a few questions. But first, I would like to say how thankful I am to have such strong women in the Legislature this year. With that, I would ask that Senator Erdman yield to a question or two.

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: Yes, I would.

BLOOD: Thank you, Senator Erdman. How are you today?

ERDMAN: Good.

BLOOD: So I want to say that I appreciate the fact that you brought this bill forward. I have a lot of questions, part of it is because we have construction noise in the background and you may

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have already answered this question so I apologize if I ask it again. So while you were speaking, I had a lot of questions and I texted one of my friends in South Dakota that is serving right now. And if I heard you correctly, did you model this after what South Dakota was doing?

ERDMAN: No, we did not. We looked at their example to draw from that information to see how we might implement our program, and my goal for doing that was try to see what they did. We looked at Kansas and we looked at Iowa as well, and the South Dakota model kind of fit what we wanted to do, but our method is somewhat different but yet similar.

BLOOD: Are you concerned that they put together a new committee last year because they had felt that the system they'd had in place was not working?

ERDMAN: They've had some issues. And what my friend told me was they believe they have those issues solved now. And they were dealing with those things on an annual basis and that was one of the reasons why we put in the Land Valuation Board so that decisions could be made in the interim to try to address some of those issues so they wouldn't have to wait a whole year to make that correction.

BLOOD: Yet she had specifically said the issues were that their current law didn't address three specific classes of property, so agricultural, residential, and commercial. Does that sound right? And yours just talks about agricultural land, correct?

ERDMAN: This bill-- this bill deals only with agricultural land.

BLOOD: And so with that said, do you know how we frequently have bills where we'll ask that Class 1 cities be exempted?

ERDMAN: Can you say that again?

BLOOD: Do you know how we frequently bring bills forward and we may come and amend it to say that Class 1 cities are exempted from a bill?

ERDMAN: Yes, yes.

BLOOD: Would you say that this bill would be more-- and I'm not trying to create a divider of any type, I'm really trying to clarify. Would you say that this bill pertains more to ag land in western Nebraska than it really does in eastern Nebraska?

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ERDMAN: No, ma'am, I would not.

BLOOD: Explain why.

ERDMAN: Because the valuation problem has no boundaries. It is just as bad in eastern Nebraska as it is in western Nebraska. And unless we get back to production capability of the soil, we haven't fixed the problem for anybody whether you live in western Nebraska or eastern Nebraska. And the problem is, ag land is purchased for many reasons and some of those are not for agricultural production and when that happens, and don't take this wrong, but when a group of lawyers get together and buy some land for hunting and they're willing to pay more than the going price, then that value drives up the value for the farmers who are trying to farm. This eliminates that.

BLOOD: I'm not a lawyer so I don't take offense to that, yeah.

ERDMAN: I understand that, but this eliminates those situations.

BLOOD: So if I read the bill correctly and I'm hearing you correctly, and I'm sorry I interrupted but I only have a small window of time to ask these questions, so it's not going to affect the taxable values for like owner-occupied homes or business properties then in any way.

ERDMAN: No, ma'am.

BLOOD: You're only talking about ag land.

ERDMAN: Ag land only.

BLOOD: And if there's a building on it, it's not ag land? If there's a building on it, it's not ag land?

ERDMAN: This will not affect buildings on ag land. They're still valued the same as your house is. This has no effect on ag buildings.

BLOOD: All right. So, the concern I'm having-- I'm going to keep listening is-- because I'm looking at your bill, I'm looking at the concerns that I saw with the South Dakota bill, and I definitely see where you're coming and I respect where you're coming from, but I still have some concerns that I'm not hearing the answers on--

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FOLEY: One minute.

BLOOD: --so I will keep listening. I may push my button again.

ERDMAN: OK. I appreciate it.

BLOOD: And I appreciate your time. Thank you, Senator Erdman.

ERDMAN: Thank you so much. Thank you.

FOLEY: Thank you, Senator Blood and Senator Erdman. Senator Howard.

HOWARD: Thank you, Mr. President. Good afternoon, colleagues. Senator Erdman, I'm not going to ask you any questions about your bill, so you're free. I wanted to take a minute and talk a little bit about-- and unfortunately, Senator Erdman, yours is one of the first sort of tax bills, valuation bills, revenue bills that I've seen where I felt that it was important that we talk about what we need revenue for on the Health and Human Services side. I want the body to be on the same page about the fact that we have a critically underfunded system in our Health and Human Services agency, and so as we consider modifications to revenue as we consider tax policy, I want us to actually know what's going on-- what we're spending our money on and what we don't have enough money for. So I just wanted to highlight a few-- we'll sort of take a walk down memory lane in terms of child welfare for a few minutes. So in 2011, before any of us got here, having Senator Lathrop was here, the Health and Human Services Committee conducted-- had to conduct a nine-month investigation after the collapse of an attempted privatization of our child welfare system. It was critically underfunded. We attempted privatization through the executive branch. There were six anticipated contractors, all but one of them failed. All but one of them failed because we didn't have enough money for them to do the work effectively. Shortly into privatization another major provider of child welfare services ended the contract because it was financially untenable. In Lancaster County specifically, they ended it in a day. In a day. There were families who were working with a contractor, the contractor said we're not getting enough money for this contract, we're not going provide this service anymore, and they left in a day. The very next day all of those of cases had to be transferred back to the Department of Health and Human Services, back to our General Fund without a contractor involved. A few months after that, the third contractor in the western service area terminated their contract a year into privatization, and then ultimately the department had to take on all of those case management responsibilities and, bonus, had to provide an additional \$19 million to our two additional remaining contractors. We were in complete crisis and chaos, and while all of this was happening, all of our smaller behavioral health providers who had contracted with those privatized entities for case management and child welfare had to close their doors. So we lost a



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lot of access, which brings us to today, so that we're all on the same page about what kids in our child welfare system are needing. As of March 31, there were 4,240 kids in out-of-home care in the state of Nebraska; 4,240 kids in out-of-home care in the state of Nebraska. It is wildly expensive for us to place a child in-out-of-home placement, for us to manage that case. But when we step away from the cost, which this is a bill about evaluation and it's a bill about revenue and it's a bill how we consider land, when we step away from the cost, we are putting kids through an incredible amount of trauma. And so as we consider revenue, as we consider taxes, as we consider tax policy, I would like us to also consider what we are paying for and what we would like our money to go to. I view our budget as a moral document. It is a moral document that tells the state what is important to this Legislature and what is important to our constituents. And whether that's kids, whether that's Medicaid expansion--

FOLEY: One minute.

HOWARD: --whether that's Corrections, we are telling the state what is important. And when we underfund these systems, when we make sure that we don't get enough revenue in and underfund these systems, we have greater challenges in the future. So I appreciate the body's courtesy by letting me go off on a little bit of a tangent. Thank you, Senator Erdman, for letting me speak on your bill not necessarily on the subject matter and with that, thank you, Mr. President.

FOLEY: Thank you, Senator Howard. Senator Erdman, you're recognized. Senator Erdman. Senator Erdman, you're recognized.

ERDMAN: OK, thank you. Sorry about that. And I appreciate the questions that people have and I understand how difficult it is to comprehend what it is we're trying to do. And I also understand that for me trying to explain to Senator Walz or Senator DeBoer what it took me ten years to learn, how do I do that in a three-hour or an hour and a half period of time, I understand. OK. But let me talk about something that I think may be of value to everyone. Mr. Green, Jerry Green, has done a spreadsheet that puts a production capability of each one of these soils into an Excel spreadsheet and how difficult would this be for the county to set this up? Dr. Green has a spreadsheet that when you enter the soil number, the production capability of that soil comes up. All you have to enter is how many acres you have and what the production price is and it will print out what the number should be. When we get this set up for every county, that spreadsheet will have every soil in that county in the spreadsheet. It will be a simple calculation by the Excel spreadsheet to give you the value. Currently what they do is they get a piece of land that's sold and they get a 521 form from the assessors office that tells-- from the treasurer's office that tells what the land sold for and they guess, they guess at the value of what each parcel, each parcel is worth and what the soil on that parcel is worth. It's a guess. That's why when you see those numbers from the county, that's why the majority of them are exactly the same. There's no

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differentiation because they don't break it out. What we're trying to do is base it on each soil on that parcel and the capable of that soil to produce a given crop, whether it's corn or beans or grass or wheat or whatever it is. And so it's not as cumbersome as one would think, it's not as difficult as they try to make it sound, and it will be a very easy process, it will be very objective rather than subjective like it is now. So when I passed out that information on those-- that sheet of paper that has those values on it, and I talked about the grass production, on the next two pages, one of them is dryland and the dryland one is 192250 at the top left corner, that is a dryland parcel, and the same thing happens on that piece of land. If you look down the fourth column from the left, all of those numbers are exactly the same except for two. If you look over to the second column from the right, you see the numbers of the soil capability production from that soil based on what that soil is capable of producing. You see how much variation there is in that parcel of land, and did you notice at the bottom of column five, from the left, 66,634 is the value. That's the current value at the courthouse. And if you look at the right-hand column, it's \$66,634. It's exactly the same. The difference is, Senator Lathrop, the difference is all of those numbers that are the same in the left four columns from the left are different in the second column from the right--

FOLEY: One minute.

ERDMAN: --because it's based on the productivity of that soil. That's the difference. That's what we're trying to do. We're trying to base the value on what the soil is capable of producing, not what an assessor guesses the value is. Thank you.

FOLEY: Thank you, Senator Erdman. Senator Bolz.

BOLZ: Thank you, Mr. President. As I think about this bill and listen to the debate on this bill, I understand the goal here to be better aligning property tax valuation with the ability to produce income. And the reason that you would do that is to have a fairer tax payment, and that's the way I'm thinking about this bill. I think Senator Erdman has been clear that his goal is not to reduce taxation. But I think that the reason for changing a valuation would be so that there is a change in the way that we consider the taxation. So if we're really trying to better align the valuation of land and the ability to produce income, what we're trying to do is better assess what is a taxpayer's ability to pay versus their burden, versus what they are expected to pay. And I think that there are multiple ways that need to be considered by this body to do that, to achieve that kind of goal. And it gives me an opportunity to talk about a bill that I've worked on for several years and I've brought again. It's LB420 and it is the property tax circuit breaker. Many other states implement property tax circuit breakers. And they are a way to provide targeted tax reductions to people whose property taxes are high relative to their incomes. In other words, it's called a circuit breaker because the income tax credits are triggered once a property tax reaches a

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certain percentage of the person's income, similar to the way an electrical circuit breaks when electricity surges. So this bill would create a income tax credit that would help offset a disproportionate or an exceptionally burdensome property tax bill. And I want to talk about it because what we're talking about today is fundamental to what is fair, what is fair and what is good, and what is reasonable to expect from our taxpayers. This idea, I think, is important to talk about the idea of a circuit breaker because it does something that I rarely hear about when we're talking about tax relief and that is targeting tax relief to those who need it the most. And I appreciate that what Senator Erdman is doing here is trying to talk about how we change valuations as it relates to the ability to produce income. But at the end of the day, what's important to me is that ability to produce income and the burden that we're asking people to bear in terms of that taxation are fair, or as fair as we can get them. And the other reason that I think a circuit breaker is worth talking about in the context of this bill is that LB420 doesn't just establish a circuit breaker for homeowners, it establishes an agricultural land circuit breaker. It would be available to individuals who own agricultural land or horticultural land that is part of a farming operation that has a federal-adjusted gross income of less than \$350,000. The tax credit would be calculated based on the amount by which the agricultural property tax paid exceeds 7 percent of the farm income. And the reason that I think that is so worthwhile in terms of a discussion is that one of the things that I struggle with is our current tax system is that the property tax credit program doesn't provide meaningful relief. We are spreading our resources too thin and the relief that we're able to provide doesn't move the dial far enough for the people who are bearing the greatest burdens. And so I want to use this opportunity to talk about what a circuit breaker is--

FOLEY: One minute.

BOLZ: --and why it matters. I don't think that it is inappropriate to talk about different ideas and different options. Certainly changing the way that agricultural land is valued for property tax purposes is a reasonable conversation to have, and it sounds like Senator Erdman has certainly done his homework. But it is not the only way, it is not the only solution. It is not the only approach to making our property taxes more fair and more reasonable and more reflective of the burdens that people actually can pay. And so I'm using this opportunity to ask all of you to take a look at LB420, to think about what LB420 would mean for your district, your agricultural landowners, your property tax owners, and think about all the alternatives in this area, not just the bill in front of you. Thank you, Mr. President.

FOLEY: Thank you, Senator Bolz. Senator Lathrop.

LATHROP: Thank you, Mr. President. Senator Erdman, do you mind yielding to a few questions?

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FOLEY: Senator Erdman, would you yield, please?

ERDMAN: I would. I would yield.

LATHROP: OK. So when we're talking about craft cropland, I want to use that in a broad sense and not get into the weeds about which of 100 soil types it is. But when we talk about cropland and you might grow wheat, corn, soybeans, any variety of crop on that, which one are we using when we determine what the productivity capability of that property is? Is it what I've been growing on it or is it the higher valued crop?

ERDMAN: It's not going to be based-- Senator Lathrop, it's not going to be based on whether you raise corn or soybeans or alfalfa. It will be based on the capability of a soil to produce a certain crop. And in South Dakota, they added up all the crops in that county and got an average production for that acre of soil, that parcel of land, based on whatever you produce. This is not--

LATHROP: Countywide?

ERDMAN: Countywide.

LATHROP: Well, don't we run into the problem of some people in my county now are trying to grow crops in rocks and the number is going to be real low and that's going to drag the average down?

ERDMAN: Did you look at the handout I had with the maps on it? Did you see that one?

LATHROP: I'm getting buried in handouts over here. I'm not sure--

ERDMAN: I'm sorry.

LATHROP: I'm not sure, no, I'm not sure which one you're talking about.

ERDMAN: Senator Williams has it.

LATHROP: OK.

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ERDMAN: OK. Senator Lathrop, if you look on the-- clear on the right-hand column, do you see at the top it says NCCPI?

LATHROP: Yes.

ERDMAN: That's the National Commodity Corporation Production Index. So what that says on this parcel of land, if you raised soybeans, that is the index that that soil will produce. That is the crop, that's the value, that's the yield. And that information is available for every soil type, whether it's irrigated or dryland, or whether it's grass production. If you look over under range production, it's about six columns in from the right side, it says rain production pounds per acre per year. That shows you how much grass that one acre of ground will produce on an annual basis.

LATHROP: So if I have soil type 5874, is the assessor going to look in these columns to see what I actually grew to determine it?

ERDMAN: No, no, they won't.

LATHROP: OK. What becomes the standard?

ERDMAN: It's the capability of a soil to produce whatever you plant there. And this is just--

LATHROP: Wait. You just said whatever you plant and that--

ERDMAN: Whatever that soil is capable of producing. If you look at this scenario, this 43-bushel for soybeans, the top number, the soil you chose, 1574.

LATHROP: Right. Yep. Yep.

ERDMAN: OK. That would be the NCCPI number for soybeans. So what we need to do, what the Land Valuation Board would need to do and the county, they will have to determine the major crops produced, hence, that was the information I gave you on South Dakota how they develop the price or the value of production per county wide. The one example, that's what it was. So they will add up the major crops, 'cause you see in my county, sugar beets are going to be included. In your county they are not. And so you'll add up the major crops that have a contribution to the overall value of that county and they will determine the production per acre

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and then it will be based on the capability of that soil to produce whatever crop they decide-- whatever you [INAUDIBLE], is your deal.

LATHROP: OK, let me just stop you there to see if I can make an observation you can agree with. You want to get away from using--

FOLEY: One minute.

LATHROP: --comparables where one guy has one soil type and you have another, but when it comes to deciding what crop we're going to use to measure county wide, you want to pick the average crop even though you might not be growing that.

ERDMAN: That's right.

LATHROP: And you might not be able to grow it, or grow it well in your soil type.

ERDMAN: That's not the case. You will be able-- whatever crop it is, your soil will be capable of producing that. If you choose to grow nothing, all right, Senator Lathrop, if you have 5874 on your farm and you say, this year I'm raising nothing, you're still going to pay the same value as anyone else because you chose not to raise-- and if I choose to plant corn and you choose soybeans, we're still going to pay the same amount because my soil will produce this much.

LATHROP: Let me see if I can make it simple. You're going to determine which crop we use to determine productivity.

FOLEY: That's time, Senators. Thank you, Senator Lathrop and Senator Erdman. Senator Brandt.

BRANDT: Thank you, Mr. President. Oh, let's look at my notes here. This is really exciting stuff. Finally, we're getting into something we can all talk about. Taxes, land valuation. Huh? All right. I'd like to thank Senator Erdman for bringing this bill. And I had a conversation with Senator Lathrop out in the hallway and I think what people in town do not understand is-- and maybe you do understand this. Ag land buyers are not rational people. When you go to a land auction, and I'll use my small town of Plymouth. We have 100 people walk in there to buy a quarter section. One person comes out buying that quarter section of ground and we all congratulate him. And he maybe paid \$10,000 an acre for some irrigated ground. It's a sure bet next year the other 99 people that were in there will have their valuations raised because we sold one farm. We're not in a state where the guy that bought the farm pays the high taxes, no. We're

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in a state where we sold one farm in that county and we are going to revalue everybody at it. And you may be a person that's had that farm in your family for four generations and it's never been sold. But it's worth \$10,000 because two farmers, or an investor, or whoever, were fighting over that. It's different than houses. I mean, we do a very poor job, as farmers, sometime, explaining how this work. And I can see by looking at the faces out here, the confusion from the urban senators and all the farmers are here nodding their heads. So I want to start with that. Senator Erdman, would you yield to some questions?

FOLEY: Senator Erdman, will you yield, please?

ERDMAN: Yes, I would.

BRANDT: All right. Using your system, your production numbers, are they coming from the FSA office?

ERDMAN: They come from the NRCS and the USDA.

BRANDT: OK. And for the urban senators, that's a national thing. That applies to every county in the United States, correct?

ERDMAN: Correct.

BRANDT: Where does your pricing come from?

ERDMAN: That information will be gathered from either the University of Nebraska or the USDA or whatever the land bank, the Land Valuation Board deems necessary to get correct information.

BRANDT: But it would come from the same spot, at the same point in time every year. Is that correct?

ERDMAN: Correct.

BRANDT: Can you tell us what a cap rate is?

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ERDMAN: The cap rate is the value of what the land is capable of producing divided by the percentage of return. So in other words, if you had a piece of land and it was valued at \$600 and you got a \$60 return, that would be 6 percent capitalization rate.

BRANDT: And another way to look at cap rate, if I paid-- OK. You just bought a farm for \$10,000 an acre and you're an investor, and a lot of investors want to have a 4 percent cap rate on 10,000 means they want to save \$400 cash rent.

ERDMAN: Correct. That's correct.

BRANDT: OK, and I got a few heads to nod on that side of the room. So now my concern is if we go to this system, we finally are seeing ag land values drop.

ERDMAN: Correct.

BRANDT: They come down 2 or 3 percent and my concern is if with your system will stop the slide.

ERDMAN: No, sir, it will not.

BRANDT: Why not?

FOLEY: One minute.

ERDMAN: Because the valuation is going to be based on the production and the price of the production. And the price, as you know, has been going down. For example, corn went down like 20 cents last Friday. So as the value goes down on the commodity price, the land value will slightly decrease because it's an eight-year Olympic average where you throw out the high and low and average the other six. So it won't be a significant decrease, but it will be a slight decrease. It will not prevent from going lower and it will also prevent it from going real high.

BRANDT: And here's another point that people get confused on. Valuation is not taxation. You go into the assessor and you have your home or your farm valued. The entities come in and apply the levies against it. So what he's talking about is just the valuation.

ERDMAN: Correct. That's correct.



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BRANDT: I would yield the rest of my time to Senator Erdman.

FOLEY: Time expired. Senator Moser.

MOSER: Good afternoon, colleagues. Thank you, Mr. President. A few questions I have and I would say that I'm in the middle here a little bit. I have some farm background, but I'm not a sharp one. Soil types, as Senator Gragert or Senator Brandt or Senator Erdman, but I think in the discussion a few things would be helpful. And one of them would be the values that you use in your example here are pretty low. And as one of the other senators mentioned, valuations in most parts of the eastern Nebraska would be a lot higher. So I think it would be good to include some property that values out to the eight or \$10,000 an acre, or somewhere around there, that it's currently selling for, so that there's a little more reassurance that your valuation system is fair. And I think it makes-- and I think some, since they don't follow your rationale, feel that this could be kind of a Trojan horse kind of a thing where they get confused by the numbers and the formulas, and I don't want to compare it to the TEEOSA formula, but it might be a little bit like that, and so I think it would be important for you to reassure the nonfarm senators that what we're doing here, or proposing to do here, is fair. And then in the five soil types that I saw listed in there, one of them was wasteland. What would be considered wasteland on a farm? Senator Erdman, would you yield?

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: Yes, I would. Wasteland on a farm would be, Senator, would be land that's capable of not producing anything, maybe it's a shelter belt. You know what a shelter belt is, a tree row.

MOSER: Oh, yeah, we--

ERDMAN: Those kind of things. Those would be considered wasteland.

MOSER: How about the middle of the section where all the water runs to our frog pond and we can run a sprinkler through it, but we can't grow anything in it?

ERDMAN: That would be wasteland.

MOSER: Yeah. And how about the neighbors that did some illegal drainage and water runs across the road and floods about five acres every year when it rains?

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ERDMAN: Does the water sit there all year?

MOSER: The wet years, it does, yes.

ERDMAN: That would get--

MOSER: It's not considered a wetland, but I'd say seven out of ten years we can't grow anything in that. We have to harvest up to it, back up, turn around and come back around.

ERDMAN: So those kind of things, Senator, would have to be determined by your assessor of the use of the land and they would make that determination whether it was wasteland or not based on the use of it. And if your land had been flooded three or four years in a row and it stayed there, I would guess the assessor would probably consider it wasteland.

MOSER: Yeah, we may not want it to be valued or not be classified as a wetland because then maybe we couldn't farm it when it was dry.

ERDMAN: Correct.

MOSER: How does this allow for sport farmers, guys who come out, they may be high-income individuals. They could be physicians or lawyers or whomever, and they buy property that doesn't produce real well, but they buy it and pay a lot of money for it to, say, hunt ducks or pheasants or something. How do you value land like that?

ERDMAN: Those situations will be dealt with by the Land Valuation Board. But currently in some of the counties out west when they purchase land to hunt on it, if it's along the river, in some of the counties they're putting a blind charge for duck blinds and goose blinds in place, and so they're trying to catch some of that value for sporting events based on the valuation on the hunting capability of the soil, of the property.

MOSER: So would the fact that they paid an amount for their farm that's way more than what it would produce in income, would that affect the price of farmland around their sport farm?

ERDMAN: Now it does. It would.

MOSER: It does now, but--

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FOLEY: One minute.

MOSER: --in your system it may not.

ERDMAN: It would not. This is going to be based on the production capability of the soil there, Senator Moser. And so if they purchased that land to hunt on or whatever, it would still be based on for agricultural purposes on the value that it is capable of producing. And a special valuation will have to be determined some other way besides what this method.

MOSER: OK. And then one variation of an answer you gave earlier about buildings. So if a guy is going to put up, say he's going to put a huge chicken barn that's going to be worth a million dollars, how is that valued?

ERDMAN: The valued-- however they value commercial property. It will be the same. This has no bearing on commercial, or agricultural buildings, or farm buildings, or houses in the county.

MOSER: Or cattle yards?

ERDMAN: Right.

MOSER: So those are valued as commercial entities?

ERDMAN: Correct.

MOSER: OK. Thank you.

FOLEY: Thank you, Senator Moser and Senator Erdman. (Visitors introduced.) Continuing discussion of the bill. Senator Clements.

CLEMENTS: Thank you, Mr. President. I've been concerned about this particular topic ever since I came to the Legislature. My district, District 2, is all of Cass County and southern Sarpy County, which is the rural area south of the Omaha metro area. And as you may have heard, we've got a lot of development in Sarpy County close to the-- well, close to the inhabited parts and it's moving down toward the rural parts. And we're seeing like-kind exchanges, and the Sarpy County Department of Economic Development director told me that some companies are paying up to \$60,000 an acre for farmland. And we've had Facebook paid a billion dollars or so; Yahoo, and some of those companies that they want a particular location and they'll pay what it

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takes. The farmer who sells that is coming south toward me in my district and where-- at the peak, the farmers were paying up to \$8,000 an acre, we're all dryland. But the investors for like-kind exchange, they could pay ten or \$12,000 an acre and still get five or six times the amount of acres that they just sold. And, of course, income tax is very-- they're all very interested in avoiding income tax and if they want to keep owning farmland, that's what they do. So we've had situations where we had a lot of bidders at an auction and the farmers would bid maybe up to \$8,000 an acre, which was really more than they should have paid, but then the investors who were not full-time farmers would run it on up to 9,000, 10,000. In the last several years as a banker, we have been telling our farmers who buy land, we will loan \$3,500 an acre on what you're buying and you can pay the difference in cash or you can give us another 80 acres to go with it. And \$3,500 an acre is all we have found that it would really cash flow. And even with lower corn prices now, that's maybe 3,000 is all it would do. But as prices slipped a bit little down to 7,000 or so, but we still see that you can only cash flow about 3,500. On comparing it to a city property, a house, a person buying a house in town, the bank asks them, what's your monthly income? And we'll find out how much they want to pay for the house. And we only-- we loan them the amount their ability to pay for it. And I think, so in residential properties, the system is working fairly well that people are paying what they can afford. And in the rural areas, like where I am, especially the metro growth is causing artificially high values and I would like to see a program like this which would equalize based on the actual production value. With that, I'd like to yield the rest of my time to Senator Erdman.

FOLEY: Thank you, Senator Clements. Senator Erdman, 1:00.

ERDMAN: Thank you, Lieutenant Governor. Thank you, Senator Clements. Senator Moser's comment about we should do some eastern soils, value farms to prove what that would do there. The Revenue Committee, the Revenue Department did an analysis. Let's take Sarpy County, for example. Before my bill would go into effect, Sarpy County has \$360 million in ag value and after this, if this bill was implemented, Sarpy County would have \$360 million in value. So Senator Moser, the reason that we didn't use eastern Nebraska counties and more counties is because what Senator Lathrop had alluded to, I'm getting kind of overwhelmed with documents and this is a difficult thing to understand and I didn't want to cloud the issue with more documents to look at. But the same example would apply in eastern Nebraska as it does in western Nebraska. They don't base the land values now based on the productivity of the soil, it's based on what they think it's worth.

FOLEY: That's time, Senator.

ERDMAN: Thank you.

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FOLEY: Thank you, Senator Erdman. Senator Hilkemann.

HILKEMANN: Thank you very much, Mr. Speaker. Senator Erdman, thank you for bringing this bill. I like-- this is a new idea, something certainly we haven't talked about here on the floor. And so I'm very interested in what this bill-- and as I've talked to you a little earlier, I've got some questions that I'd like to-- if I understand this correctly, and as you and I have talked, I have the privilege of having some farmland myself and we've done soil testing across that. Does every quarter need to be soil tested then throughout the quarter? In other words, there's some portions of your quarter is very productive, some portions are not. So, is each one of these quarters going to be checked throughout the whole process? I'm sorry. I'm sorry. Would Senator Erdman yield to some questions?

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: I would.

HILKEMANN: So--

ERDMAN: Let me answer the question, Senator Hilkemann. Did you get this handout with the picture of the maps on it?

HILKEMANN: Yes, but I looked at one of them. I haven't looked at that one.

ERDMAN: OK. This information is available now. This information is available on your farm. This type of soil map is available for your parcel now. That information is available for every parcel that is in the state. So, no, the answer is no, you don't have to go out and sample every acre because that has already been done. That information is readily available. And I had a question earlier yesterday about, what is the difference between doing this now and what they did in the '80s? The difference is in the '80s, they did not have all this information because the Internet was not as prevalent as it is today and that information was not as readily available. That's the difference. What we're trying to do is base the value on the productivity capability of each particular soil and not a group of soils lumped together like they do now, but the information is available, Senator.

HILKEMANN: OK. Senator, another question for you. When I-- reading through the bill, this is to go into effect 2020?

ERDMAN: Yes, sir. That's correct.

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HILKEMANN: Is it possible to do that this quickly? In other words, could this whole process be done that quickly so that we're ready by 2020, given we're looking at one year-- less than a year away from those valuations.

ERDMAN: I believe it is; and the reason I say that, Senator Hilkemann, is because with the information that I've been able to get from Dr. Jerry Green, who has put this information together in a spreadsheet, he has found it very simple to put together a spreadsheet that would include all soils in each county that needs to be inspected, and he said it was not a difficult process for him to do several counties and he has already done those. And so the implementation is not as difficult as one would lead you to believe.

HILKEMANN: OK. So I'm questioning what happens in the interim, in other words, if we pass this legislation and a county doesn't get this done, what happens in the interim? How are we going to--

ERDMAN: Senator, it won't be up to the county to get this done. What will happen is the Land Valuation Board will put together a manual for each county telling them what the capabilities of each one of those soils is in their county and they will include that in their spreadsheet and then when they plug that information in and each parcel has a number-- a soils number as on this map. You see on this map, every one of those soils has a number, and when that number equates to the soil type, it will kick out what the production is for that particular soil, and will give them a number--

FOLEY: One minute.

ERDMAN: --and then automatically add up what the value is for that parcel.

HILKEMANN: OK. And well, I've got other questions and I'll try to come back on the mike. What I'm really curious is, if this bill passes and this is what we're going to use for property tax rate, what happens to the Property Tax Relief Fund that we have?

ERDMAN: OK. That is an incorrect statement. This is not-- I said it before twice, I'll say it again, this is not a property tax relief bill. Property tax relief is going to come from Senator Linehan's committee, the Revenue Committee. This is a valuation of ag land and this is a valuation change, not a property tax bill.

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HILKEMANN: Thank you very much. That was another one of my questions. How is this going to affect the common man's farmland? In other words, would I expect my land valuation to be a lot less than it is now or more?

ERDMAN: Your value is going to be the same. When we implement this--

FOLEY: It's time. Thank you, Senator Hilkemann and Senator Erdman. (Visitors introduced.) Continuing discussion. Senator Williams.

WILLIAMS: Thank you, Mr. President, and good afternoon, colleagues. And I first of all would like to applaud Senator Erdman for his work on this and recognizing the different pieces of land have different income-producing capabilities. I do have some questions that I would like to direct to Senator Erdman if he would yield.

FOLEY: Senator Erdman, would you yield, please?

ERDMAN: Yes, I would.

WILLIAMS: Back this way. And again, thank you for your work on this.

ERDMAN: Thank you.

WILLIAMS: And just as a-- you mentioned just on the mike with Senator Hilkemann, and I clearly understand this, this is not a property tax relief bill, and you talked about it being revenue neutral. I just want to be sure I understand that that could certainly mean that some valuations would go down and some valuations could go up, but the overall effect would be neutral?

ERDMAN: You nailed it, Senator. That's exactly right.

WILLIAMS: OK. If that happens and for those that go up and those people are unhappy about this process, is there a protest mechanism like we have now that would still be employed?

ERDMAN: There is a protest mechanism and one would be able to protest there to TERC or to the court system or however it is and that provision would not go away. They would still have the opportunity to protest. And what would happen there is they would protest and the Land Valuation Board would make a decision on their productivity of their soil and that information is pretty readily available, but their acres may be wrong. They could have the wrong acres. I mean,

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sometimes that happens at the courthouse. So they could protest their acres. But they would protest to the Board of Equalization, which is your county commissioners, and then they would make a determination on the acreage or whatever else information they had.

WILLIAMS: So it would start out very similar to the way it is today, that it would still go to the board of-- the commissioners and go through that?

ERDMAN: Correct. That's right.

WILLIAMS: OK. And I'm making an assumption here, but I want to ask this question so that I clearly know, does this valuation approach maintain the 75 percent level that we are currently using?

ERDMAN: This valuation would be the same as 75 percent as it currently is.

WILLIAMS: OK. Now, getting to something that's a little more complicated, at least for me to understand, and in your introduction you talked about the capitalization rate and how that's arrived at. And I think you talked about South Dakota, it was six something percent.

ERDMAN: 6.6, yeah.

WILLIAMS: And you mentioned in Nebraska, and correct me where I'm wrong here, Senator Erdman, but I think you talked about the capitalization rate should be maybe lower in eastern Nebraska and higher in western Nebraska because of changes in ability. But we would arrive at a balance, if that's the right word, that we would use something in the middle and use that statewide. And my question then to follow that is, how would that be fair to everyone to do that?

ERDMAN: Capitalization rate is a very significant adjustment that can be made to a property, as you well know. A very small change in capitalization rate is a very huge change in valuation. And as I had mentioned earlier, when Dr. Green looked at valuations in eastern Nebraska, central and western, the capitalization rate was lower in eastern Nebraska because the soil has a greater capability of production because of the length of season, as well as the rainfall. And so I believe it's going to be up to the Land Valuation Board to determine whether they have a regional capitalization rate, or whether they have a specific capitalization rate for a county.

FOLEY: One minute.



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ERDMAN: But that would be a decision that has to be based on--

WILLIAMS: And they would have the ability to make that decision.

ERDMAN: Yes. And then they have to report every year what they have done to the Revenue Committee and to the Governor.

WILLIAMS: So I understand then on the front end, year one, how that all happens. Going forward, your soil type will not change from year to year.

ERDMAN: Correct.

WILLIAMS: It will always be the same, so once they've done that. So will they adjust, and on what basis might they adjust that capitalization rate going forward?

ERDMAN: I would think that that capitalization rate would be a very static capitalization rate once they have discovered what it should be. But what happened in South Dakota because they backed into it and they put it in their statute at 6.6, then they had to deal with that county by county as they moved from east to west. And they made adjustments to the counties and allowed them to make adjustments in their value because they couldn't adjust it--

FOLEY: That's time, Senators.

ERDMAN: Thank you, Mr. President.

FOLEY: Thank you, Senator Williams and Senator Erdman. Thank you. Senator Cavanaugh.

CAVANAUGH: Thank you, Mr. President. I yield my time to Senator Lathrop.

FOLEY: Thank you, Senator Cavanaugh. Senator Lathrop, 5:00.

LATHROP: Thank you, and thank you, Senator Cavanaugh. Senator Erdman, will you yield to a few more questions?

FOLEY: Senator Erdman, will you yield, please?

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ERDMAN: Yes, I would.

LATHROP: And maybe what I want to do is pick up where Senator Williams left off.

ERDMAN: OK. Good.

LATHROP: When you represented on the floor here today that this will have no effect overall on valuations, right, when we get done, your process will yield the same result statewide as the process that's employed currently. Did I understand that right?

ERDMAN: You understood that correct.

LATHROP: OK. And to arrive at that, 'cause that's not a coincidence, right, to arrive at that, you have chosen a cap rate, or a capitalization rate that makes that possible.

ERDMAN: The Land Valuation Board will make that determination.

LATHROP: But when you make that representation, that's because you have, at least for the first year, a cap rate that makes that possible?

ERDMAN: Correct.

LATHROP: Is that true?

ERDMAN: Yeah.

LATHROP: And the cap rate is what in the first year, 2019, or the first year this bill takes effect? What's that rate? Did you say it's six something?

ERDMAN: Yeah, the way it looks now, the way we-- when we tried to make sure that it was the same, the valuation was the same across the state, in the eastern part of the state it took 6 percent to make that equal, and as in the central part of the state it was around 8 percent, and the further west you went, it was around 10 percent. That's the scenario. I had the Revenue Department run the numbers for me and I did not get from them what capitalization rate they used, but they had come up with the same values going in as coming out.

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LATHROP: OK. But to be clear, in order for you to stand on the floor today and represent to us that it won't change valuations, the Department of Revenue, somebody that helped you out with this, chose the capitalization rate that would make that statement true.

ERDMAN: I'm sure they did.

LATHROP: OK. But that's not always going to be the case. Let's say that it's 6.5 percent, whatever the number is, and apparently you're not sure yourself, is that true?

ERDMAN: Yeah, I don't know what it was.

LATHROP: OK. Let's say that it's 6.5 percent. That's a static number in year one. Right?

ERDMAN: Right.

LATHROP: If that number were to go to-- and apparently it's going to be set by the Land Valuation Board, what criteria do they have? Well, let me ask it differently. That's not going to be a fixed number from now until the end of time?

ERDMAN: No. The number will be based on the production of the soil times the price of the commodities that are analyzed.

LATHROP: So that number is going to move around some? It's a cap rate.

ERDMAN: The change-- the cap rate shouldn't move. It will be the production-- or the production times the value of a crop. The commodity price is going to be the only thing that changes is the way the value goes up and down.

LATHROP: All right. Is the commodity price going to affect our cap rate?

ERDMAN: No.

LATHROP: OK. So those things I'm not concerned with at this particular time. The cap rate, though, if it goes up, it affects land valuations. If it goes down, it affects land valuations, and we're not at that equilibrium you have described here today which is it has no effect. It's not going to make it more in terms of land valuations or less, but when that cap rate moves, that's

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going to be one of the factors and it will change overall statewide the valuations of ag property higher-- up or down, depending upon which direction that rate is moving. Do I have that right?

ERDMAN: If it has moved.

LATHROP: If it has moved. Exactly. That's in my question.

FOLEY: One minute.

LATHROP: So its the Land Valuation Board that's making that decision?

ERDMAN: Yes, sir.

LATHROP: What's the relationship between the capitalization rate and the cost of money? Is this like a discount rate?

ERDMAN: Discount rate, capitalization rate will be very similar. It's just one way of saying, discount rate is the same thing as a capitalization rate.

LATHROP: OK. So as money gets more expensive, does the cap rate go up?

ERDMAN: I don't know whether it does or not.

LATHROP: OK. Do you know what influences the cap rate?

ERDMAN: The bill says that the land value has to be the same going in, and I would make the assumption that as they go and make that decision on how to value going forward, it will be last year's value. It's a six-year average. It's a eight-year average, throw out the high and low, and it's a six-year average of the rest.

FOLEY: That's time, Senators. Thank you, Senator Lathrop and Senator Erdman. Senator McCollister.

McCOLLISTER: Thank you, Mr. President. I wonder if Senator Erdman would yield for a couple more questions?

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FOLEY: Senator Erdman, would you yield, please?

ERDMAN: Yes, sir.

McCOLLISTER: You've been patient with me, Senator. Thank you very much. I want to follow the theme that we've been following with regard to the cap rate.

ERDMAN: OK.

McCOLLISTER: What is the difference between the discount rate and the cap rate? Is that synonymous, those terms?

ERDMAN: Yes.

McCOLLISTER: OK. And would rate of return be a similar term?

ERDMAN: Yes.

McCOLLISTER: For those three terms, so they're synonymous. I'm a little surprised that the cap rate is not influenced by commodity prices, interest rates, proximity to markets, and the value of land that's sold recently. Can you explain to me why that's not the case?

ERDMAN: When we originally started three years ago working on this bill, Senator McCollister, we had intended-- we had intended to put the cap rate, capitalization rate in statute. And then as we began to evaluate what happened in South Dakota, we began to understand that if we did that and we had the same issues that they found in South Dakota where the cap rate should be different across the state because of rainfall and length of growing season, we felt we were going to be in a situation where every year we would have to come back and either ask to adjust the capitalization rate, or make some other provision to correct the problem that was created by making the capitalization rate in statute.

McCOLLISTER: Thank you.

ERDMAN: So that was the purpose we didn't lock it in.

McCOLLISTER: Just for the sake of argument, let's assume the cap rate is influenced by interest rates, land price, adjoining land prices, commodity prices, are we making a mistake by putting

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that cap rate into statute rather than simply having an adjustment mechanism in place that would change every year?

ERDMAN: Can you say that again?

McCOLLISTER: Sure. I'm a little concerned about putting that cap rate into statute.

ERDMAN: I am, too.

McCOLLISTER: If conditions were to change, would we be in trouble by the fact we're having that cap rate in the statute rather than having your board simply adjust the cap rate and make changes accordingly?

ERDMAN: Let me see if I can answer it this way, Senator. Let's say that we did a calculation and figured out that 8 percent was the average cap rate across the state and we put that in place and in eastern Nebraska, a capitalization rate of 8, perhaps would reduce the value of ag land 25 percent, and then in your counties in the east would see a reduction of 25 percent in their ag value, they would not be happy about that.

McCOLLISTER: Let me try one more for-instance with you. How about if we have drought conditions, and you indicated that the ground in eastern Nebraska would have a lower cap rate because it's more productive. But with the existence of a drought, would that change the cap rate?

ERDMAN: Shouldn't.

McCOLLISTER: OK. One more item I'd like to cover and that's with regard that the values could vary by 15 percent every year. The fact that 15 percent could impact values, would that in fact--

FOLEY: One minute.

McCOLLISTER: --cause the mechanism to kind of break down?

ERDMAN: The situation-- the reason-- there's a couple reasons for that 15 percent adjustment and one of them is because of what I've seen happen in South Dakota. And as we looked at what those counties did, and some of those counties needed to make an adjustment up or down, and

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they weren't able to do that because the statute didn't allow them to do that. They had to wait 'til the next year when the Legislature met to make adjustments. And so I wanted to give leeway to the Land Valuation Board so they had an opportunity if they found a county that was too high or too low, that they could make those adjustments without coming back and asking for approval. So that was in there to give them some latitude to make a decision necessary to make sure the value stays the same.

McCOLLISTER: Thank you, Senator. You've been very patient with me.

ERDMAN: Thank you.

FOLEY: Thank you, Senator McCollister and Senator Erdman. Senator Dorn.

DORN: Thank you, Mr. President, and colleagues. Thank you for the conversation this afternoon. This has been, even for me that sat on a county board and a farmer and that this would be part of what we do with our land going forward maybe. It's been interesting to hear some of the conversation. Couple things I wanted to bring up, I guess, a little bit. And I'm going to use-- Senator Erdman has done some pretty good job at trying to explain some of this. But, you know, I think at times there's also more to explaining, I guess. In Gage County, when you sit on the county board, then you're part of the Board of Equalization, so when people get their valuations out in May, they have-- everybody has a certain time you can appeal what your valuation is: houses, ag land, whatever you want. And then in Gage County we had either three members of the board or we hired realtors and so on, people with expertise in it, or appraisers, to help us with determining those when they had a protest. Some of the things I remember a little bit from that was Gage County has approximately 17,000 parcels that they have a tax on-- that's wrong, a tax statement on, 17,000 parcels. In Gage County, with ag land, with houses, they use-- well, I'm not sure houses, I think houses might be two years, I know ag land is a three-year sales. The last three years they used the sales that you recorded in your county to come up with a new valuation. Every year they add a new year and they drop off the third year out. So as ag land values go up, that average or that three-year average would now slowly go up; same way going down. Several years ago when ag land was really going up, Gage County had an average of somewhere between 100 and 120 sales on those three years. So we were setting ag land-- and I don't know how many parcels of ag land we have in the county, but we were setting ag land based on about 100 to 120 sales. The last three years, when I left the board, we were at 66 sales. So now we're using 66 sales to set all of the ag land value in the county. Part of why I wanted to bring this up was we had a discussion with our county assessor and what she was using was all guidelines that the state has and that the state visits with her on. In the last year-- like I said, I think houses may be two years, I don't know if they're two years or three years of sales, I'm not exactly sure on that now, but in the city of Beatrice, which is half our population, and I could not tell you how many

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houses we have there or how many apartments or even industry, but she had 140 sales and she told us she did not have enough sales to use to now come up with a good value on sales of the houses. So we really started quizzing her why ag land, you got 66 sales and you can use those and set the value, and yet 140 house sales you cannot. And part of what made think of this was when Senator Lathrop talked about a house you value it at so many square feet and all of this. Well, houses are put in categories by age, number one, whether you have 100-year-old house, 75-year-old house, and then they go by the sales on those. Then they also factor in one bathroom, two bathrooms, the different value of the bathrooms, whether or not you have one house.

FOLEY: One minute.

DORN: One bedroom, and all of those things they factor in. And when she got done explaining it, it made sense why she did not have enough sales with certain categories. Certain categories she did. She could have used certain categories of those houses in town and come up with a good market value. But she had certain-- she had one category out of the 140, had over 40 sales. She also had a couple categories that had less than ten. So now the board asked her why couldn't she, based on using ag land sales of 60-some, setting all the value, why not use ten? She said 'cause we did not have enough good sales to accurately use to set the price. And like I said, as you sit on a county board, some of these things you see and what Senator Erdman's bill here is trying to do is to take out some of those factors about not having enough sales. One of the other issues we had, and--

FOLEY: Time, Senator.

DORN: Time?

FOLEY: Time, Senator.

DORN: Thank you.

FOLEY: Thank you, Senator Dorn. Senator Erdman, you're recognized.

ERDMAN: Thank you, Mr. Speaker. We've had a lively discussion about LB483, and I appreciate that. I appreciate the questions. I'm going to go over a few questions that have arisen since we started this. One of the questions was, LB483 eliminates equalization by the Tax Equalization Review Committee, TERC. It says the bill removes TERC's authority to make equalization adjustments from the ag land assessments. Those adjustments will be made by the manual as put together by the Ag Land Valuation Board. Another question was, LB483 has no



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provisions for review by the courts. That is not true. As we discussed earlier, the authority of the County Board of Equalization under LB483 is limited to make adjustments based on the productivity characteristics of the soil. If they don't have your soil classified right, you can make an adjustment. This restriction does not limit, does not limit the taxpayer or the protester from appealing the TERC's-- the decision of the Board of Equalization to TERC or to the courts. And I looked it up and the statutes are 77-15 and 77-5019. Those provisions are still in place. The bill does not eliminate you as a property owner the privilege of appealing to TERC. LB483, the question is, LB483 lacks a mechanism for equalizing agricultural land. The assertion that agricultural land cannot be equalized without discoverable standards and references to the market value are discoverable standards. We can figure this out. LB483 redefines agricultural valuation to be the agricultural productivity value, the capability the soil to produce something. Assessments under LB483 are based on an equalized-- or equalized by the land's ability to produce an agricultural product, whether it be grass or crops. Productivity is discovered by a mechanism with an equalization of agricultural assessments based on USDA, NRCS, and other information that's available. Another question, LB483 is not defined how other classes of land are valued: shelter belts, wasteland, or irrigated grass. These methods utilized for the assessment of irrigated, dryland, and grass are based on publicly-- publicly available data sources, as I said earlier. Shelter belts, wasteland, and irrigated grassland will be based on the ag valuation board's assessment of what is the current value determined by their research and discussion. It is possible that the board can define a methodology that will result in equalized assessments to these subclasses. One possible solution would be the board to define the value of these subclasses based on the productivity relationship that an irrigated grass has to dryland. They can figure it out. What better way, tell me a better way to value a piece of land from one side of your county to the other than what it's capable of producing based on the soil characteristics. Currently, we use land class groupings and they put those together and on one side of the county, one land class grouping in Class 4, on the other side of the county it can be a different set of soils. There is no comparison now from one class to the other. The land class grouping thing has been bogus for a long time and someone, someone should have sued the assessment--

FOLEY: One minute.

ERDMAN: --the Property Assessment Division over what they've done, but they haven't. So anyway, those are some of the questions that I've had. And the other thing I wanted to talk about is LB483 requires the county assessor to utilize the manual that we've put together by the Land Valuation Board. And so as I said earlier, the Land Valuation Board will submit the information to the county assessor on what that soil is capable of producing in that county and they will develop their spreadsheet based on the Excel spreadsheet that they have in their computer and the number will be calculated by the computer what the value of that acre of land is based on the production of the soil. So those are some of the questions that I had. Thank you.

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HILGERS: Thank you, Senator Erdman. Senator Matt Hansen, you are recognized.

M. HANSEN: Thank you, Mr. President, and good afternoon, colleagues. Colleagues, I rise, I guess, in an uncertain position on LB483. Just been listening to this debate has been really interesting and actually I want to thank all of my colleagues for their questioning, their focus, and for Senator Erdman, and for others for bringing this bill. I'm really appreciative of members, like Senator Erdman, who came into a body with a very laser focus on a specific issue for putting the time and effort to work on things. But then it comes from me from a perspective, as he pointed out, having a different perspective, different experience with dealing with land valuations, in my case, very little, trying to figure out how a bill like this, a change like this fits into our overall taxation structure. And I try and think about this as a senator who represents a city like Lincoln. Obviously, as a state senator, sometimes there are times where I make decisions, you know, for the entire state. But I do have to keep in mind my own specific district in the context of those decisions. And so when I think about all of the different components of our tax system and all of the different components I know work together in ways that frankly sometimes we collectively as a body have a hard time processing and connecting together, that that's the information I really want to process and soak up during a debate like this. As I've heard supporters of this bill say, and Senator Erdman say, I believe is the overall goal of this is to not necessarily change the amount of valuation, but to change what land is valued in some ways. And if that is able to be true, I guess looking for what's the next step and then why in the sense of-- that seems to say if we're changing how land is valued but the overall pool of land stays at the same value, there is going to be some people who are gaining more value and some people are losing more value. And thus, property tax base will shift because of that. And the next step for me is, is trying to figure out where and how much will that change, 'cause then when we start talking about it as a state, I'm naturally, when talking about property taxes, so much of our property tax is dependent on education, or vice versa rather. So much of our education is dependent on property taxes, so if we're doing some sort of significant change to property tax valuations, how is that going to impact public education, K-12 education in the state? And specifically, how is that going to go district by district? And therefore, when we go district by district, how is that going to connect to TEEOSA? So those are the things that I'm trying to weigh and piece together in my mind on a bill like this, 'cause I have a district that has a sliver of agricultural land, but far and foremost the most of my constituents don't have agricultural land, they live in the city of Lincoln. And they send their kids to Lincoln Public Schools, which is a part of TEEOSA, which is probably going to be impacted some way by LB483, and yet I'm not quite sure how yet and in what capacity. It might be significant, it might be not. But that's the information that I am searching for on a bill like this. I know that wasn't necessarily clear and to the most direct point, but I just kind of wanted to posit those questions kind of broadly to the body, because there's going to be questions on have the most tax bills on this nature of looking at it as kind of a layer of systems. So if we're making one change to one type of land in the state, you know, that has reverberating effects going through public-- all the different political

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subdivisions, through us as a state, through state formulas, and so on and so forth. And that's really where I'm going to try and kind of posit and look through a system such as this.

HILGERS: One minute.

M. HANSEN: Thank you, Mr. President. And so with that, I will continue listening to the debate, and I'm thankful to Senator Erdman and others for bringing their priorities to the floor and for being so willing to kind of address debate and have questions. I'll continue to listen to the debate, and thank you, Mr. President.

HILGERS: Thank you, Senator Hansen. Senator Vargas, you are recognized.

VARGAS: Thank you, very much, President, Mr. Hilgers. So I have a couple of questions. So here's the thing. I have a hard time with this, not because I don't think things are good ideas, but mostly this is complex enough that I'm worried that the time that we have allotted feels like we wouldn't be doing our due diligence to move something forward. And part of this is, I'm not entirely sure what's the best practice and what's not, what's needed to do and what's not. And so I have some bigger questions about that. But my main question is a little bit about some of the things in the fiscal note. I might have missed some pieces of this, I was out for a meeting, but I was wondering if Senator Erdman would yield to a question.

HILGERS: Senator Erdman, would you yield to a question?

ERDMAN: Yes, I would.

VARGAS: So thank you for bringing this bill, Senator Erdman. I share with what Senator Bolz said earlier. I understand the underlying intentions of the bill. I was wondering if you could-- you know part of the fiscal note states that this is going to change, it's going to have an impact on TEEOSA state aid, but it's not possible to estimate the amount. And usually we have some fairly decent estimates with, you know, the other parts of the fiscal note because these fiscal notes have multiple sheets from different departments and agencies. So it is going to have a substantial impact to TEEOSA, so I just wanted to have some space to talk about what impact that could be, what you anticipate, and what we might do then to make sure that it's not detrimentally impacting education funding aid.

ERDMAN: OK. I had a little difficult time hearing you, but I think what you asked me is what is going to be the impact on the school funding, is that correct?

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VARGAS: Yeah.

ERDMAN: OK. Let me answer it this way. If a county, such as Sarpy County, has \$360 million in value, ag land valuation today that can be taxed for school funding, and my bill goes in place and they have \$360 million in ag land value, what do you think the TEEOSA impact will be? Zero? No impact? If the value is the same before we start and after we have implemented it, it's exactly the same value, how much impact will it have? None. That's exactly the answer to your question is, it will have no impact on TEEOSA. So that's why they stated it as they said.

VARGAS: OK. Well, yeah, they stated that it's not possible to estimate the impact, but it is going to have an impact. This is a very weird way to phrase it on a fiscal note. It's like saying, I think it could have a really big impact, but we don't know how, or it may have no impact, we're not sure. So, that's why I ask. It's very-- you don't see things like that, usually see it's such a big impact, but we just don't know how much.

ERDMAN: Right. I'm trying to answer in the way that I can understand it. And if the state total value for ag land is the same before its implemented as it is after it's implemented, my interpretation of that would be zero impact.

VARGAS: Got it. The other questions I had are more in just like the policy realm of this on whether or not-- you know, I'd be the first to say, and I've had probably this conversation with actually Senator Hilgers several times about task force and committees, and you know, what is or is not the most effective. So I was curious as to when you're thinking about the creation of the ALVB, you know, why was that the structure that you move forward with? Is that a typical structure when we're thinking about other states that are going down this route? I know, we've been referencing South Dakota here. Yeah, I just wanted to hear a little bit more about that, because I don't know if that's a standard or if that's just an idea that you had.

HILGERS: One minute.

ERDMAN: Senator, I'm not sure I heard your question. Can you turn your microphone a little bit? I'm having trouble understanding what you said.

VARGAS: Yes, can you explain to me how this-- how you came up with the idea of having this specific commission?

ERDMAN: The Land Bank Valuation Board?

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VARGAS: Yep. Uh-huh.

ERDMAN: Yes, I can. What happened is, as I began to analyze what they did in South Dakota and I've seen that the opportunity would not be there to make adjustments in-between legislative sessions, I figured there needed to be another way to address those issues that come up. And as I looked at what they did back in the early years of Nebraska, back in the '80s they did something similar to this, and they used a similar board to do that as well.

VARGAS: Are there existing resources? Because the other part of the fiscal note is the addition of FTEs. I think there's two FTEs in the Department of Revenue for the cost of about \$200,000, and then additional expenses for the ALVB.

ERDMAN: Yes, sir.

HILGERS: Time, Senators.

VARGAS: Thank you very much. I'll put my light on.

HILGERS: Thank you, Senator Erdman and Senator Vargas. Senator Bolz, you're recognized.

BOLZ: Thank you, Mr. President. I'm still trying to get my head around this bill and how it would work in practice. And I was reminded of my service on the Tax Modernization Committee the summer after my first year in the body. And some good research was provided through that committee, and it led me to do some digging and led me to some questions for Senator Erdman. I think it's already been discussed on the floor today that, of course, we have a uniformity clause in our constitution. In other words, all property taxes levied must be levied by uniform value. And the Supreme Court has said that all property assessed and taxed at a uniform standard of value meets the constitution's uniformity clause. And I'm trying to figure out how that would or wouldn't apply to what is being proposed. I can see how there may be uniformity among the different classes and standards of production value, but it seems like there would not be uniformity among different types and different geographical areas of ag land because there's so much variation proposed in this bill. So my first question for Senator Erdman is, Senator Erdman, will you yield to a question?

HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes, I would.

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BOLZ: I'm just curious, have you gotten an Attorney General's Opinion about whether or not this bill would pass the uniformity clause test?

ERDMAN: Senator Bolz, I have not; but what I will tell you is when we started down this road three years ago and I had introduced my first bill to do this, the Governor had also. And over the summer his office and PRO and Lauren Kintner was very helpful in putting together what we have in front of us today. I haven't asked that question. I have not, to specifically answer your question, but what I do know is if it was brought by the Governor in a similar fashion, and we worked with them this summer, I'm making an assumption, you know what to do when you assume, but I'm making an assumption that if there was an issue with those things that the Governor's Office and PRO wouldn't be promoting this bill if we thought there was some constitutional issue.

BOLZ: Uh-huh. Yeah, I appreciate that. I think you have done a lot of homework on this bill. I'm not sure that I'm certain that this bill would pass the uniformity clause test, and that comes from my experience in asking for other opinions from the Attorney General's Office. Their excellent staff and research typically comes up with angles and ideas and precedents that had not occurred to me and that I haven't thought of without their history in expertise. My other questions relate similarly to what I think Senator Hansen was putting on the mike. And some of the research from the Tax Modernization Committee reflected that an ag land valuation might result in some shifts and some changes that the property tax burden for local governments might be shifted from ag land to other classes of value, and that it might have a different effect in different kinds of communities. So if you have a community where there's a lot of ag land, does that shift any burden to the smaller number of homeowners in that district or vice versa if there's a community in which there is little ag land, how does that have an impact overall? So I'd be curious if you can tell me in a community where, like the community where I grew up, the Palmyra-Bennet School District where you've got a mixture--

HILGERS: One minute.

BOLZ: --of small towns and agricultural land, is there a possibility here that property tax burden would be shifted from agricultural payers to small town payers, property taxpayers?

ERDMAN: Because we have a limited amount of time, my short answer is, no, it would not affect those other people in the communities that have residential property. The value we're dealing with is ag land value, and the goal is--

BOLZ: My concern, just with the little time I have left, is that if you have an area where a lot of agricultural land is deemed a lower-producing value and has a lower-producing property tax after

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this change, that might have an impact on homeowners in small towns. So I'd be happy to discuss further, but we're running out of time. Thank you, Mr. President.

ERDMAN: Thank you.

HILGERS: Thank you, Senator Bolz and Senator Erdman. Senator Lathrop, you are recognized.

LATHROP: Thank you, Mr. President. Senator Erdman, I'd like you to yield to a question if you don't mind.

HILGERS: Senator Erdman, would you yield? And Senator Lathrop, this is your third time at the mike.

LATHROP: Thank you.

ERDMAN: Yes, I would.

LATHROP: OK, now, I got to-- I'm going to try to be focused with this question. You told me there's several land types, and I understand that, but one of the land types is going to be wasteland. That's going to be a category of land, am I right?

ERDMAN: Right.

LATHROP: And I think in answer to Senator Moser's question you gave some examples of wasteland.

ERDMAN: I did.

LATHROP: So we're focused on the income-producing ability of land, but there might be a 25-foot-wide tree line in the middle of my corn field.

ERDMAN: Correct.

LATHROP: And you gave that as an example of wasteland.

ERDMAN: That's right.

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LATHROP: And did I hear you say that the value of that wasteland will be determined by the Land Valuation Board under this bill?

ERDMAN: That's correct.

LATHROP: OK. Everything else is based on production, but now we're going to turn to the Land Valuation Board. Are they going to use some kind of a market approach to determine the value of that tree line going down the middle of my corn field?

ERDMAN: That would be a difficult thing to assume now. And generally, like in my counties out west, that wasteland is valued in that 30, \$35 an acre range. They figured out kind of what that value should be, and there's not a lot of value there as far as just by itself. It may be protecting the soil, and that's a good thing, but that will be up to the Land Valuation Board to figure out what that value should be.

LATHROP: But you expect it to have some value when it comes out of the Land Valuation Board.

ERDMAN: Yes, I do.

LATHROP: And do you expect it to have-- that value to have some relationship to market value?

ERDMAN: That will be their determination. Right now, Senator, when they determine value on property based on the 521 document that's turned in, there's no stipulation about what they paid for a certain acre of land, whether it's good, bad, or what they paid for the tree row, so all of those things are determined by the county assessor now.

LATHROP: OK. But the Land Valuation Board is going to place some value on that tree line going down the middle of my corn field--

ERDMAN: That's correct.

LATHROP: --and it's not going to be based upon production value, because you can't grow corn on a tree row.

ERDMAN: No, no. Can't grow corn on a tree row, no.



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LATHROP: OK, thank you, Senator. Here is probably, maybe the simplest problem I think the bill has in uniformity, OK. And now this is a requirement in the constitution in Article VIII, in Section 1. We allow ag to have its own classification, but within agriculture and horticulture, I think the constitution provides, we still need uniformity and proportionality. And here's where I think you lose me on the constitutional question, and that is, you're going to, for land that I can grow something on, you're going to use the production value, but for a tree line that's part of my land, it's not zero, which would be its production value, but it's going to be some other value set by a board, and that's where we lose uniformity, in my judgment. So I'm struggling to learn and understand all the details of this process, Senator Erdman, and I get what you're trying to do, and I appreciate it. And I appreciate your courtesy today. But when I look at the fact that wasteland is going to have a different approach from production land, then we lose uniformity. And the constitution requires uniformity within the class of land known as agriculture and horticulture. I'll let you comment on that if you like, in fairness.

ERDMAN: I appreciate that. So you're making an assumption that the Land--

HILGERS: One minute.

ERDMAN: --Valuation Board may make a decision based on something other than sales. I didn't say they couldn't. I didn't say they couldn't use sales to determine the value of that tree row. I did not say that. They will determine the method to value the tree row, and if they want to use sales, that's their choice.

LATHROP: No question about it. But it isn't going to be production, and that's where you run into a uniformity problem. Let me finish my point. That you told me that the wasteland, this tree row down the middle of my corn field, is going to have some value. It will be valued in some manner other than zero, and that will happen by the Land Valuation Board, and it won't be based on production. It has to be based on something else or it'd be zero.

ERDMAN: All right. So what if the Land Valuation Board looked at the type of soil that was in the tree row and they based it on production, minus the fact that there's trees there. I mean, who knows what value or how they're going to arrive at the value.

HILGERS: Time, Senators. Thank you, Senator Erdman and Senator Lathrop. Senator Morfeld, you are recognized.

MORFELD: Thank you, Mr. President. I yield my time to Senator Lathrop to continue the conversation if he so chooses.

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HILGERS: Senator Lathrop, 5:00.

LATHROP: Sure. Senator Erdman, if you don't mind yielding.

HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes, I would.

LATHROP: I want to take it in a different direction, and maybe I can try to break it down, and I want you to know I'm trying to understand this process. And as Senator Brandt said, maybe part of it's just that we're city people and we don't know what it's like to try to go to the assessor's office when we have farmland. But your approach basically takes soil type, what that soil can make, times what the price is for that commodity. You subtract your inputs and then you get your net income. Is that true? Yes? OK. So I'm a lawyer and I like to make sure stuff's on the record and you're nodding your head.

ERDMAN: Yes.

LATHROP: That's a yes. OK. And coming up with the current valuation after we know the net income from the property is the function of the cap rate that this Land Valuation Board's going to come up with from year to year.

ERDMAN: Say that again.

LATHROP: Once we know, in our eight years, right, we're going to do this each year, and we'll be throwing out year nine when the current year comes up, we will take the soil type, the yield on that crop, the value of that crop, and that will tell us what our gross income could have been, whether we choose to or not, that's what our gross income would be, and we subtract what the cost of raising that crop would be, your inputs, and you come up with net income. Right?

ERDMAN: Right.

LATHROP: You still have to have a cap rate to figure out what the value of the property is.

ERDMAN: Correct.

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LATHROP: OK. And the cap rate is going to be determined by the Land Valuation Board, is that right?

ERDMAN: Correct.

LATHROP: The Land Valuation Board, if they move that cap rate up, the valuation of that property will go down. If they move it down, the value of the property would go up.

ERDMAN: Correct.

LATHROP: OK. When you represent on the floor that this will not result in any change in valuation of ag land overall, that's because you have fixed a discount or a cap rate to make sure that that's true in 2019.

ERDMAN: That's correct.

LATHROP: OK. But that cap rate is not-- all of these things are variable, right? What the commodity brings, what your inputs cost, and the cap rate moved from year to year. Right?

ERDMAN: OK.

LATHROP: The cap rate represents essentially the cost of money. Would you agree with that?

ERDMAN: Yes.

LATHROP: So if we see the investment rate on a CD go to 10 percent, your cap rate would be much higher and your land valuation would be lower. Is that true?

ERDMAN: If CDs went to 10 percent--

LATHROP: Your valuation board, this group that you put together, is going to make a judgment about the cap rate, and they're going to raise the cap rate.

ERDMAN: If they raise the cap-- if they did, yes.

LATHROP: It's supposed to reflect the cost of money, right?

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ERDMAN: Right.

LATHROP: OK. So the cap rate goes up, then the land valuations go down, at least for that year, and then they get worked into the average, yes?

ERDMAN: OK.

LATHROP: So I guess this is the point I want to make. I appreciate that you are starting this process with a cap rate that leaves everything equal, but once the market starts taking over--

HILGERS: One minute.

LATHROP: --the value of the crop, what it brings, I was here when corn was at \$8 a bushel, right? What is it now 3.30, something like that?

ERDMAN: Not quite.

LATHROP: Not quite. Your inputs, there may be some variability there, your seed and the fertilizer and the other things that you use to grow this stuff, those are variable costs, or variables in your formula, and so is the cap rate. What money costs are your-- what you need for a return on investment. Those things going forward-- we're starting out with those things static, but going forward over the next ten or 20 years, those things could be all over the place depending upon the economy, the value of a commodity, and the cost of the inputs. And that could affect the overall valuation of farm property in the state of Nebraska, up or down, depending upon how those variables go. Would you agree with that?

HILGERS: Time, Senators.

LATHROP: Thank you.

HILGERS: Thank you, Senator Erdman, Lathrop, and Morfeld. Senator Wayne, you are recognized.

WAYNE: Thank you. Colleagues, I'm trying to understand a little bit more. Senator Brandt and I had a conversation and having more conversations to understand this process. I guess, will Senator Erdman yield to a couple questions?

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HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes, I would.

WAYNE: It's more about a question, it's more of a statement, and I want you to respond so I can understand it. What drives ag valuations, is it not that people buy them? So like people-- there are two farmers who are bidding on a lot and that drives up the market rate, correct?

ERDMAN: If two farmers are bidding, yes.

WAYNE: OK. So how is that different than the empty lot in my neighborhood where there's three neighbors who are all bidding for that same empty lot who are driving up that price to a market rate? It's above the market rate because people want that property. Is that the same scenario as in ag?

ERDMAN: Yeah.

WAYNE: OK. And I do recognize our earnings-- our constitution, ag can be treated differently, and right now it's at 75 percent of the market value, whereas, in urban it's at 90 percent, 95 percent of the market value. But the theory behind it is the same that market rate determines the value. Correct?

ERDMAN: In your example, that's correct.

WAYNE: So then in a commercial industry in my district down by the airport, we have buildings that are strictly used for warehouses. I mean, following this logic, should we change how we value commercial buildings from their usage and their productivity? So if I can only use that for light manufacturing, should that be a different property rate versus a residential rate versus somebody who is doing heavy industry? Should we distinguish those two? We're not talking about the constitution, I'm talking about the theory behind what you're doing.

ERDMAN: Bring a bill next year and we'll do that one.

WAYNE: No, no, I'm asking if the theory is consistent with what you're--

ERDMAN: Well, you know, Senator, I don't know if it's consistent or not. But what you find in agricultural sales, and Senator Dorn alluded to the fact, we don't sell hardly any of those. Less

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than 1 percent of our land sells, and so it's scarcity drives the market. And so if you're an agricultural producer and you've lived next to a property for 50 years, and its never come on the market; when it does you pay more than it's worth just because it lays next to you. And those sales are included. So whether a commercial property should be valued the same way ag land should be valued, I don't have a lot of commercial property in my district, that's a hard question for me to answer.

WAYNE: No, I'm trying to put this into an urban setting so I can understand it better. I'm not asking you to support a bill that's not existent yet, I'm just trying to figure this out. So then is it fair to say that we're trying to use government to put constraints on the free market?

ERDMAN: No, no.

WAYNE: But it's the free market that's driving this price up, just like whether it's an urban or whether it's rural. It's the free market driving the price and we're putting a different way of valuating to control what the free market is doing.

ERDMAN: You're making an assumption that the current method we now use is an acceptable approach, and it's not.

WAYNE: No, no, no, no, what I'm making an exception is that we're basing it off of the free market, what is being sold, the price of that land, and that's the free market. The free market is determining the price of that land. And what we're trying to do is change the valuation based off of productivity to get around the free market. And I'm not saying I'm OK with that. I'm just trying to understand, in my view, coming from an urban setting, that's what we're doing. Is that a fair statement?

HILGERS: One minute.

ERDMAN: We're trying to base-- we're trying to base the value of ag land on the capability of that soil to produce something. And right now we're basing it on what someone is willing to pay for it, and some of those someones aren't in agriculture, and they're willing to pay far more than it's worth as far as an agricultural piece of property.

WAYNE: But that's the free market. Anybody can buy and sell land. So then what happens if a new crop, such as hemp, is introduced into the area?

ERDMAN: That will have no bearing on it. It's capability of the soil to produce something.

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WAYNE: But what if they're producing higher yields and higher money than say corn?

ERDMAN: They're smart farmers.

WAYNE: But it doesn't change their property value.

ERDMAN: No.

WAYNE: Interesting. OK. Interesting. Thank you.

HILGERS: Thank you, Senator Wayne and Senator Erdman. Senator Kolowski, you are recognized.

KOLOWSKI: Thank you, Mr. Chairman. I would like to yield my time to Senator Erdman, please. Lathrop, yes. Thank you.

HILGERS: Senator Lathrop, 4:30.

LATHROP: Thank you, Mr. President. Thank you, Senator Kolowski. Senator Erdman, can I ask you a few questions if you don't mind?

HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes.

LATHROP: So now I'm on to-- I talked about uniformity in the last time at the mike. I want to talk about proportionate to all property in the class. So once we do this, the constitution requires that it be proportionate within the class. So by what yardstick will we measure proportionality for these various classes of property and hypothetical income-- net income to be derived from it?

ERDMAN: OK. So as we discussed earlier, every one of those soils have a production capability rating, right? So tell me what is more comparable if I have soil as we discussed, 1705 in the eastern part of my county, or I have 1705 in the western part of my county and they're valued the same because of the same soil. Tell me how that's not equal and proportionate.

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LATHROP: OK. Here's what I understand proportionate to require. So if you have two guys with soil 1705 and they're valued the same and you assume that they'll raise the same crop and have the same net income, your proportionate within a soil type, but it doesn't help you with proportionality between soil type 1705 and wasteland. You still must have proportionality within agriculture and all these various classes. So don't you necessarily have to get back to the market to determine whether a soil class that you valued is proportionate to the next soil class that your valuing?

ERDMAN: I don't know how to answer that.

LATHROP: OK. I think that's a problem, because ultimately to determine proportionality from one type of soil to the next, or from grassland to wasteland, or from, you know, row crop type soil to grassland, it still has to be proportionate within the class of agricultural land. And I think that's a-- ultimately gets tied back to the market. Yeah, that's a constitutional requirement as well as uniformity, and it's not just proportionate from one soil type to the next, but proportionate. So right now if somebody who is growing corn has, I don't know what this land's worth to be honest with you, let's say it's worth \$12,000 an acre, and somebody who is-- has a different soil type is worth 10, when we get done with this process, it still has to reflect that same proportion to whatever the market is, or it's not proportionate from one soil class to the next, or one classification within the agriculture to the next. And that, I think, is also an issue relative to the constitutionality. You talked about the review process. If I don't like the-- if I don't like the cap rate that this board comes up with, what is my remedy?

HILGERS: One minute.

LATHROP: This board meets and they decide the cap rate for next year is going to be 6 percent and I go, there is no way that's fair. Where do I go?

ERDMAN: You have an opportunity to repeal it to TERC and you can also take it to court. I read the statutes that it doesn't eliminate you to do that.

LATHROP: I can go to TERC and to the county board and I can file suit if I don't like the cap rate?

ERDMAN: Yeah. No provision is taken away from you to do that. And the issue that you talked about proportionality, you're making an assumption that what we do now qualifies, is constitutional. I contend that what we do now has the same issues that what we're doing-- trying to do here.



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LATHROP: OK.

ERDMAN: That's a fact.

LATHROP: No, no, I get it, and I'm smiling only because once we pass a law, and it becomes a law, it's constitutional until some court says it isn't.

ERDMAN: That's correct.

LATHROP: Right. It remains enforceable until somebody says it isn't.

ERDMAN: Initiative 300 is a good example.

HILGERS: Time, Senators. Thank you, Senator Erdman, Lathrop, and Kolowski. Senator Walz, you are recognized.

WALZ: Thank you, Mr. President. I yield my time to Senator Lathrop.

HILGERS: Senator Lathrop, 4:45.

LATHROP: Thank you, Senator Walz, who did not see my head shaking just a moment ago. [LAUGHTER] I have a lot of notes. I'm reviewing those. Yeah, what's the-- will Senator Erdman yield to a question?

HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes.

LATHROP: Senator Erdman, can you tell us what the makeup of this Land Valuation Board is?

ERDMAN: Yes, I can. It's in the bill, I believe it's Section 9. It describes who they are. Let me turn to it so I don't make a mistake. The following people-- it will be one person involved in agricultural livestock production, one person involved in agricultural crop production, one person from a farm advocacy group, one person with a county assessor's certificate, a person from the Department of Agricultural Economics from the University of Nebraska, one person from a commodity checkoff board, the tax commissioner, and the director of ag, eight.

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LATHROP: OK. So are those eight people going to set the cap rate?

ERDMAN: Yes.

LATHROP: Do you know if they've got any background in setting the cap rate?

ERDMAN: I don't.

LATHROP: Determining what a competitive rate of return is?

ERDMAN: I don't. I would assume that these people will be advised by the Property Assessment Division and the Tax Commissioner. They'll be working as their liaison and giving them information as to how to move forward.

LATHROP: OK, thank you, Senator Erdman. Colleagues, the difficulty with the composition of that board, if I may, is that when we talk about a capitalization rate, you're into sort of the field more of investment and banking to determine what a fair rate of return is given the net income from a farm operation or a particular type of soil type, and/or the prevailing interest rates, prevailing investment rates, the risk of any particular type of investment, and I'm not confident the members of the board that have been described will be free from influence from the agriculture community who will be, of course, hoping for a higher cap rate, which will lower the overall value of property. I'm also concerned about the cap rates in that Senator Erdman has suggested that one cap rate in one part of the state would be appropriate. A cap rate on the eastern side of the state would be a different cap rate, and what we're doing is taking an average. And to me that's about what the cost of money is and what you could get with alternative investments. And in my judgment, unless I'm not understanding this, and that's perfectly possible, the rate of return--

HILGERS: One minute.

LATHROP: --or the cap rate shouldn't be dependent upon what part of the state you're growing a crop in. So those are just some of the concerns. I will tell you, I've been at this mike for plenty of times, and I'm ready to not ask another question for a while, so I'm not interested in somebody yielding more time to me at this point until I have a chance to study my notes a little closer.

HILGERS: Thank you, Senator Lathrop, Senator Erdman, and Senator Walz. Senator Hilkemann, you are recognized.

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HILKEMANN: Thank you, Mr. Speaker. Would Senator Erdman yield to several questions yet?

HILGERS: Senator Erdman, would you yield?

ERDMAN: I'll try.

HILKEMANN: Thank you, Senator Erdman. I know we've-- it's been one of those afternoons. I've been wanting to be a part of this conversation. I've been kind of distracted with other things going on here and these questions may have been answered, but these are important to me. So how is this going to affect local school funding to-- for example, my particular land is in Randolph, Nebraska. How might that affect the school funding in Randolph, Nebraska?

ERDMAN: So, Senator, what county are you in?

HILKEMANN: I'm in Wayne County.

ERDMAN: Whatever the valuation is, agricultural valuation in Wayne County is today will be the same value you have in Wayne County when this is implemented. So it should have no affect on your school funding.

HILKEMANN: OK. And what do you think will be the long-term effect of this changing this on property values? In other words, how might I have a reasonable idea of what my quarter of land would be worth today. Would this in effect-- what might I expect?

ERDMAN: My impression, and my conclusion is drawn from what I have discovered in other states that surround us, Senator: Wyoming, Kansas, Iowa, South Dakota, those states. They all have a similar approach to what I'm trying to do, and their valuation is very consistent. It is very steady, and it doesn't vary a whole lot up and down. One of the things that we haven't talked about, and what will happen in the near future, as soon as commodity prices adjust, we will see a run up in ag land value again. And when we do, the disproportionate share that ag land is paying now will go up and we'll pay more. And if all the urban senators are so worried about ag land values going down and affecting their valuation for their schools or whatever it is, I get that. But if you want to keep pounding on agricultural, then continue the system we have. If you want to make it fair for agriculture and allow them to be able to live and function as they should and not have to pay any more, my goal is not to have them pay less, my goal is to make it a fair way to value ag land. If your goal is to continue to shift more to ag land valuation, which means more taxes for ag land, then continue to do what we currently do.

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HILKEMANN: Senator, in talking with other senators about this that I respect that are in the agriculture that-- one of the comments that was made to me is that overall this probably isn't going to change the way we're doing things much at all at the present time, other than that if you-- if your farmland is not very good, you might have a lower valuation; if you've got really good farmland, your valuation may go up. Would you agree with that statement?

ERDMAN: That's a possibility, yes.

HILKEMANN: OK. And then I know that there's-- we have these fluctuations in grain prices, but you're going to take this land value over a period of what, eight years, is that correct? Not land prices, but commodity prices. For example, several years ago we had the \$7 corn, now we've got \$3.25 corn.

HILGERS: One minute.

HILKEMANN: Tell me how that's going to waiver out.

ERDMAN: It is an eight-year Olympic average, Senator, which means they're throw out the high and low and average the other six. So in your example, if we had a year of eight-year dollar corn, I would assume that would be the high year. That would be removed, and if we had \$2.80 corn and that would be the low year and that one would be removed. So it's a take the peaks out of this and the valleys out of it to make it more consistent so people can plan and work around what their taxation is going to be, because I can guarantee you, standing on this floor today, that when the ag land values run up again, and they will, valuations go up, so do taxes, and ag land is going to pay more than they do now, a disproportionate share, and it will continue to be, as it always has been for the last 15, 20 years, we will pay more. Our values are going to go up and we're going to pay more.

HILKEMANN: And that value of the price will be determined by the farm service program?

HILGERS: Time, Senators.

HILKEMANN: Thank you, Mr. Speaker.

HILGERS: Thank you, Senator Hilkemann and Senator Erdman. Senator Cavanaugh, you're recognized, and this is your third opportunity.

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CAVANAUGH: Thank you, Mr. President. I'm going to speak for just a few moments before I ask the senator to yield for questions, give him a little break, maybe take a drink of water. But I do have some questions for Senator Erdman. Kind of going back to my earlier comments this afternoon, I did want to give my colleagues a small piece of advice because this has been mentioned to me a few times over the last, I don't know, 48 hours or so. I'm a hugger. I love hugs. Big on the hugs. You can ask me about giving me a hug. Please don't make a Joe Biden joke. That would be very much appreciated, and I think it would go very far with a lot of people if you don't make a Joe Biden joke, but if you want to give me a hug, just say, hey, Senator Cavanaugh, can I give you a hug, and I'm pretty likely to say yes. So with that, Senator Erdman, would you yield for a question?

HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes.

CAVANAUGH: Thank you, Senator, so much for your time today on this issue. It really is an important issue and I appreciate you're very well-versed in this, and if you have a surrogate that you would rather I ask these questions to to give yourself a break, I'm happy to do that as well.

ERDMAN: Go ahead. Ask your questions.

CAVANAUGH: OK. So with the recent floods that have happened in Nebraska, is that going to impact the valuation under this formula?

ERDMAN: No, it will not.

CAVANAUGH: OK. So how does that not impact it? Because, I mean, the lands-- we are going to have a crisis in the state with the flooding.

ERDMAN: That property that was damaged-- the way it works, the way the statutes are written, whatever is on your property on 12:01 a.m. on January 1 is what you pay property tax on for the whole year of '19 no matter what happens the rest of the year. So that flood will have no effect on this year's property tax, none whatsoever.

CAVANAUGH: But will it have an affect on next year's property taxes?

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ERDMAN: It will depend on what happens to the reconstruction of the property that was damaged.

CAVANAUGH: So there is that potential or likelihood?

ERDMAN: So whatever is on the property on January 1, 12:01, 2020, will be the value for 2020.

CAVANAUGH: OK. So, I mean, in the past several years we've actually had some issues on the opposite end with drought in Nebraska, so if we were doing the valuation by this formula, would it have impacted it then?

ERDMAN: Well, in the same example as what Senator Hilkemann asked, if you use the eight-year Olympic average and you have a drought year, and let's say the income was very low in that year.

CAVANAUGH: I'm sorry. I do remember you saying--

ERDMAN: That one would be thrown out as well.

CAVANAUGH: OK.

ERDMAN: So a drought year would not have an impact on the average because that would be a number that would be removed.

CAVANAUGH: OK. So I appreciate what you're trying to do for the agricultural community, and my district is not necessarily a part of that.

ERDMAN: I understand.

CAVANAUGH: But that doesn't mean that I think that we as senators not only represent our district but represent the state. And so I want to make sure that we're doing something that is good for the people of Nebraska. And I just wanted you to know that my questions are meant to be in good faith and not meant to try and tear this down,--

ERDMAN: I appreciate that.

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CAVANAUGH: --I'm just trying to understand it a little bit better. So I appreciate your time on this today because I really do think that our-- the way that we are funding government through property taxes is ineffective and disproportionate to ability to pay. I mean, I said to one of our colleagues off to the side--

HILGERS: One minute.

CAVANAUGH: --I make 12-- one minute? Oh, thank you. I make \$12,000 a year and I still pay the same amount of property taxes regardless of my income.

ERDMAN: Correct.

CAVANAUGH: And so I appreciate your thoughtfulness with this and I really appreciate you taking the time to answer. I yielded my time earlier to Senator Lathrop because he had a sort of stream of questions that were helpful to me. Just thank you for your time on this.

ERDMAN: Thank you.

HILGERS: Thank you, Senator Cavanaugh and Senator Erdman. Senator Blood, you are recognized.

BLOOD: Thank you, proxy President Hilgers. Keep up the good work. I would ask that Senator Erdman please yield to a question as I'm still undecided on both the amendment and the bill.

HILGERS: Senator Erdman, would you yield?

ERDMAN: Yes, I would.

BLOOD: Thank you, Senator Erdman, and how are you holding up?

ERDMAN: Fine.

BLOOD: Good. I noticed they turned the air on. I was very thankful for that.

ERDMAN: They did?

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BLOOD: I think so, or I'm just sitting still too long. So I've had a lot of questions answered and this is a very technical bill and I appreciate all the great dialogue. I wish when we had important bills like this that we'd have dialogue like this as opposed to people reading out of books and wasting our time, so I do appreciate today's dialogue. One of the things I haven't heard, and unfortunately the transcripts are not up yet, I noticed that both the county assessors and NACO came out against it. Can you tell me what their objections were? Do you remember? Did you stay for the entire hearing?

ERDMAN: Yeah, I did. I listened to their objections. NACO and the county assessors, I had given an opportunity to those people to try to help me work this bill in a way that they could agree with. They chose not to. And when I asked them what their plan was, they basically said we don't have a plan, but we hate yours. That's been their approach. And so what happens--

BLOOD: What was the actual testimony, though, sir? Do you remember what they said?

ERDMAN: Well, they were concerned about the constitutionality, and the assessors are worried about how they're going to determine the productivity of the soil and all of those situations that they brought up because they didn't take the time to come to talk to me about how that information is available, and how we could make this work for them. That wasn't a discussion we had. And so, when you ask someone, do you have input that I could use? Would you please help me? And they decline. And then later on when you try to come up with something and they come opposed to it, when they had an opportunity to help you, is a problem.

BLOOD: That's fair.

ERDMAN: And that's a situation that I find with NACO and the county assessors, and some of the times they just don't want to do the work.

BLOOD: And then I notice that the Nebraska Ag Leaders Working Group came out in favor of it. And there's somebody named Steve Ebke, or Steve-- was it Ebke from the Corn Growers or was it Erdman?

ERDMAN: Yeah, no it was-- the group that came in was the farm organizations, and it was represented by one person. That was the Corn Growers, the Wheat Growers, Farm Bureau, and those people all came in with one person to testify for all those groups.

BLOOD: And what was their reasoning in support? Again since there's no transcripts, I'm depending on your memory.



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ERDMAN: Their concern and their support was because they've seen the ag land values go up in some counties as much as 300 percent, and they understand the disproportionate share that they're paying, that they weren't paying 20 years ago, or 15 years ago. And they're very concerned that when the ag land values go up again, the prices go up, they'll pay more than they are now, so this is an opportunity for them. They didn't come in asking for a reduction. They come in and ask that we freeze it where we are, and that's what this bill does. They're understanding is that it's going to go up and they're going to be in the same scenario they've been in before. And we are the only state in the region that uses the sales method, we're the only one. But, of course, you've got to know we're the only Unicameral too, so we can be different. But what's going to happen is the value is going to go up, and when it does, ag land values will go up, and taxes will go up again. And if this would have been in place in the 2000's, we wouldn't have seen a run up in ag values that we did, and agriculture wouldn't be in the predicament that we're in, and the state revenues wouldn't be in the tank like they are because agriculture wouldn't be doing as poorly as they are now.

BLOOD: So if I hear you correctly, the farmers are basically asking for a fair shake.

HILGERS: One minute.

BLOOD: Thank you, proxy President.

ERDMAN: That's correct. That's correct.

BLOOD: And so the other question I had for you is-- was there an interim study on this because I don't remember seeing one? Did we have an interim study to kind of test the waters and there was none on this particular issue?

ERDMAN: No, there was not. No, there wasn't. But over the summer, Senator Blood, we worked with the Governor's Office trying to figure out what method we should use based on what we understood about every other state around us. And when the other states around us have property tax on agricultural land that is significantly less than ours, then we need to do something to get ours in line. And this is not a reduction to get in line with the other states, but it will help us not get out of line further than we are.

BLOOD: I appreciate your answers. Thank you, Senator Erdman.

ERDMAN: Thank you.

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HILGERS: Thank you, Senator Blood and Senator Erdman. Senator Williams, you're recognized.

WILLIAMS: Thank you, Mr. President, and good afternoon again. And I do have a few more questions if Senator Erdman would yield.

HILGERS: Senator Erdman, would you yield?

ERDMAN: I'd be glad to.

WILLIAMS: And if you noticed that Senator Chambers has been sitting all afternoon, and you've been required to stand all afternoon, so I'm applauding you for that today.

ERDMAN: I haven't noticed that. I didn't know where he went.

WILLIAMS: He's hiding over there, but I'm not trying to wake him up or anything. I wanted to just be sure. I'm trying to understand something. When I was on the mike before, we did talk about the 75 percent valuation. And in looking at the bill, I see that on page 3, line 15, the 75 percent is taken out and it is defined as the agricultural productivity value which then is defined at, let me look at my notes here, page 5, line 1, and nowhere in that definition is the 75 percent. And I'm just wondering how that is still going to be computed somehow in this so that we don't lose that benefit that agricultural land has.

ERDMAN: Are you referring to the top of page 5, line--

WILLIAMS: 5, line 1, yeah. The special valuation shall be equal to the lands agricultural productivity value.

ERDMAN: Can I ask you this, did you look up 77-1359. I did at one time.

WILLIAMS: I did not.

ERDMAN: I have looked it up. I don't remember what it is exactly.

WILLIAMS: OK. Can we check with that? I just want to see if that's 75 percent. I understand the intent, and it starts at the beginning with being valuation neutral by-- at least by county. Is that a fair statement?

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ERDMAN: That's correct.

WILLIAMS: OK.

ERDMAN: And statewide as well. If counties [INAUDIBLE]--

WILLIAMS: Right. My question then about that, and Senator Bolz sort of asked this, I'm going to maybe ask it in a little bit different way. I've got numerous counties that have various school districts that are both inside a county and partly in another county in that, and I can't imagine that it would be valuation neutral per school district. Can you address that?

ERDMAN: You said you can't imagine it would be valuation neutral.

WILLIAMS: I can understand in the big picture how it can be valuation neutral in a county, but inside that county you've got different school-- different taxing entities that have different geographical boundaries.

ERDMAN: I see what you're saying. Right.

WILLIAMS: And having it be valuation neutral for each one of those separate geographic areas.

ERDMAN: You know, I would assume that each one of those geographic areas, and I'll make an assumption, I hadn't thought about this question, but I'm making an assumption, those geographic areas of those school districts would be very representative of what the county is. I wouldn't think you would have a school district that would be substandard to the rest. I would think that there may be portions in each one of those school districts that may have some substandard land, but they would also have some better land. I'm trying to think in my counties--

WILLIAMS: I'm thinking about it in particular in-- I have at least one school district that has virtually entirely agricultural land in their district. I have--

HILGERS: One minute.

WILLIAMS: Thank you, Mr. President. I have another district that it is closer to 70 percent homes and commercial and 30 percent ag. And I am trying to think about how this would work. It seems to me that there might-- it might not remain valuation neutral for those different entities.

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ERDMAN: I'd have difficulty thinking how that issue would be.

WILLIAMS: Well, then we can talk about that. The other thing I wanted to be sure of before we run out of time. As I understand it on the appeal, even though you could appeal to TERC, you could certainly appeal that they had classified the soil right or that they had your acres right, but if we changed the law that we are not using a market valuation approach, I'm not understanding how they can challenge the valuation side of this when we've set it in statute as a formula.

HILGERS: Time, Senators.

WILLIAMS: Is that time?

HILGERS: Yes.

WILLIAMS: Thank you.

HILGERS: Thank you, Senator Williams and Senator Erdman. Senator Crawford, you are recognized.

CRAWFORD: Thank you, Mr. President. And I thank Senator Erdman for his work on this property tax issue. I know he has been working on it multiple years. And actually, I will just yield a couple-- yield to you quickly so you can answer Senator Williams' question because I would like to hear the answer as well.

HILGERS: Senator Erdman, would you yield to a question?

CRAWFORD: Oh, I was just going to give you a chance to answer Senator Williams' question.

HILGERS: Senator Crawford, are you yielding the time, or are you asking a question?

CRAWFORD: Yes, I am. Thank you. Well, just to ask a question and then I'll take my time back to ask another question, thanks.

HILGERS: Senator Erdman, would you yield to a question?

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ERDMAN: Yes, yes. So let me see if I can understand what Senator Crawford is asking. Are you asking when he said, could there be a difference within a school district valuation or--

CRAWFORD: No, at the end he was saying, what-- I think, what would you be challenging in a valuation challenge.

ERDMAN: Oh, OK. OK. I understand. All right. Well, one of the things that would happen is you would be able to challenge the soil classification whether it was right or not, and then the other issue would be your acres. And sometimes the county courthouse doesn't have your acres exactly right. I found that over the time. But the issue that would be pretty much settled would be what are the production capabilities of that soil classification. That's pretty well set. And so some of these protests that we now hear as a county board would probably be eliminated because what we're doing now is-- I'll give you, for an example, about ten years in our county we sold 17 parcels of soil, farms that were valued, were sold at the assessed value which was 75 percent of the market, and that was below the market, and we all thought it was going drive down our valuation. And our valuation actually went up because the way they calculate the valuation of ag land, they use the median sale, and none of those sales came to be the median sale in the array. And the value went up, and people were very upset that they had 17 lower sales, but yet the value still went up.

CRAWFORD: Thank you. I have a couple other questions if you'll yield to couple other questions. I'm still trying to understand the cap rate that we've been talking about. Is that the same thing as what's discussed in the bill as the discount rate?

ERDMAN: Yes, it is.

CRAWFORD: OK. Thank you. So, we've talked about, and the discussion-- I've heard some discussion about the cap rate being tied to the value of money. However, on page 9, it's talking about the discount rate that the Agricultural Land Valuation Board sets a discount rate for each county. It talks about annual precipitation as a key issue that's being considered in the capitalization rate so that on the bottom of page 9, it talks about there's a separate discount rate for each county. So I'm going to ask a two-part question. So, the first is, so is it tied to-- how is it tied to money value, or is it tied to precipitation? I guess my larger political concern is if the Agricultural Land Valuation Board is the board that gets to set this cap rate or discount rate, seems to me that they're appointed by the Governor, they represent agricultural values. Seems like they would have every interest in moving that capitalization rate to lower valuation. Now, I know it has to be the same for this year. It's set the same the first year, but after that it seemed there would be a political incentive for them to push that down. And in the bill now they could

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push it down 15 percent. And so what stops the Agricultural Valuation Board from having that incentive to just lower it or raise it, whichever lowers the property taxes--

HILGERS: One minute.

CRAWFORD: Thank you. --by their maximum, or trying to lower it to affect-- to lower property taxes. Thank you.

ERDMAN: I would hope that this board would have some common sense to make those applicable decisions. Let me talk a bit about your comment about the rainfall precipitation being part of the analysis. And you may see in there on page 9, line 26, there's a very important three-letter word there, and it is "may." And so what we did is we suggested that maybe precipitation, maybe not a rainfall, may be used. It will be at their discretion on how they determine what the capitalization rate would be, because you see length of growing season, amount of rain, makes a huge difference on the production of your soil. So that's what we did. We used the "may" so they can choose to--

CRAWFORD: So just to clarify then, it's entirely up to the-- oh, sorry.

HILGERS: Time, Senators.

CRAWFORD: Thank you, Mr. President.

HILGERS: Thank you, Senator Crawford and Senator Erdman. Senator Groene, you're recognized.

GROENE: Thank you, Mr. President. The way I understood this bill as Senator Erdman has presented it to the Revenue Committee and talked about it last year, this is fairness within a subset within a county. This is what this does: it puts fairness on what the value of land is, what it can produce. That's easy to ascertain using USDA numbers. You just take the average. Let's say, simple way to do it is, one ground, one year it had wheat, one year it had soybeans, one year it had corn, you take those averages of production on that ground, and then you conglomerate them and you come up with one value. It's not hard to do, but it's fairness within the county, between farmers. It has no effect on levy authority of local governments. I mean, nobody worried when valuations went up 10, 15 percent a year. Nobody seemed to worry about that, that it affected school funding, that it effected levy rates. So why would you worry about this when somebody's trying to stabilize that number so we don't have these wide swings? That's all Senator Erdman's trying to do. What I think the local taxing entities are out there lobbying about

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is it stops the automatic tax increases that they could hide behind that they didn't raise the levy because valuations went up. Increased their spending while they could still claim they didn't raise your taxes. They like those increases. Ag is different than residential and commercial because man keeps making more buildings, more houses. If your valuation goes up on your house to the point you can't afford it, you can sell your house, within the next day or two move into another one at a lower cost. A farmer can't do that. He can't sell the high-priced land and go buy cheaper land and survive. If you're a businessman, a lawyer, and your accounts are lower, you can get a smaller office, move around. A farmer can't do this. So what we're trying to do, I believe here, is to stabilize his cost, his valuation cost based to what taxes he pays. I've heard questions here about education funding. Apparently, I understand exactly what Senator Erdman's going trying to explain this. Pretty soon, if we do property tax you're going to be asking me a lot of questions about TEEOSA. There's a lot of things not explainable, but the big word you got to remember is equalization. Who cares what the valuation is. Makes no difference with school funding. Either the local person pays in property taxes or the state pays in state aid to education. If the valuations go down, the state fills the whole-- the school is held whole. The schools are always held harmless. What the state likes is that the valuations have gone up in ag land, and it shifted the cost to operate in the schools to ag. The state had a less burden. We had governors, Appropriation Committee Chairs stand on the floor and say we're only raising spending by 3 percent. Of course you did, because valuation increase shifted the funding to the local taxpayers. Schools were held whole. Senator Erdman is trying to put a stabilization factor into local funding through property taxes. That's what he's trying to do. On the 15 percent, I've looked at that in the bill. That should have never been in there. Because if anybody knows statistics, when you got an eight-year Olympic average you throw out the high and the low. The only way you could even come close to a 15 percent--

HILGERS: One minute.

GROENE: --percent drop is if you had three zeros, you threw out one of them, you had to keep the other two and the six. You would have to have at least two zeros. You'd have to have two abnormal numbers on the high side and the low side to even come close in an Olympic average to vary more than 5 percent. If I was him, I'd take that out. It doesn't belong there. Right now we put arbitrarily allow the county assessors to take business and residential from 100 to 92. That's an arbitrary figure. That's a board that makes that decision, valuation. Ag land from 72 to 62. We keep talking about 75 percent. There's no ag land out there more than 72, and across the state it varies from 72 to 62 percent. We allow the county assessor that, that area. So this idea that this is new, that human factor is involved in the valuations with the board that Senator Erdman sets up, we do it now. Thank you.

HILGERS: Thank you, Senator Groene. Speaker Scheer.

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SCHEER: Thank you, Mr. President. Reaching the allotted time on this, we will move to the next item starting tomorrow morning. Thank you.

HILGERS: Thank you, Speaker Scheer. Mr. Clerk.

CLERK: Mr. President, thank you, I do have some items. Enrollment and Review reports they have engrossed LB217, LB269, and LB590. I have amendments to be printed: Senator Howard to LB570 and LB570A; Senator Walz to LB570; Senator Bostelman to LB698. Series of name adds: Senator Matt Hansen to LB418; DeBoer, LB424; Morfeld, LB709; Matt Hansen, LB709; Vargas, LB709.

Mr. President, Senator Vargas would move to adjourn the body until Friday morning, April 5, at 9:00 a.m.

HILGERS: Members, you've heard the motion. All those in favor say aye. Opposed say nay. We are adjourned.