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Revenue Committee  
February 05, 2010

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[LB837 LB1079 LR271CA]

The Committee on Revenue met at 1:30 p.m. on Friday, February 5, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB837, LB1079, and LR271CA. Senators present: Abbie Cornett, Chairperson; Greg Adams; Galen Hadley; LeRoy Louden; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: Merton "Cap" Dierks, Vice Chairperson.

SENATOR CORNETT: Welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue. Our Vice Chair, Senator Dierks, is excused today. To his left would be Senator Adams from York, Senator Hadley from Kearney. To my far right is Senator Pirsch from Omaha. Senator Utter and Senator Louden are opening on other bills in other committees. And I believe Senator White from Omaha will be joining us. Research analysts today are Stephen Moore and Bill Lock. Committee clerk is Erma James. Our pages today Abbie Greene and Ryan Langle. Before we begin hearings today, I would advise everyone to please turn their cell phones or pagers to either off or vibrate. Sign-in sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, please hand your sheet to the committee clerk. There are also clipboards in the back of the room to sign in if you do not wish to testify but wish to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door today; introducer, followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed time for closing remarks. As you begin your testimony, please spell your name, state your name and spell it for the record. If you have handouts, please present those to the committee staff. We need ten copies of those. If you did not bring copies, we will make them for you. With that, we will open the hearings on LB837. Senator Lautenbaugh, welcome to the Revenue Committee.

SENATOR LAUTENBAUGH: (Exhibit 1) Thank you, Madam Chairman, members of the committee. I think is my first appearance before the Revenue Committee so I still got that ability to pack a room and a committee, as far as that goes. (Laughter) But my bill is very simple, I believe. What it provides for, and this was brought to me by a constituent who appeared at the TERC and the county did not appear, and as I understand it he still lost. So this provides that a party, if a party should fail to appear at the hearing, the commission shall enter an order for the appearing party, basically a default judgment. Concern was raised that we don't know what that means when you're dealing with TERC. What would you give the property owner default for? So we passed around an amendment that simply provided the default judgment would be the prior valuation would obtain, which would address I think 99.9 percent of the reasons why property owners come to TERC in the first place, is to keep their valuation from increasing. So it's basically a default judgment provision, if you will. I can't explain it any more than

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that, but I'd be happy to take any questions you may have. [LB837]

SENATOR CORNETT: Senator Pirsch. [LB837]

SENATOR PIRSCH: Just a question. It isn't necessarily a double-edge sword. This would...this is a bill that addresses instances where the taxpayer appears, correct, and the county does not, right, and not vice versa? [LB837]

SENATOR LAUTENBAUGH: No, it would still be vice versa. If a party fails to appear outright, the commission, as they do now, could just affirm the valuation, I believe, if a complaining property owner fails to appear. [LB837]

SENATOR PIRSCH: So right now, if the complaining property owner fails to appear then the...and the county does appear, then the county is, by default, having the higher valuation upheld, correct? I mean... [LB837]

SENATOR LAUTENBAUGH: I don't want to say that's what happens in all cases because I believe there's discretion there. [LB837]

SENATOR PIRSCH: I see. [LB837]

SENATOR LAUTENBAUGH: This would just say that the party that fails to appear will not prevail, will lose the hearing, if you will. So the obvious question became what does losing mean if the county is the party, and so we have defined that with the amendment. [LB837]

SENATOR PIRSCH: And with respect to TERC, since they process...I'm sorry...well, yeah, this does affect...with respect to TERC, because as I understand it they have a very high volume of these appeals, is this expected to speed up the flow of or somehow the overall...bring down the length of time that the appeals process...right now I understand, I've heard testimony that can...that can be considered, can last for years. Is this, to your knowledge, does that have any effect upon that length? [LB837]

SENATOR LAUTENBAUGH: It could have the effect of expediting a resolution, certainly. [LB837]

SENATOR PIRSCH: Do you have an understanding or an expectation as to whether...as to on average who the nonappearing party is? Does it typically tend to be the county or does it typically tend to be the taxpayer? [LB837]

SENATOR LAUTENBAUGH: Honestly, I can't answer that. [LB837]

SENATOR PIRSCH: Okay. [LB837]

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SENATOR LAUTENBAUGH: I don't know. [LB837]

SENATOR CORNETT: Senator Hadley. [LB837]

SENATOR HADLEY: Senator Cornett. Senator Lautenbaugh, thank you for being here. On the surface, the bill seems to make a lot of sense. I...just a question about the amendment. You said that 99.9 percent, and maybe I'm coming at a rare instance, but where there was a devaluation and the county doesn't show up because they get last year's valuation instead of the devaluation that the taxpayer might want. And I'm just wondering if it isn't possible that the tax...that there might be an incentive at times for the county not to show up. [LB837]

SENATOR LAUTENBAUGH: I'm just trying to think through would it ever work that way that they would be having a hearing then. Who would be complaining at that point? [LB837]

SENATOR HADLEY: If the taxpayer said my property was \$200,000 last year, the county says it's \$190,000 this year, and the taxpayer says it's \$170,000 this year, and I guess I'm saying I don't know if values...maybe they never go down in life. [LB837]

SENATOR LAUTENBAUGH: No, they certainly do and that may be something we need to address with the amendment, if that is the case, where it's the county that's pursuing the action in TERC, if you will. [LB837]

SENATOR HADLEY: I just throw that out, not something we have to decide right now but... [LB837]

SENATOR LAUTENBAUGH: I did not consider it from the angle of what would happen if the valuation went down and the homeowner would obviously be happy with that. They wouldn't want it to default to the prior higher valuation. I think we've talked enough that the Chairman has a confused look on her face but... [LB837]

SENATOR CORNETT: No, I was just...I was just thinking that it's the county's...you know, they are obligated to appear at that hearing and if they don't, then they are the ones that have to live with the devaluation, just the same as if the homeowner doesn't appear they have to live with the increase. [LB837]

SENATOR LAUTENBAUGH: I think Senator Hadley was raising a specter of kind of an unusual circumstance where the property was devalued and somehow the proceedings were going ahead in TERC anyway and the county fails to appear and so the homeowner would get, by the amendment, the default higher valuation, which is not what the homeowner would want. [LB837]

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SENATOR CORNETT: Oh, the high...okay. [LB837]

SENATOR HADLEY: Yeah, higher. [LB837]

SENATOR LAUTENBAUGH: Yeah. [LB837]

SENATOR CORNETT: Higher, okay, I was going to say I haven't seen the amendment yet so I might not... [LB837]

SENATOR HADLEY: Yeah. And we can talk about it,... [LB837]

SENATOR LAUTENBAUGH: Sure. [LB837]

SENATOR HADLEY: ...think it through. [LB837]

SENATOR LAUTENBAUGH: I think...I know TERC will be here testifying,... [LB837]

SENATOR CORNETT: Okay. [LB837]

SENATOR LAUTENBAUGH: ...Mr. Wickersham from TERC, so he may be able to shed some light on that, too, as the expert. [LB837]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB837]

SENATOR LAUTENBAUGH: Thank you. [LB837]

SENATOR CORNETT: Senator Lautenbaugh, will you remain for closing? [LB837]

SENATOR LAUTENBAUGH: Yes, I will. [LB837]

SENATOR CORNETT: Okay. Good. First proponent. [LB837]

JON EDWARDS: Good afternoon, Senator Cornett, members of the committee. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s. I'm here today representing the Nebraska Association of County Officials. We are here today in support of LB837 and I think, as a practical matter and for efficiency purposes, as we looked at this bill, we don't see any reason why it's not practical to put this language into statute. So just based on the efficiency perspective and looking at it from that perspective, we certainly would support this additional language within the current scheme. So with that, I'll... [LB837]

SENATOR CORNETT: Senator Pirsch. [LB837]

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SENATOR PIRSCH: Just to the same question I posed to Senator Lautenbaugh, and perhaps you might be able to shine a little bit of light on that based on your familiarity. Do you have an understanding, typically is it...in these cases where one party fails to appear at these hearings, is it typically the taxpayer or is it typically the county? [LB837]

JON EDWARDS: Senator Pirsch, I...you know, I really don't...I don't know what the percentages would be and Commissioner Wickersham might be able to shed a little bit more light on that as to how often it's one party or the other and how often it actually happens. I don't even know that it actually happens that often. [LB837]

SENATOR PIRSCH: That often, okay. [LB837]

JON EDWARDS: But I would think this is probably a pretty limited happening, but I can't say that based on numbers for sure. [LB837]

SENATOR PIRSCH: Sure. And I'll withhold the questions then too. I think you're right. [LB837]

JON EDWARDS: Okay. Sure. [LB837]

SENATOR PIRSCH: Thank you. [LB837]

JON EDWARDS: Thanks. [LB837]

SENATOR CORNETT: Seeing no further questions, thank you. [LB837]

JON EDWARDS: Okay. Thank you. [LB837]

SENATOR CORNETT: Next proponent. We'll move to opposition testimony. Are there any opponents? Is there anyone here to testify in a neutral capacity? [LB837]

BOB WICKERSHAM: Senator Cornett, members of the committee, my name is Bob Wickersham. I am the chairperson of the Tax Equalization and Review Commission. I'm appearing on behalf of the commission and we're neutral about the passage of LB837. The bill, as introduced, certainly did raise the issue discussed by Senator Lautenbaugh. In other words, if there's going to be a default judgment in favor of the property owner, particularly in a valuation case, what is the value? There are a number of possibilities for that. Senator Lautenbaugh has illustrated a resolution but, Senator Hadley, you've also illustrated a pitfall in that particular resolution. Values do decline and have declined so that would not always be the result. Now the...Senator Pirsch, you have asked if these kinds of occurrences, that is where the county does not appear, are frequent. They are not. In...I can't tell you exactly how many cases I have heard since I've become a commissioner, but I've only heard two of these. I think Mr. Moore indicated

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that in 1996 he'd made an analysis and in the very early days of the commission there were something like four or five of these. So they're not very frequent. That does not mean that they aren't hard to understand. I mean what...how can you suggest to yourself that the county didn't appear and the taxpayer shouldn't win? But you do have to ask again that minimal question of what do they win, and when you start asking yourself that it gets a little bit complicated. In addition, I think you have to ask yourself, what happens when there is more than one appellee, that is, more than one person on the other side? Typically, it's just the county board but that's not the posture of all cases. If the county assessor has appealed, and they may, in a valuation case, then you have two parties on the other side. You have the taxpayer and the county board. Now in those kinds of appeals, it is more frequent to have the county board not appear. I mean they will let the taxpayer carry the burden. So at that point, if the commission issued an order, a default against the county board, what would that order be? Now there are other contexts in which this question arises. We do not hear just simply valuation cases. We hear cases that involve the classification of real property. For example, we're in the process of hearing...we've heard a large number of special valuation cases that arose from Lancaster County. In all of those proceedings there is the assessor as the appellant, that is the party who brought the action, and there are two opposing parties, the county and the taxpayer. The county has not appeared in any of those proceedings since the first 5 hearings out of over 400 that we'll hold. So what default order do we enter in those kinds of proceedings? We also have exemption appeals and in those appeals we've had a number of appeals by assessors from decisions of the county board. They did not agree with the county board's decision either to exempt or to tax property. Either way, they've appealed. In those proceedings we also have two parties on the other side--the owner of the property and the county board. Again, the county board is not likely to be the appearing party. It is likely to be the owner of the property that is the appearing party. You've got a default by the county. What kind of an order should we issue? What relief should we give? The practice of the commission, absent Senator Lautenbaugh's legislation, is to, when someone does not appear, in essence, (laugh) this is not very good legal language, we just ignore them. They're not there. They haven't presented evidence. They haven't presented argument. They have not contributed to the case. It's just, they're just gone. It's like a nonentity and, of course, they are a nonentity because they're not there. But legislation, and I have not seen the amendment so perhaps Senator Lautenbaugh's amendment deals with these side issues, but if you require us to enter a default order then you're requiring us to do something affirmative, and I'm not quite sure what we could or should do, particularly in those third party cases. Now the issue about how a taxpayer can lose when the county is not there, there is a statutory requirement that the taxpayer prove that the county board's decision was arbitrary or unreasonable, and I know the committee has heard about that before. The taxpayer, because it's an appeal, has to prove something in order to obtain relief. If they don't prove that, they're not entitled to relief. So you have a hearing and you try to determine whether or not the taxpayer has presented proof that the county board's decision was unreasonable or arbitrary, and if they have not then

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they would not prevail. That's the current law. That's how you get to the result that the taxpayer does not prevail if the county...does not necessarily prevail if the county has not appeared. It is that practice of just treating the county as absent, not presenting any evidence, but only relying then on the evidence presented by the taxpayer to make the decision. If that is obscure in some way, I'll try to clarify it if anyone has questions, Senator. [LB837]

SENATOR CORNETT: Senator Pirsch. [LB837]

SENATOR PIRSCH: So when a party, say it's the taxpayer fails to appear, you consider documents previously submitted and examine... [LB837]

BOB WICKERSHAM: No, sir, we'll only consider the exhibits received and the testimony presented. [LB837]

SENATOR PIRSCH: Okay. So you are somewhat formalistic then, more like a court, in terms of you receive evidence and, thus, it has to be offered, right, in order to... [LB837]

BOB WICKERSHAM: Yes, sir. [LB837]

SENATOR PIRSCH: And with no one there to offer it, you wouldn't...you don't consider evidence from...okay. [LB837]

BOB WICKERSHAM: No, sir. [LB837]

SENATOR PIRSCH: And... [LB837]

BOB WICKERSHAM: And, sir, if I might amplify, we have had...in fact, I do remember one of these cases that the county had presented exhibits. In other words, they'd submitted exhibits that we believe that they intended to offer. They were not there; the commission didn't receive those exhibits. [LB837]

SENATOR PIRSCH: Uh-huh. And similarly, if the...I mean is that the...Senator Lautenbaugh talked about the impetus for this bill being one of his constituents who did not...I think that they made assumptions then when the...he appeared at the hearing, the TERC hearing,... [LB837]

BOB WICKERSHAM: Yes, sir. [LB837]

SENATOR PIRSCH: ...and the county did not. [LB837]

BOB WICKERSHAM: Yes, sir. [LB837]

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SENATOR PIRSCH: Yet somehow, as a result of that, and the taxpayer still lost that hearing. [LB837]

BOB WICKERSHAM: Yes, sir. [LB837]

SENATOR PIRSCH: And so that would, I mean, presume that there is some sort of evidence that the commission must have received from the county then. [LB837]

BOB WICKERSHAM: We didn't receive any evidence from the county. [LB837]

SENATOR PIRSCH: Okay. So what do you rely on then in the absence of... [LB837]

BOB WICKERSHAM: In that instance, it would have been only the evidence presented by the property owner. [LB837]

SENATOR PIRSCH: Had the property owner not offered that evidence but just simply said, I think, you know, proffered testimony that he thought that the...that the assessment was unreasonable, I mean would that be enough then to tip the scale and say that... [LB837]

BOB WICKERSHAM: No, sir. [LB837]

SENATOR PIRSCH: No. Okay. Okay. Just trying to get a sense of how this...operate. [LB837]

BOB WICKERSHAM: Yes, sir. [LB837]

SENATOR PIRSCH: And I appreciate that. [LB837]

BOB WICKERSHAM: No. No, the Supreme Court a number of years ago said that, in essence, the unsupported opinion of a property owner as to value is not clear and convincing evidence, and they went on further to say that if that were the rule, if someone could simply appear and say the value of my property is X and that that was sufficient, then no one's assessment could be sustained. [LB837]

SENATOR PIRSCH: Sure. As a practical matter,... [LB837]

BOB WICKERSHAM: Yeah. [LB837]

SENATOR PIRSCH: ...had he showed up with his...a couple of neighbors and both the neighbors said this is how much my house is valued and this is how much the other and he's significantly above us, would that be enough generally to sustain the burden? [LB837]

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BOB WICKERSHAM: Well, Senator, I don't want to speculate about what you could produce as evidence. [LB837]

SENATOR PIRSCH: Oh, sure. [LB837]

BOB WICKERSHAM: We have all kinds of evidence presented to the commission. [LB837]

SENATOR PIRSCH: Uh-huh. [LB837]

BOB WICKERSHAM: Typically, it is in the form of records of sales of other property. Occasionally we have taxpayers who have hired appraisals...hired appraisers and we have full-blown appraisals. There are a variety of ways to show us that what you're saying is sustainable or correct. [LB837]

SENATOR PIRSCH: I see. [LB837]

BOB WICKERSHAM: And that happens. [LB837]

SENATOR PIRSCH: Appreciate it. Thank you. [LB837]

SENATOR CORNETT: Mr. Wickersham, currently, if...and I know you said it's only happened a handful of times, what happens if the county does not show up? [LB837]

BOB WICKERSHAM: If the county does not show up, we have no evidence of the county's position. It is...the result is entirely dependent, entirely dependent on the evidence that is presented by the property owner. Now in a typical proceeding...okay, I can see your puzzlement. [LB837]

SENATOR CORNETT: No, I understand what you're saying. I'm just... [LB837]

BOB WICKERSHAM: Okay. In a typical proceeding, if you will, think of a kind of a back-and-forth process. You're debating something. One side is able to state their position; the other side can evaluate that and state their position. If the county is not there, there's simply no one to make a presentation on behalf of the county. So we have no evidence, we have no evidence of how the county arrived at their value, whether there's an appropriate basis for it, none of that, that might be used to refute testimony of someone else that the value was something different. [LB837]

SENATOR CORNETT: And I understand that part of it. [LB837]

BOB WICKERSHAM: Okay. [LB837]

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SENATOR CORNETT: My question is, how do you determine, if the county doesn't show up currently, that the decision was arbitrary and unreasonable or... [LB837]

BOB WICKERSHAM: If... [LB837]

SENATOR CORNETT: I mean if you don't have the other side of the argument now from the county,... [LB837]

BOB WICKERSHAM: Well, we... [LB837]

SENATOR CORNETT: ...how do you determine... [LB837]

BOB WICKERSHAM: Okay. [LB837]

SENATOR CORNETT: ...how do you determine whether the valuation was correct or not? [LB837]

BOB WICKERSHAM: What we always have, of course, is the county's value, because it's an appeal from that decision. What we have is perhaps, and I don't want to...what we have...Senator, if you came to our hearings, I think you would find that over 90 percent of them are simply somebody saying, I think my property is worth this. There is no support for that position. They haven't produced a property that was like theirs that sold. They haven't produced an opinion by an appraiser. And that's not necessary but those are ways that you can bolster your opinion. The vast majority of them, the vast majority of them have no support for their opinion. It's simply their opinion. And the Supreme Court has said that's not enough. [LB837]

SENATOR CORNETT: And I understand that. What... [LB837]

BOB WICKERSHAM: Uh-huh. [LB837]

SENATOR CORNETT: ...what I'm trying to get at is what...do you just look at that valuation then when that person comes... [LB837]

BOB WICKERSHAM: No, we'll look at whatever evidence they present to...either in the... [LB837]

SENATOR CORNETT: ...based on what the valuation the county...that you had sent to you from the county? [LB837]

BOB WICKERSHAM: No. No, ma'am, we won't look at that at all. What we look at...what we have only in evidence is the value that was established by the county board

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and then... [LB837]

SENATOR CORNETT: That's what I meant, you look at that. [LB837]

BOB WICKERSHAM: Well, but that's the default. If the taxpayer has not proven a different value, then that's the default value. And the taxpayer has to be able to prove a different value. [LB837]

SENATOR CORNETT: Okay. Thank you. [LB837]

BOB WICKERSHAM: Is that...and they just...they just...in our opinion, perhaps your opinion would be different, but in our opinion, most of the time they do not. [LB837]

SENATOR CORNETT: I get...then what is the purpose of a county official even showing up at these hearings? [LB837]

BOB WICKERSHAM: The...it is entirely desirable that the county board send someone to the hearing. Typically what we have is the county attorney and we have an appraiser or the assessor. Now if a taxpayer wishes to do so, they can call. I mean the person is there in the room. They can call the appraiser or the assessor and they do. And if that happens, we can ask, particularly the members of the commission, can ask those persons questions, and we do. And sometimes we can figure out what went wrong, if something went wrong, with the valuation or what might be done about it. But those persons are there and they're available if they're used by the taxpayer to offer an explanation for how the county arrived at its value and how...and for what reasons that valuation might be wrong and perhaps even evidence about what the correct value is. So there is a substantial benefit and, in addition, it is beneficial to have someone there to represent the county board so that, again, if there is any opportunity to have an explanation of what the process was, and it isn't necessarily always to bolster that, the county board result. A candid examination of county board results is not always a pretty thing. [LB837]

SENATOR CORNETT: Thank you. Senator Hadley. [LB837]

SENATOR HADLEY: Senator Cornett. Commissioner Wickersham, a couple quick questions: Just procedurally, you know, we've had some bad weather today. Let's say that one party can show up and the other one doesn't show up. [LB837]

BOB WICKERSHAM: Oh no. Well, okay. [LB837]

SENATOR HADLEY: I mean how do you... [LB837]

BOB WICKERSHAM: In those kinds of instances, we call people up. We say, are you

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going to be appearing? Are you going to have trouble traveling? We routinely grant continuances if anybody says, I can't be there, there's been an illness in the family, something has happened, and we take those, frankly, we'll take those over the phone. We'll enter our own order. We're not going to require you to send us something in paper all the time. We do like to see something signed, but if in a day like today, if somebody called up and said, I can't travel, we're likely to just continue the proceeding. [LB837]

SENATOR HADLEY: A second question, Commissioner: Using a hypothetical case, the assessor says it's a \$200,000 property, the taxpayer says I think it's \$190,000, and the county board says we think it's \$190,000 also, can the assessor then appeal to your...to TERC? [LB837]

BOB WICKERSHAM: If that... [LB837]

SENATOR HADLEY: Did you say that the assessor could? [LB837]

BOB WICKERSHAM: And I'm sorry, sir, if I missed part of your... [LB837]

SENATOR HADLEY: Oh, where the county board agrees with the taxpayer. [LB837]

BOB WICKERSHAM: If they come before us and agree with the taxpayer, we'll enter an order for that value. [LB837]

SENATOR HADLEY: And the assessor, does the assessor have... [LB837]

BOB WICKERSHAM: No. [LB837]

SENATOR HADLEY: Okay. I just misunderstood. I thought... [LB837]

BOB WICKERSHAM: No, no. [LB837]

SENATOR HADLEY: ...the assessor could bring an action. [LB837]

BOB WICKERSHAM: That's an appeal from the county board decision. [LB837]

SENATOR HADLEY: Okay. [LB837]

BOB WICKERSHAM: I don't know that the question about whether or not an assessor could appeal from one of our decisions has been answered. I, frankly, don't know. I have to think about that. [LB837]

SENATOR HADLEY: Okay. Thank you. [LB837]

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BOB WICKERSHAM: And of course, that would be answered by the Court of Appeals, not by us anyway. [LB837]

SENATOR HADLEY: Sure. [LB837]

BOB WICKERSHAM: We can't regulate appeals from our decisions. [LB837]

SENATOR HADLEY: Let me ask one more then too. Basically, when we say current law allows for a default judgment for the county should a taxpayer challenging their property assessment fail to appear for the hearing, so that's a given, right, that... [LB837]

BOB WICKERSHAM: Yes, sir. [LB837]

SENATOR HADLEY: ...if the taxpayer doesn't show up it's over? [LB837]

BOB WICKERSHAM: Yeah. Yeah. [LB837]

SENATOR HADLEY: You won't look at...even if they had sent something in. [LB837]

BOB WICKERSHAM: No. And that's the same thing with the county. If the county has sent things in and they're not there, we're not going to consider them. [LB837]

SENATOR HADLEY: Okay. Okay. Thank you. [LB837]

BOB WICKERSHAM: Yeah. At least that part is evenhanded if you think the rest of it isn't. Yeah. Okay. [LB837]

SENATOR CORNETT: Senator Pirsch? [LB837]

SENATOR PIRSCH: No. No, thanks. [LB837]

SENATOR CORNETT: Okay. Thank you very much. [LB837]

BOB WICKERSHAM: All right. Thank you. [LB837]

SENATOR CORNETT: Are there any...is there anyone else in a neutral capacity? Senator Lautenbaugh, you're recognized to close. [LB837]

SENATOR LAUTENBAUGH: Thank you, Madam Chair and members of the committee. I think as the discussion divulged, if you will, or revealed, there may be additional issues to work with on the amendment to make sure we're not creating an injustice by doing this. But I still think fundamentally it makes sense to proceed with the bill as amended. I'd be happy to work with the committee to get it right, I guess, to avoid any possible

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unjust outcome. [LB837]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Senator Lautenbaugh. [LB837]

SENATOR LAUTENBAUGH: Thank you. [LB837]

SENATOR ADAMS: Senator Cornett to open on LB1079. [LB1079]

SENATOR CORNETT: Good afternoon, Senator Dierks and members of the Revenue Committee. For the record, my name is Abbie Cornett and I represent the 45th Legislative District. I am appearing here today as introducer of LB1079 which would increase from 30 days to 120 days the time within which a property taxpayer could appeal a county board of equalization's final decision on the taxpayer's protest to the Tax Equalization and Review Commission, hereafter known as TERC. The primary purpose for the date change as proposed by LB1079 is to give a property taxpayer additional time to resolve disputed issues with the county assessor and/or the county board of equalization so that if and when the taxpayer's appeal comes before TERC for a hearing, TERC would be able to dispose of the appeal relatively quickly. Because when the parties have already resolved disputed issues by themselves, an appeal to TERC may be unnecessary. And if an appeal is filed and the parties have resolved disputed issues, the parties would be prepared, for example, to have TERC either enter a confession of judgment order or a consent order that would quickly dispose of the appeal to TERC. The various date changes proposed by LB1079 are intended to implement the bill's primary purpose. Finally, I will be offering an amendment that would amend Section 5 of the bill to change the last paragraph of statute Section 77-1504 by substituting November 22 for October 15, and December 7 for October 30 to coordinate with the changes made to Section 7 of the bill by the amendment; amended Section 7 of the bill so that the stricken language in statute 77-1510 would be reinstated and specific dates would be used rather than the phrase "120 days." November 22 would replace August 24, and December 7 would replace September 10, and a new sentence at the end of Section 7 of the bill stating the county board of equalization shall have the authority to change the value of real property after July 25 or August 10 if the county has adopted a resolution to extend the deadline for hearing protests under Section 77-1502 and before an appeal is filed with the Tax Equalization and Review Commission. We will also be striking a section of the bill that pertains to TERC's statewide equalization proceedings rather than taxpayer appeals, and defining party aggrieved by amending Section 77-5002 to include an intervener if the intervener qualifies as a party aggrieved, and all rules of laws and procedures governing parties aggrieved shall apply to the intervener who qualifies as the party aggrieved. And the final section that we will be amending is Section 6 to add a new section to the bill amending subparagraph (1) of statute Section 77-5116 to provide during a formal hearing any party may file an interlocutory appeal with the Court of Appeals for the

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purpose of challenging a determination by the commission that evidence sought to be introduced into the record of the proceedings by any party to formal proceedings is or is not admissible evidence under the applicable rules of evidence. We have a couple of testifiers that actually came together and brought us these suggestions on how to simplify...maybe not simplify but allow the taxpayer and the counties time to resolve disputes before it goes to the TERC, and basically the gist of the bill in the end is that it gives them time to resolve those disputes. If an appeal has been filed to TERC, if they are resolved by the time that comes up, they can go to TERC and say we've got it solved. We'll have a representative...two representatives that will be speaking to this bill. [LB1079]

SENATOR ADAMS: Thank you, Senator Cornett. Are there questions for the senator? First proponent? [LB1079]

WILLIAM J. MUELLER: (Exhibits 2 and 3) Senator Adams, members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Nebraska Association of Commercial Property Owners in support of LB1079. I want to thank Senator Cornett for introducing the bill and I also want to thank Larry Dix and Jon Edwards of NACO, Roger Morrissey and Mike Goodwillie of the Douglas County Assessor's Office, as well as Rick Kubat with the Douglas County Board. This bill, as introduced...and I'm not going to talk about the amendment that Senator Cornett described. Part of her amendment is adding things to this bill; part of it is clarifying things in this bill. This bill does two things. It provides that the county board has more time to consider protests once it establishes value. Currently, the county board establishes value on June 1 and then they have to finalize that value by July 25 or August 10, depending on if they've adopted a resolution. This bill would say that the county would establish the values earlier on, in this case, on May 20, and that would give the parties more time to talk and negotiate and try and come to an agreement before the county has to establish the value, submit that, have the levies from the schools and the counties and the cities established. So that's one thing that it does. The second thing that it does, it provides that if in this process the taxpayer and the county can't come to an agreement on the value, current law says that the taxpayer has 30 days to file their appeal to TERC, this would allow the taxpayer 120 days to make that decision. Our hope is that in that 120 days there will be further discussions at the county level with the county assessor to try and come to a value that's acceptable to the county and is acceptable to the taxpayer. The taxpayer, if he or she or it was not satisfied, could still appeal to the TERC, but that decision wouldn't have to be made until 120 days. The problem now in this whole process, and we've been at this at least five sessions, there are several challenges that the counties have, one of which is they are required to establish a value on every parcel in their county every year and that the process never ends. They just complete one year's and they start the next year's. So there's not a lot of time for the county to be talking to people to try and resolve these matters. What we're trying to do is provide as much time as we can. If the county and

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the taxpayer can come to an agreement in that 120 days, the county would be authorized to agree to that value. Currently, the law provides that in that 30 days you file your appeal. If you then settle it, TERC has to approve it because the county doesn't have any more authority. So we would leave authority at the county level longer. And again, in talking with NACO and in talking with Douglas County, I think that there's agreement conceptually that by moving these time lines the county can still do what it needs to do and we hope, and really we're only going to know if we do this and see if more settlements are reached, but we hope to have more discussion at the local level between the taxpayer and the county. There's a second issue that is not in this bill. Those of you on the committee last year know this issue and my client continues to be interested in the burden of proof. I handed out to you two things. The first is a letter from John Dickerson who is a commercial property owner in Omaha in support of this. The second thing I handed out to you is a copy of part of last year's LB580, and this is the bill that Senator Cornett introduced that we supported that provides that the taxpayer...first of all, the taxpayer has the burden in these cases. You had a bill earlier where the county didn't show up. I think that what Senator or what Commissioner Wickersham was saying, even if the county doesn't show up, the taxpayer still has the burden of proving value. We're not changing that. What we're saying is, in order to prove value, the taxpayer has to prove by the greater weight of the evidence that their value is the correct value. The current law requires that the taxpayer prove that the value established by the county was unreasonable or arbitrary, not that it's just the wrong value but that it was unreasonable or arbitrary. Courts in Nebraska, based on the current statute, have said that that means that the taxpayer has to prove by clear and convincing evidence that their value is the right value. We don't think that's a fair burden to put on the taxpayer that the taxpayer not only has to prove more than the county but the taxpayer has to prove with clear and convincing evidence that their value is right. But again, to be clear, the taxpayer still has the burden. If I go to TERC and I don't prove my value, I lose. Even if the county doesn't show up, if I offer no evidence and the county offers no evidence, county wins. What we're saying is if the county offers evidence and the taxpayer offers evidence, the TERC decides what the value is. I'd be happy to answer any questions that the committee may have. We would ask you to advance LB1079. [LB1079]

SENATOR ADAMS: Senator Hadley. [LB1079]

SENATOR HADLEY: Senator Adams. Mr. Mueller, just a quick question, I guess: Yesterday we heard what had been thought of as a simple change in a couple dates and we found out that it had significant problems, kind of the daisy chain. [LB1079]

WILLIAM J. MUELLER: Yes. [LB1079]

SENATOR HADLEY: Have you talked to other, you know, the officials and such as that, that we're not opening up something that will cause problems? [LB1079]

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WILLIAM J. MUELLER: Well, you raise an excellent point. I was going to end with this. We've been working with the county, we've been working with Douglas County, we've been working with NACO, your counsel, Mr. Moore, has been very involved in this and, you're right, the difficulty is we don't have one section of statute that says it's 30 days. We have multiple sections of statute that have dates, that...I mean we've been very careful that we do this right. Are we there yet? Probably not, but we will get it right. [LB1079]

SENATOR HADLEY: Thank you, Mr. Mueller. [LB1079]

WILLIAM J. MUELLER: It's complicated. Even if we agree on the concept, writing it is difficult. [LB1079]

SENATOR ADAMS: Senator Pirsch. [LB1079]

SENATOR PIRSCH: Thank you very much. And just a clarification with respect to you had mentioned a change in the burden of proof, changing the standard that is. [LB1079]

WILLIAM J. MUELLER: Yes. [LB1079]

SENATOR PIRSCH: And currently you mentioned that the current standard is unreasonable or arbitrary action by the county in reaching that valuation, which is a very hard burden for a taxpayer to... [LB1079]

WILLIAM J. MUELLER: Yes. [LB1079]

SENATOR PIRSCH: ...to present to be successful at appeals. And so are you suggesting then in all cases then that the burden be switched to a preponderance, I think you said greater weight of the evidence which would be just preponderance of the evidence, 51 percent so to speak? [LB1079]

WILLIAM J. MUELLER: Yes. We are, and this also complicates it. The TERC does more than just establish the value of an individual parcel but what we're talking about is in the situation where TERC is establishing the value of my home, the burden of proof, the standard of review would be greater weight of the evidence, preponderance of the evidence, 51 percent. [LB1079]

SENATOR PIRSCH: Sure. [LB1079]

WILLIAM J. MUELLER: Yes. [LB1079]

SENATOR PIRSCH: And I understand TERC does other things, classification of real

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property. I think... [LB1079]

WILLIAM J. MUELLER: They do in equalization and exemptions, yes. [LB1079]

SENATOR PIRSCH: ...the commissioner talked about. Sure. Okay. And just for clarification, that standard that exists in law right now, the unreasonable or arbitrary, that has been interpreted by Nebraska courts to be synonymous with a more well-known legal...a different way of expressing clear and convincing evidence. Is that... [LB1079]

WILLIAM J. MUELLER: Yes. [LB1079]

SENATOR PIRSCH: ...that's exactly how courts may have interpreted that standard? [LB1079]

WILLIAM J. MUELLER: In my review of the cases and in Senator...Commissioner Wickersham's review of the cases, our court...I don't even know if this is a word, synonymizes... [LB1079]

SENATOR PIRSCH: Yeah. [LB1079]

WILLIAM J. MUELLER: ...arbitrary and capricious with clear and convincing. [LB1079]

SENATOR PIRSCH: Equivocates, okay. And I appreciate that. No other questions. [LB1079]

SENATOR ADAMS: Anyone else? Bill, if a preponderance is 51 percent then, help this nonlawyer out, what's clear and convincing? Can you put a numerical value on that? A lot, huh? [LB1079]

WILLIAM J. MUELLER: Well, I mean 70. [LB1079]

SENATOR ADAMS: Okay. [LB1079]

WILLIAM J. MUELLER: And again, that's not...that's not in law. (Laughter) But I think the lawyers in the room, I think 70 would be about...and, Senator White, Senator? I guess I can't call on you but... [LB1079]

SENATOR WHITE: Well, I guess I would say this. The preponderance of the evidence is 51 percent, is the general, more likely than not, then clear and convincing is somewhere in that 70-75 range, and then beyond reasonable doubt, it's a reasonable doubt, 90-95 percent. [LB1079]

SENATOR ADAMS: Okay. Great. Thank you. Are there other questions for Bill? Seeing

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none, thank you, Bill. [LB1079]

WILLIAM J. MUELLER: Thank you. [LB1079]

SENATOR ADAMS: Next proponent. Any other proponents? Opposition testimony then. Opponents? Neutral testimony. [LB1079]

BOB WICKERSHAM: Senator Adams, members of the committee, my name is Bob Wickersham. I am the chairperson of the Tax Equalization...my name is Bob Wickersham. I'm the chairperson of the Tax Equalization and Review Commission. The commission is appearing neutral on this bill after hearing, at least in part, Senator Cornett's description of an amendment to the bill. We appreciate the fact that Senator Cornett is asking the committee to remove Section 8 of the bill. That section probably had little to do with what's been described to us as the purposes of the bill and substantially reduce the time that the commission had to conduct statewide equalization. The commission would also endorse the changes that Senator Cornett discussed in that it would place date certain in the statutes. Those are there now. We've had problems in the past administering statutes as 120 days after a decision. If you can imagine trying to count up on a calendar the day that an appeal has to be filed, a date certain, I would hope it has obvious merit. The discussion about the standard of review and the burden of proof, I was unaware that those issues were going to be raised again in this proceeding. They've been raised in other bills that were before the commission. But, Senator Pirsch, the way I think that the process has been described is twofold. One, there is a statutory standard, it's by statute, and that is the unreasonable or arbitrary standard or burden or standard of review. That has been in place since 1959. That's been the statutory standard for review of appeals from county board decisions since 1959. That standard was originally in place for reviews by the district court and when the commission was created that standard of review, that statutory standard of review was maintained for appeals from county boards' decisions to the commission. Now that standard is also applicable in other types of appeals. It's also applicable in homestead qualification appeals. It's applicable in exemption appeals. It's applicable across the board in a wide range of decisions other county boards make and, in fact, decisions that we can review not only of county boards but of the Property Tax Administrator or the Tax Commissioner in appropriate circumstances. So it isn't...it doesn't apply just to review of decisions of county boards. It applies to other decisions that we can review as well. Now that's a statutory standard of review. The other element is not statutory and has been created or dictated by decisions of the Nebraska Supreme Court and that is the burden of proof, exactly what Senator White was, I think, beginning to discuss with that continuum from greater weight or preponderance, through clear and convincing, through the highest burden of proof which is applicable in criminal proceedings, beyond a reasonable doubt. So there is kind of a continuum of the burden of proof. The burden of proof that has been imposed by decisions of the court is the clear and convincing standard. So you have both a burden of proof and a standard of

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review. If...and we try to apply both, as required by statute and by the court. But, Senators, I did not expect to address that issue with you today. It has been an issue that has been brought to the committee on other occasions and I suppose that you now feel that you're quite familiar with it perhaps. But it has...changing the standard of review and the burden of proof for the commission is not something that I believe that the committee would take on the fly and, as Mr. Mueller suggested, it is a...potentially a very complicated area because of the wide range of appeals that the commission hears not only from county boards but from others as well. But LB1079, as drafted, I believe that Senator Cornett's amendments addressed most of the commission's concerns about the bill as drafted and we're grateful for those suggestions for amendment. But the new material may be pause for...some of the other new material may be pause for question or reason for question. But I'd be happy to try to respond to questions if you have any. [LB1079]

SENATOR ADAMS: Thank you, sir. Are there questions for this testifier? Okay, thank you, sir. Any other neutral testimony? [LB1079]

MIKE GOODWILLIE: Good afternoon, members of the committee. My name is Mike, M-i-k-e, Goodwillie, G-o-o-d-w-i-l-l-i-e. I am the chief deputy assessor for Douglas County. Thank you for your time this afternoon. We have participated in some discussions with Mr. Mueller and NACO about this and certainly we're just as interested as anybody else in trying to make the process more fair for both taxpayers and the political subdivisions who rely on the values. With respect to...I haven't seen the amendment. With respect to as written, LB1079, we're certainly on board with providing the extra ten days for people to file their protests. It would start May 20 and end at June 30. You know, 30 days, there's never been any magic in that and so when people get their valuation notices under this bill, it would be May 20 and they'd have a little extra, more time to file. I guess I would hope they would maybe avail themselves of that because as it stands now the vast majority come in that last week or ten days, which presses against the back end of the process, and I think that's where the 120-day part comes from. Currently in our county, our county board has made the decision that they would not provide face-to-face meetings between the referee and the...referees they hire and the taxpayers that have filed the protests, and certainly I think the impetus for some of this is that, look, we're not getting any kind of a, you know, a face-to-face opportunity to discuss our values with anybody representing the county. If you were going to...when you mess with...when you do things with dates, you know, you do press against other dates. I guess I do have some concerns and I don't know, if you actually move the county board time back, at what window, whether it was an additional two weeks on the...you know, ten days on the front and two weeks on the back, at what point would it give the county, at least our county, the ability to go back to providing those face-to-face meetings. I don't know when that would be. That would be somebody from the county board who would have to make that call. I do have a couple of questions, I guess more than anything else, about the 120-day window in which

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basically the county board would kind of retain...would retain jurisdiction over their initial determinations, and I guess that is from a process standpoint, if I were a taxpayer who didn't feel satisfied by the county board's first decision, would I then need to file some kind of a request for a review or request for a second hearing on the part of the county board, in which case perhaps they would be able to get that sit-down meeting with their referees? What I will say is that our staff spends basically June and July preparing packets for each protest that we give to the referees to review so the referees can understand where the value came from. I would be a little bit concerned about our staff spending another 120 days in the office and not actually getting out to go and inspect and measure and follow up on permits and do that kind of valuation work. Now if that rehearing in front of the county board were heard by the referees, you know, that might be one way to go about doing it. The other issue that I would raise is I think the date that was talked about for the final date to appeal was December 7. Was it December 7, December 10? Something like that. December 7 I think. The only question I would raise, and I don't know that it's a big concern, it wouldn't be in our county but it might be in some others that are able to do things a little more quickly, is we send our...we send our tax statements out in the middle of December. If you are a county that sent a tax statement...sent statements out while there was still some time left on the appeal clock to the Tax Equalization and Review Commission, would you get appeals based not necessarily on the taxpayers' dissatisfaction with their value? Maybe they filed a protest with the board and got some reduction and they're reasonably happy or at least satisfied and then they get the tax statement, but in the meantime perhaps the local school district has increased the levy rate or their local...some other local political subdivision has increased their levy rate and now their tax bill is bigger than it was, you know, the year before. Do you prompt people to come file their appeals with TERC less about value and more about their total tax bill? And I'm not sure that that's probably a good candidate for appeal because the Tax Equalization and Review Commission's job is to sort out disputes over value, not whether or not what's happened to the tax rate is a good thing or bad thing. But that said, we would certainly be willing to work with people on the committee with regard to, you know, the language of the bill if necessary. Are there any questions? [LB1079]

SENATOR ADAMS: Senator Hadley. [LB1079]

SENATOR HADLEY: Senator Adams, thank you. Help me. At one time wasn't there a concern in Douglas County about the backlog of appeals and such as that? [LB1079]

MIKE GOODWILLIE: Oh, still is. [LB1079]

SENATOR HADLEY: Still is. Would this impact that at all by giving the time, going from 30 to 120 days? That's 90 days. Are we going to add 90 days on to the length of time that appeals will be sitting out there also? [LB1079]

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MIKE GOODWILLIE: Well, I think it's going to depend on what that 120-day window looks like. If the county is retaining...the county board is...I think, as I read this, they are essentially retaining jurisdiction over that decision until somebody files an appeal with the TERC. So if, for example, you say to your county board, yeah, I've gotten your notice of your initial decision, I think there are some things that you didn't consider, would you please reconsider this? And if that turns into a sit-down meeting with one of the county's referees and the referee says, you know, either we...you know, either we agree with you or we disagree with you, I guess if they agree with you, if the county has retained jurisdiction, I suppose they'd have to issue an order reducing your value at one of their county board meetings. But I suppose in that instance you would not need to file an appeal with the TERC. Now if you sit down with the referee and he does not find your evidence persuasive enough to recommend a reduction in value, then you'd have to get some kind of notice of that outcome, you know, in time for you to file your appeal. [LB1079]

SENATOR HADLEY: Okay. Thank you. [LB1079]

SENATOR ADAMS: Senator Pirsch. [LB1079]

SENATOR PIRSCH: Thanks for your comments. I was just wondering if you could help clarify something for me. You said with respect to, and I think this may be a fear of yours, even if you elongate the period by which somebody can appeal, you said that most of the appeals come on the back end and so currently there's... [LB1079]

MIKE GOODWILLIE: Most of the...I'm sorry. Yeah, finish, please. I'm sorry. [LB1079]

SENATOR PIRSCH: Oh, no, no, no, no, go right ahead. I was just going to say right now there's a 30-day appeal period, right, and so with respect to...I'm taking what you mean by the back end may be the last week or 10 days of the 30-day period as compared to the first two-thirds of the period. Can you...and I know this is anecdotal Douglas County and I'm just looking ball park, but how many of your filings actually occur in that last week or ten days as opposed to the first, you know, two-thirds of the month? [LB1079]

MIKE GOODWILLIE: Well, I think when I talked about the back end, what I was probably referencing were the initial protests to the county board. Currently, the time frame for people to file that protest is between June 1 and June 30, and they usually trickle in the first couple of weeks and then essentially they need, you know, big husky guys to carry the mailbags the last two weeks. I don't really have a count on that. That would be something that either the clerk's office or Rick Kubat from the Douglas County Board could better answer. But, yeah, the sense is the majority of them do come in the last two weeks. As far as Tax Equalization and Review Commission appeals, I would imagine the ratio is pretty similar with the 30-day window, simply because, you know,

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people get their notice of what the county board has decided and, you know, then they need to probably sit down and decide if they're angry or upset enough to...they want to go ahead and take that next step. There's an appeal form they have to fill out. And so, yeah, typically there's a little bit of a time lag. I wouldn't have an exact percentage or number for you. [LB1079]

SENATOR PIRSCH: Okay. Thank you. [LB1079]

SENATOR ADAMS: Are there other questions? Thank you, sir. [LB1079]

MIKE GOODWILLIE: Thank you very much. [LB1079]

SENATOR ADAMS: Any other neutral? [LB1079]

JON EDWARDS: Senator Adams, members of the committee, my name is Jon Edwards, J-o-n E-d-w-a-r-d-s. I'm here today representing Nebraska Association of County Officials. We are here today in a neutral capacity on LB1079. And I, as well, have not gotten a copy of the amendment language so I can only speak to the language that's in the bill currently and as we've discussed possible changes to it. And I'm only here today prepared to speak on this bill alone and only the content and the subject matter within this bill. I will tell you that this has been, as Mr. Mueller mentioned, it's been a long, ongoing process for all the parties involved. I think everybody has been very cordial in trying to exchange information and trying to reach some sort of a compromise. I think LB1079 is a result of that attempt to try to reach some sort of a compromise. In the end, I think that one of the things that was always on the table is how can we better resolve these complicated problems at the local level without having to go to TERC, if at all possible to avoid that? And I think everybody is in agreement that, those interested parties, that if we can do this at the local level everybody is better off, the county is better off, the taxpayer is better off. So trying to reach some sort of an agreement that allows that to happen is really where this bill came from. With that, we believe that the language in here will provide more opportunity for that resolution to happen and so we agree with that. I will tell you, on the dates issues, as you look through the bill and you see the date changes within the bill, you've probably all seen this, and I didn't bring copies for everybody but I'm sure that your committee has copies for you if you wanted it or certainly we could...this is a yearlong listing by the Nebraska Department of Revenue of all the dates dealing with taxes and dealing with property taxes and when you have to file and decisions that have to be made. And the only reason I point that out is that any time you start tinkering with dates you almost always have some sort of unintended consequence, and so it's very difficult to do that. We certainly agree to add some time on the beginning of the process to get it started to try to create a larger window in which these protests can happen to the county board of equalization, as well as agreed to this process whereby the taxpayer has a longer period in order to file that appeal to TERC ultimately in the end. Hopefully, the end result

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of this will be that we'll get a sense that taxpayers feel like it's a system that treats them a bit more fairly, if they feel like it's an unfair system as it currently is. And hopefully we'll be able to bring resolution. Ultimately, the idea is to get to the right...the best possible valuation in the end and we think that this can help to do that, so we're here today to certainly try to move that process forward. I think with that, I won't belabor the issue anymore other than to say that anything else that was discussed here today is certainly not on the table concerning this bill, and we're only here today to address LB1079 and the specific amendment to that, as has been proposed earlier. And with that, I'll certainly register our position on this bill. Thanks. [LB1079]

SENATOR ADAMS: Are there questions for this testifier? Guess not. Thank you, sir. [LB1079]

JON EDWARDS: Thanks. [LB1079]

SENATOR ADAMS: Any other neutral testimony? Senator Cornett to close. [LB1079]

SENATOR CORNETT: I wasn't originally going to close. I know we've all heard TERC quite a bit over the past couple of years. What the intent of this bill is, is to give the taxpayer more time to resolve the issues that they have with the county board. Mr. Goodwillie brought up the fact that they want their people out in the field. We talked in the back of the room. There's no reason that this resolution can't be worked out with a mediator. The other thing that I want to make clear is this bill does not deal with burden of proof. That is the one area of contention that we have not been able to bring everybody to the table to come to any type of resolution. But we will be working with the people that testified today to make sure that we've gotten close to what they wanted with the amendment. With that, I'll be happy to answer any questions. [LB1079]

SENATOR ADAMS: Are there questions for the Senator? Senator Pirsch. [LB1079]

SENATOR PIRSCH: Well, just to clarify, when burden of proof...who has...if no evidence is submitted by either side, who wins by default essentially is what burden of proof gets at, right? I mean who has to show, who has to meet the standard of review is what we're talking, the standard of review deals with what we were talking about, the....just for edification, the... [LB1079]

SENATOR CORNETT: Oh, okay. [LB1079]

SENATOR PIRSCH: ...clear and convincing or beyond reasonable doubt or, you know, probable...I'm sorry, the...what we were talking about, greater weight of the evidence or preponderance. So just for clarification sake that's what you're talking about, right, when you say shifting...typically it's the taxpayer now has the burden of proof to go forward and show that standard of evidence and so this doesn't have anything to do with it, your

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bill before us now. [LB1079]

SENATOR CORNETT: The bill does not address anything with the burden of proof. It's strictly extending the... [LB1079]

SENATOR PIRSCH: Standard of... [LB1079]

SENATOR CORNETT: ...extending the time period. [LB1079]

SENATOR PIRSCH: But it deals with standard of review, too, doesn't it? [LB1079]

SENATOR CORNETT: Yes. [LB1079]

SENATOR PIRSCH: Okay. Very good. [LB1079]

SENATOR ADAMS: Other questions? [LB1079]

SENATOR CORNETT: Senator White. [LB1079]

SENATOR WHITE: Just to get a debate that's more...kind of a little more technical for people who aren't lawyers like you and I, the burden of proof combines a number of elements, okay, when we say burden of proof. The first one is the burden of coming forward. In other words, if you don't show up, who wins? Well, if you don't show up and you're a taxpayer, whatever the county did, because they always show up, wins, so that's the burden of coming forward. If you don't come forward at all, they win. Then there's the burden of producing evidence. If you don't show up and you produce evidence, who wins? Again, the county, the status quo wins. Then the third element is the burden of persuasion, okay? Who's got to convince someone? In this case again it's the taxpayer. You've got the burden of persuading in this case TERC that what happened in the county was wrong. The last element is how high is that burden of persuasion? Do you just got to say 51 percent of the evidence shows I'm stronger? That would be burden of persuasion at preponderance of evidence. Is it clear and convincing? I have to persuade them. I have to put in the evidence. I have to show up and I've got to make the evidence 75 percent clear that they were flat wrong. So the last element is burden of persuasion so it's...and that's what makes this complicated a lot of times. We're putting in a lot of different concepts into one big name and then it's like we're switching back and forth on you. So understand the burden of proof has at least four different conceptual elements. [LB1079]

SENATOR ADAMS: Any other questions? If not, that will end the hearing on LB1079. [LB1079]

SENATOR CORNETT: We'll now begin the hearing on LR271CA. Senator Nelson, you

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are recognized to open. [LR271CA]

SENATOR NELSON: Thank you, Chairwoman Cornett and members of the Revenue Committee. For the record, my name is John Nelson, spelled J-o-h-n N-e-l-s-o-n. I represent Legislative District 6 in Omaha. This is my fourth year in the Legislature and the first time I've had the privilege of presenting a bill to the Revenue Committee, and I am here today to introduce LR271CA. At its core, LR271CA is a jobs bill and a property tax relief package. This proposal will allow the Legislature to exempt from property tax assessment for a period of six years the increased value of a person's house resulting from a home improvement project. That project can include renovation, rehabilitation, remodeling, improving, or increasing the size of a homeowner's residence. In the short term, this constitutional amendment will encourage and increase the number of home improvement projects in the state which will put Nebraskans back to work. With an increase in employment, the state of Nebraska will see increased sales and income tax revenue. This will help our Legislature in balancing the budget without tax increases or cuts to necessary services. In the long term, these home improvements will increase property values in Nebraska with the result that political subdivisions will not need to raise property tax levies. LR271CA benefits the people in Nebraska by creating additional jobs and reducing property tax payments. LR271CA benefits the state Legislature by increasing the amount of sales and income tax collected. And LR271CA benefits political subdivisions by increasing property values in Nebraska over the long term. I feel this issue is important to Nebraska. If the committee is supportive of LR271CA, then it's my intent to prioritize it. I encourage the Revenue Committee to advance this constitutional amendment to General File for consideration by the Legislature and placement on the ballot so that Nebraskans can vote up or down on the proposal. Thank you for the opportunity to open, and I will answer any questions that you might have. [LR271CA]

SENATOR CORNETT: Questions? Senator White. [LR271CA]

SENATOR WHITE: Senator, thank you. One of my concerns on this is, what impact it will have on the distribution of school aid? If you have a rapidly growing area like Sarpy County and people are taking existing small homes and, you know, building big homes, having more kids, they need more schools, sewers, stuff like that, and yet with that additional burden on the county services, we're going to exempt for six years the tax income to the county. Won't that require that the rural areas, especially, that aren't seeing growth like that are going to start subsidizing the urban areas disproportionately? [LR271CA]

SENATOR NELSON: You're saying the rural areas, the values are going to increase upon it from time... [LR271CA]

SENATOR WHITE: No, what we're going to do is see growth and demand for services

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in Sarpy, Douglas, the rapidly growing parts of the state. When you make those improvements on that property, you know, you need more sewer, you need more schools, you need more police, fire, and we balance need, number of kids, for example, in schools, that's a big item, but the property that's bringing those kids there isn't going to be on the rolls. So isn't that going to move money from the rural areas to the urban areas? [LR271CA]

SENATOR NELSON: I think my answer to that, this isn't growth of a subdivision in the usual sense of the word, that these home improvements are perhaps \$10,000, \$20,000, \$30,000 projects or more. It's not like building another \$200,000 home that's going to require all of these things. So what we're really doing, suppose we've got a \$200,000 house that's been there for 20 years and we put another \$40,000 into it, we're keeping the value of that house at the \$200,000 for a period of time, six years. And then it's going to be assessed at \$250,000, \$260,000, or \$270,000, or whatever it's accelerated to with the improvements and then just the overall increase that we ordinarily find in property values. [LR271CA]

SENATOR WHITE: Yeah, but if I was going to build, personally, if I was going to build a million dollar home--and we have them in our districts, as you know, west of us--if I put a trailer on there and made that my residence for a year, get that...and seriously, couldn't I, then, under this law build a million dollar home and be taxed free other than the lot value for six years? [LR271CA]

SENATOR NELSON: I don't believe so. This is an improvement to your residence per se. I mean, if you want to improve the mobile home that's one thing, but this is not construction of a new home. This bill does not cover that, Senator Cornett (sic). [LR271CA]

SENATOR WHITE: Thank you, Senator. I appreciate that. [LR271CA]

SENATOR NELSON: Yeah. Um-hum. [LR271CA]

SENATOR CORNETT: Senator Nelson, the cities count on property tax and they base their budgets on growth of that property tax and that would include improvements. The schools get their money from the local property tax and then what they don't get, we have to make up at the state level, which if we don't grow that valuation for a period of six years, for six years we have to make that gap up at the state level in state aid to schools. I'm sure you can see that that's going to have a large impact on the state. [LR271CA]

SENATOR NELSON: Well, I'm not sure it'll have a large impact. I mean, we're talking about projects of perhaps not all that large of size but you have to remember where with these projects, we're increasing purchase of material, we're increasing jobs, we're going

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to get revenue, tax, and sales tax income that should, I hope, come in to add to our revenue. Well, I think you have to keep in mind is that we are just deferring value for a while. We're encouraging people to improve their property and what are we going to have 60 years down the road? We're going to have perhaps what was a \$200,000 house now a \$270,000 that you're going to tax at a substantially increased value for the next 10, 20 years, and in a way it's an investment. [LR271CA]

SENATOR CORNETT: But while you're deferring that increase in valuation, you are denying and decreasing that valuation increase for both the cities and the state. Plus, at the end of that six years, that's going to be a heck of a sticker shock for the homeowners. I mean, that's going to be a massive jump in property valuation. [LR271CA]

SENATOR NELSON: Right, but I would agree with that. You got to look at the other side, though. You've got the incentive of a property owner to improve their residence and to do these things so they can get a little bit of a tax break during that period of time. Hopefully, then, they can expect a little bit of shock, but they've improved their home; they've increased the value of the residence, the value to the county. And perhaps we need some statistics or analysis or something as to the trade off here. But those are good questions. [LR271CA]

SENATOR CORNETT: I believe it was Senator Pirsch, then Senator Utter, then Senator Hadley, then back to Senator White. [LR271CA]

SENATOR PIRSCH: And I understand the reason coming forward. There's some aging neighborhoods and perhaps but for this incentive improvements that would not ordinarily take place would take place, so. Just a couple of questions. With respect to Senator White's concern of the language of this, it says...and this is the underlying language that you're changing beginning on line 21 on page 3: The Legislature may by general law, and upon any terms, conditions, restrictions it prescribes, provide that the increased value of real property resulting from construction of improvements. And that language which construction of improvements, then is followed, for the purpose of renovating, rehabilitating, remodeling, but includes improving. Is that...can you just tell me the legal definition if you know? I'm a little bit out of my area in real estate law. If it's construction of improvements and improving, can that...does that technically fit the definition of if I just have an area of undeveloped lot with no house on it but I put a house on it for the first time, would that also constitute improving? [LR271CA]

SENATOR NELSON: That's not the intent of this bill. I don't know what the legal construction of that would be. But this is to take existing properties that, as you say, have aged... [LR271CA]

SENATOR PIRSCH: Sure. [LR271CA]

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SENATOR NELSON: ...and can stand improvement, enlargement, things of that sort, not only, you know, improve the older neighborhoods by and large. [LR271CA]

SENATOR PIRSCH: So if that language didn't meet what your thought is, you'd be amenable to change it? [LR271CA]

SENATOR NELSON: No, no. [LR271CA]

SENATOR PIRSCH: The second where, has this idea been legislated in any other state that we've been able to see desirable results if you know? [LR271CA]

SENATOR NELSON: I don't know that, Senator. [LR271CA]

SENATOR PIRSCH: Okay. [LR271CA]

SENATOR NELSON: Mr. Cheloha will be testifying after me. [LR271CA]

SENATOR PIRSCH: Very good. [LR271CA]

SENATOR NELSON: He might have some information as to whether the city of Omaha is aware of this happening in other states. [LR271CA]

SENATOR PIRSCH: Sure. Thank you. [LR271CA]

SENATOR NELSON: Yeah. [LR271CA]

SENATOR CORNETT: Senator Utter. [LR271CA]

SENATOR UTTER: Thank you, Senator Cornett. Senator Nelson, does this raise fairness issues among property owners, one property owner has a house valued at \$250,000, another property owner had a house valued at \$200,000 but all of a sudden it's \$250,000 and one of them is paying \$5,000 a year and the other one is paying \$3,000 a year. Is that going to be a little hard to explain to next-door neighbors to each other? [LR271CA]

SENATOR NELSON: Probably no harder, Senator, to explain what happens right now. Somebody gets assessed \$2,000 less taxes than you do and they have a nicer house, but I wouldn't think so. I think if there's an improvement, yes, there may be a variance there and so someone gets a bit of a tax break for six years, but that's the object of this, to do the improvements to increase the overall value of the property. And I guess a neighbor could object that just those improvements actually did cause his own valuation to go up a little bit. But I don't think it's that detrimental or would be that unfair or looked

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at that way, but it might. [LR271CA]

SENATOR CORNETT: Senator Hadley. [LR271CA]

SENATOR HADLEY: Senator Cornett. Senator Nelson, thank you for bringing this. Obviously this is for the constitutional amendment, would there be enabling language or whenever we got around to passing laws as to enable this? I had a question about no place did I see where it said the current owner. If I did this, if I added an addition on and I sold it two years later, does the exemption last for four more years on that property? [LR271CA]

SENATOR NELSON: Well, I would...my answer would be yes. [LR271CA]

SENATOR HADLEY: Okay. [LR271CA]

SENATOR NELSON: I mean, regardless of the changes in ownership over a period of six years, say, the value of the house would remain the same and it would accrue to the new homeowner. And I do...that brings a point that I should make is that this is only enabling legislation. [LR271CA]

SENATOR HADLEY: That's right. [LR271CA]

SENATOR NELSON: We're going to have to, if it passes and the voters accept it, then we're going to have to work out the details in another legislative bill as to how it would work. [LR271CA]

SENATOR HADLEY: And I think that would be a detail... [LR271CA]

SENATOR NELSON: Yeah. Right. [LR271CA]

SENATOR HADLEY: Then I would certainly...because I think you can get an equity issue as Senator Utter raised that I...my home and my neighbor's home are basically identical and they have two significantly different valuations for tax purposes that might carry on for four years and that has a value that could impact my selling price. [LR271CA]

SENATOR NELSON: That's right. That would be a factor. [LR271CA]

SENATOR HADLEY: And, you know, I guess at some point I...the significant increases are what concern me. I think the normal, you know, adding of a room or something like that but, you know, in the back of my mind I see the person adding the indoor swimming pool and everything else and suddenly they've increased the valuation \$200,000 and we're saying for six years. [LR271CA]

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SENATOR NELSON: Yes, I would agree, but I think that's going to be the exception rather than the general rule. I can't...frankly, I can't see that happening. I would only observe that if...I'll use a personal example. We would like to enlarge our family room and put some bay windows in, probably a \$20,000 to \$25,000 project. Is it worth it to me to do that for a little additional room and more view? If I get a tax exemption for the next six years, that might put me over. [LR271CA]

SENATOR HADLEY: That might sway you. Yeah. Just a couple more quick questions. It would be interesting to hear maybe from the counties or the assessor's standpoint whether this increases the complexity of their job in valuing property and what...you know, because they literally almost have to come up with two values, one with the improvement and then somehow back out the improvements to get down to a value without the improvements. So I just...that's a...you know. [LR271CA]

SENATOR NELSON: At the time when we have a bill to implement this, I'm sure there will be... [LR271CA]

SENATOR HADLEY: Yeah, they'll be in there. And the last thing, and you could probably help me on this, just to be sure that we're not somehow an unintended consequence that we're going to have commercial property involved in this so that somebody buys a commercial property and guts it and all the costs of remodeling the commercial property is not... [LR271CA]

SENATOR NELSON: No. The word is increasing the size or all this rehabilitation to the homeowner's residence. [LR271CA]

SENATOR HADLEY: Okay. [LR271CA]

SENATOR NELSON: So it does not include commercial. [LR271CA]

SENATOR HADLEY: Okay. I just wanted to be sure. Okay. Thank you, Senator Nelson. [LR271CA]

SENATOR NELSON: Yeah. Um-hum. [LR271CA]

SENATOR CORNETT: Senator White I believe you were... [LR271CA]

SENATOR WHITE: Utter. [LR271CA]

SENATOR CORNETT: Oh, Senator Utter. I'm sorry. [LR271CA]

SENATOR UTTER: Senator Nelson, the...and I don't...the reason I'm going to ask this

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question is that I heard it asked in another hearing a few...just a few minutes ago. And the question is, are we cluttering up our constitution? Are we kind of legislating by constitution? You folks that are legal minds would I think would be better able to answer that than I. Is there a precedent for doing this type of thing as in the form of a constitutional amendment? [LR271CA]

SENATOR NELSON: Well, I am looking at the provisions of Article VIII Section 2 and I see that there are 12 sections there already, exemptions or things, and so we're adding a thirteenth. Now, that's been over, Senator, a period of many, many years. I guess I would have to say that probably because of the expense and the practicality of things that probably were...this Legislature is only going to send on things that will not unduly clutter up the constitution, things that will have value to us. [LR271CA]

SENATOR CORNETT: Senator White. [LR271CA]

SENATOR WHITE: Senator Nelson, I have to tell you, as a guy who literally gutted and rebuilt a house on 55th and Lake, personally I love this but it causes me some worry. And let me talk to you about a couple of them. [LR271CA]

SENATOR NELSON: Sure. [LR271CA]

SENATOR WHITE: Okay. One of them is, one of the main redevelopment plans that we have is tax increment financing plans. Okay. Now, normally those aren't available for homes, but is this an equivalent, a tax increment financing plan? Now...and if we do it, for example, if you go to the Old Market, an urban area that's had a lot of rebuilding, those are condominium regimes, right? [LR271CA]

SENATOR NELSON: Right. [LR271CA]

SENATOR WHITE: They give them TIF now, some often, which means the increased value in the underlying property tax, that taxable value is turned back to the owners to help finance the project. Would this screw up all TIF because if you're doing any urban multifamily redevelopment of an existing apartment into condos or existing, you know, condominiums regime, what's that do for our TIF working and how do we harmonize that? That's one question, let me give you the other one. One of the things is, if I decide I need a new roof, under the language as it's provided here, do I qualify for the additional value or paint my house? In other words, anything I do, if I read the language, if it's read broadly, for the purposes of renovating, rehabilitating, remodelling, or improving. Well, you know, if I'm...I mean, my wife says I want to paint it blue or, you know, so I'm out there, am I rehabilitating or am I improving? And does that value become... [LR271CA]

SENATOR NELSON: Yes, Senator, you are. I'm not sure whether the assessor is going

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to be moved by the fact that you repainted your house. I do know if you put a \$10,000, \$15,000 roof on, your insurance company is going to consider that the house has additional value and I think probably because if it's done correctly and the city becomes aware that there's been an improvement there because the contractor has... [LR271CA]

SENATOR WHITE: Well, you file a permit. [LR271CA]

SENATOR NELSON: Yeah. [LR271CA]

SENATOR WHITE: We assume people are law abiding. [LR271CA]

SENATOR NELSON: Yeah. Yeah. They're probably...they may or may not. Now, I'm not sure whether that's done immediately or, you know, within two or three years, so I... [LR271CA]

SENATOR WHITE: I guess I don't know. In that and a TIF, I mean... [LR271CA]

SENATOR NELSON: I can't really answer your first question as to whether...what the... [LR271CA]

SENATOR WHITE: I mean, how does that work? I mean, if for example...TIF is used to... [LR271CA]

SENATOR NELSON: Are you saying that those might also qualify as a residence under this, those condominiums? [LR271CA]

SENATOR WHITE: Oh, sure. [LR271CA]

SENATOR NELSON: Yeah. Okay. [LR271CA]

SENATOR WHITE: Sure they could. [LR271CA]

SENATOR NELSON: But that they'd get a double benefit? [LR271CA]

SENATOR WHITE: Well, TIF is used largely to direct development to certain areas. The city can say, okay, south Omaha, old business district we want to promote downtown residents here. Take the Rose Theater. They turned it into a residence by rehabilitating it, you know, where people live there or a guy that lives above his business and he redoes his whole business, which happens a lot in Omaha. [LR271CA]

SENATOR NELSON: Well, but by and large TIF applies to developers of contractors and people in it that are doing these things rather than maybe individual homeowners or someone, you know, with an individual... [LR271CA]

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SENATOR WHITE: I mean, would you make it a stand-alone home only? [LR271CA]

SENATOR NELSON: Yeah. [LR271CA]

SENATOR CORNETT: Senator Adams and then I have... [LR271CA]

SENATOR ADAMS: I've got a question but I might be able to respond on the TIF. Every place is different that uses TIF, but they can be used in residential areas. Remember, it is blighted and substandard and it doesn't necessarily say commercial, residential, so it could be used and I've seen it used in residential areas. And the effect is virtually the same. You apply the TIF and you're saying, well, it's worth \$20,000 now but based on the improvements we sense you're going to make, we suspect that it will be worth \$30,000 down the road, and so then we build in I think by law up to 15 years would be the increment that will capture the value at that point. So this, in essence, sounds the same thing, so I suspect you could have a double get here. [LR271CA]

SENATOR WHITE: Yeah. [LR271CA]

SENATOR ADAMS: If you could convince the city council in some community to TIF the area and then this were also in effect, you could...I don't know without thinking it through more, there could be a double gain. The other concern that I had initially as we spoke this morning on the floor is right out of the shoot. And I know it's a matter of numbers and how much. [LR271CA]

SENATOR NELSON: Right. [LR271CA]

SENATOR ADAMS: But our whole TEEOSA formula is based on, as needs grow, valuation. The assumption is the valuation grows and we fill that gap in. If needs proportionately are growing much faster and percentagewise we're in double digits annually, but let's say they grow on an average of about 6 percent, and which they do if we looked historically. If they grow at 6 percent yet we're pushing this value down over a five-, six-year period and it can't catch up, granted we're probably not withholding a huge amount of money or we're not costing the state in TEEOSA dollars a huge amount of money, but nonetheless it is a gap that would have to be filled in. And another consequence of something like this potentially in the more rural areas is the same consequence that happens with TIF. More and more in rural Nebraska we're getting nonequalized school districts where declining enrollment, increasing valuation takes them out of the equalization business. They're not going to get any equalization aid from the state. So then when a community, a small community TIFs, their heart is in the right place. They want new sidewalks to make the town look better to attract retail business, but if that town is in a nonequalized school district, you are in effect robbing them of the tax base they need to keep up with their needs because they're not getting anything

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from the state. And this could have the same effect, and I wonder in a smaller community where you may actually see more renovation and remodel than construction of new if we really wouldn't ding a nonequalized school district. And there's a lot of speculation here, Senator, I know, but that's kind of my thought pattern. [LR271CA]

SENATOR NELSON: Yeah. Thank you. [LR271CA]

SENATOR HADLEY: Senator Cornett, can I ask a question? [LR271CA]

SENATOR CORNETT: Oh, of course. [LR271CA]

SENATOR HADLEY: I just...not a question. Senator, I'd like to...I appreciate your comment about pondering it, but did you look at the reason (4) in here for exemption, "the Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account of the assessment of such land." To me that's pretty well cluttering up the...somebody in the past of our body I think cluttered up the constitution a hair bit there. [LR271CA]

SENATOR CORNETT: Senator Nelson, I'll refrain from my questions. We'll talk off the mike. Any further questions from the committee? Seeing none, thank you. [LR271CA]

SENATOR NELSON: Thank you very much. [LR271CA]

JACK CHELOHA: (Exhibit 4) Good afternoon, Senator Cornett, members of the Revenue Committee. My name is Jack Cheloha, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I'm here to testify in favor of LR271CA this afternoon. First of all, I want to thank Senator Nelson and his staff for introducing this bill. We certainly appreciate that. We appreciate having the hearing this afternoon. I guess I'm encouraged by the number of questions from the members of this committee. I mean, this bill is doing I guess what we originally had hoped for, it's stimulating thought. Ultimately our goal when the idea was incubated, if you will, in the city council and the city of Omaha, it was to provide some sort of economic stimulus within the confines of what we can do in Nebraska because, you know, we can't borrow money, we can't spend money and go into debt, you know, help stimulate the economy like the federal government can. We had to kind of think within the realm of what can we do. I guess I'd like to apologize on behalf of city council member Franklin Thompson from Omaha. He gets credit or the blame, if you will, for this bill, however you want to look at it, but it was his idea to bring this forward and ultimately put it through, you know, the wringer, if you will, what we do in Omaha to get the legislative package and give me my assignments. And this is what we ended up with. At first, Franklin asked for a ten-year stay in the value and, you know, all of these are a work in progress but his colleagues on the council in Omaha, at least, felt that was too long, and so they convinced him to shorten it. So that number, you know, was up in the air and subject to, you know,

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whatever the committee may feel or Senator Nelson might feel or the body as a whole if we're going to move forward with it. So I just wanted to offer that up front and apologize for Franklin. He couldn't be here today due to other commitments and also because of the weather, if you will. As Senator Nelson mentioned, we see this as the ability to stimulate economic activity statewide. I guess we wanted to focus on the homeowner and give them some type of incentive to do improvements to their home which ultimately would lead to hiring of contractors, if you will, who hire people, who pay income taxes, who on some of the items when you do renovations would be subject to sales tax, others may not depending on what the status of the law is. I know we've made some changes in the past decade relative to home improvements, but we think ultimately based on the time line that this could be a win-win for everybody, not only those who are going to be precluded from gaining the extra property tax for a period of six years, but also ultimately they're going to gain from that, if you will. We've mentioned tax increment financing and how, you know, you do things in the short term for the long term gain, if you will, and we think this, you know, will help every property taxing entity in the state. In the meantime, it will help those governments that take in income tax, those governments that take in sales tax, etcetera. So we really feel like this is an economic-type stimulus bill without actually spending any money, any government money up front on the front end, if you would, just because nobody has any to spend right now. As it's been pointed out in this section of the constitution, we've added, you know, 12 various amendments throughout the course of it where we've had to deal with this section of law on property tax. Ultimately we wanted to just bring a legislative bill in terms of a statutory change, but our law department advised we had to make a change within the constitution or to grant a six-year stay on your value. Ultimately, you know, if this would move forward and be approved by the voters, there would have to be implementing language. We imagine that within that language we would have some type of application process where the homeowner would make application probably through their local county assessor's office. And the county assessor's office is typically aware of what type of activities are going on because they check within localities for building permits, etcetera, so they're going to have a pretty good handle on, you know, these items and whether the improvements were actually made or not made, etcetera. But all of that's, you know, for discussion down the road. I just wanted to say that I think if...you know, like you said, there are some moving parts and there are some concerns, but if you think about it, there's the potential to really do something good for the state of Nebraska and also for the homeowner in particular. And I think we'd probably have to limit it to stand-alone, single-family dwellings in order for us to avoid the possibility of the double tax break, if you will, where we talked about TIF in the area, but then also there could be condominiums or residential items there. And so, you know, all of these things we could think through, put into the legislation when and if this is approved by the voters. So with that, I'll try to answer any other questions you may have thought of since Senator Nelson has been up here. [LR271CA]

SENATOR CORNETT: Senator White. [LR271CA]

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SENATOR WHITE: Thank you, Mr. Cheloha. I do have a number of concerns and I wanted to read the language out loud and then talk to you about what the Legislature might be able to do under it if we're allowed to. And understand as a preface, what we're talking about here is cutting out a big hole in the duty to equalize. Okay. That's the part of the constitution that's being changed. [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR WHITE: And nothing I know of in politics gives people bigger heartaches than equalization of property taxes. Okay. So that's the bear we're poking. [LR271CA]

JACK CHELOHA: Right, right. [LR271CA]

SENATOR WHITE: Okay. The Legislature may by general law and upon any, any terms, conditions, and restrictions it prescribes provide that the increased value of real property resulting from construction of improvements for the purpose of renovating, rehabilitating, remodeling, improving, or increasing the size of residence on such real property be in whole or in part exempt from taxation for a period of six years. Okay. Now, let's talk about some of the concepts that are embodied in that. For example, could the Legislature under that really broad grant say improvements on homes with a value of, let's say, less than \$150,000 are exempt but homes over that, they're not? [LR271CA]

JACK CHELOHA: Conceivably the Legislature could. [LR271CA]

SENATOR WHITE: Well, no. We're talking a constitutional amendment so we need to be... [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR WHITE: So the Legislature could say, for example, cut a dollar amount, improvements under that free and clear, improvements over it, we're going to tax it. [LR271CA]

JACK CHELOHA: Right. The Legislature could do that subject to, you know, court cases and whatever has been interpreted, yeah. [LR271CA]

SENATOR WHITE: Subject to...whoa, whoa, no. This is the constitution, the court follows it. [LR271CA]

JACK CHELOHA: Okay. [LR271CA]

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SENATOR WHITE: If you give them that power, there is no tree to hide behind anymore. That's Thomas Moore quoting, but... [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR WHITE: So they can do...we can do anything we want, high or low, play class warfare if we want. Right? [LR271CA]

JACK CHELOHA: Possibly, yes. [LR271CA]

SENATOR WHITE: Okay. Now, how about a duplex versus a stand-alone? Stand-alones we tax...we don't tax, duplexes we do. [LR271CA]

JACK CHELOHA: I think that's fair. I mean, a duplex, typically you're renting out the other half, so that's not who we intend to benefit. [LR271CA]

SENATOR WHITE: Okay. Could we, for example, since we can do it under any provision, say homes in Sarpy and Douglas County, these improvements aren't taxed but the rest of the state they are? I mean, if we have the horses, politically, to get that done. [LR271CA]

JACK CHELOHA: Are you tying that statement to the word "any" again? [LR271CA]

SENATOR WHITE: No. I'm tying it to the Legislature... [LR271CA]

JACK CHELOHA: Oh. [LR271CA]

SENATOR WHITE: ...may by general law and upon any terms, conditions, and restrictions it prescribes. [LR271CA]

JACK CHELOHA: Well, I think you'd have to harmonize that with other parts of the constitution. You would have to treat it... [LR271CA]

SENATOR WHITE: Well, doesn't the latter enact and control? [LR271CA]

JACK CHELOHA: What's that? [LR271CA]

SENATOR WHITE: Doesn't the latest enactment of the constitution have primacy generally when the court construes them? [LR271CA]

JACK CHELOHA: Right, that's typically it, but there's general guiding principles that you must treat all real property equitably. [LR271CA]

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SENATOR WHITE: Bingo. [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR WHITE: We just got rid of that, didn't we? [LR271CA]

JACK CHELOHA: We just got rid of that, right. [LR271CA]

SENATOR WHITE: If we enact this, didn't we just get rid of it? [LR271CA]

JACK CHELOHA: Well, I don't know. [LR271CA]

SENATOR WHITE: At least to improvement. [LR271CA]

JACK CHELOHA: That's subject to argument. [LR271CA]

SENATOR WHITE: Well, let me talk to you another one. Let's say the general prescription is, well, you know what? We don't like the city of Omaha but we like the schools. So the increased value for city tax purposes is exempt, so the city doesn't get its nickel but the school district does. Can we start discriminating against and between people who rely on property taxes? [LR271CA]

JACK CHELOHA: I don't think so, Senator, because we're talking about staying the value as a whole of the property, not the amount of... [LR271CA]

SENATOR WHITE: Where does it say that? It doesn't say that. It says, the Legislature may by general law and upon any terms, conditions, and restrictions it prescribes provide that the increased value of property resulting. And then if you go to the last part it says, residents on such real property be in whole or in part exempt from taxation. Now, does that in part? What if we say that part means it's exempt from city tax but not from school tax? [LR271CA]

JACK CHELOHA: Well, that's not our intent as it was drafted. Right. [LR271CA]

SENATOR WHITE: I'm not saying it is, I'm just... [LR271CA]

JACK CHELOHA: We can work on that. We can clear it up, whatever it takes. [LR271CA]

SENATOR WHITE: Okay. Well, no, and I'm not...okay. Personally as a lawyer this may be a full employment bill, (laughter) good for my people. [LR271CA]

JACK CHELOHA: That's right. [LR271CA]

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SENATOR WHITE: All right. Thank you, Mr. Cheloha. [LR271CA]

JACK CHELOHA: Thank you. [LR271CA]

SENATOR CORNETT: Mr. Cheloha, and as I direct these questions to you, understand I know that you're...this is not you personally, okay? [LR271CA]

JACK CHELOHA: Oh, absolutely. [LR271CA]

SENATOR CORNETT: Over the course of the past year in one form or another I've been dealing with members of the city and yourself in regards to a half cent sales tax increase... [LR271CA]

JACK CHELOHA: Um-hum. [LR271CA]

SENATOR CORNETT: ...for the city of Omaha, am I correct? [LR271CA]

JACK CHELOHA: Correct. [LR271CA]

SENATOR CORNETT: Strictly from a policy standpoint, sales tax is regressive, am I correct? [LR271CA]

JACK CHELOHA: It's been said to be regressive and I would agree with that, yes. [LR271CA]

SENATOR CORNETT: Okay. So what you're proposing here is people that can afford to remodel their homes get a tax break, people that can't afford to remodel their homes don't get a break, and people that can't afford homes under what the city wanted actually get taxed more? [LR271CA]

JACK CHELOHA: I miss...how do we tax them more? [LR271CA]

SENATOR CORNETT: If you had gotten your sales tax increase. [LR271CA]

JACK CHELOHA: Oh, right. There's not a bill on that, Senator, so. Right. [LR271CA]

SENATOR CORNETT: No, no, no, but what exactly is the tax policy of the city of Omaha? [LR271CA]

JACK CHELOHA: Well, that's a good question. I mean, it's up to the elected officials to, you know, set that policy. The mayor of the city of Omaha was interested in a bill to grant authority to our local voters to increase their local option sales tax, it was not

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introduced. [LR271CA]

SENATOR CORNETT: I was going to say, and I believe the mayor also signed this, so. [LR271CA]

JACK CHELOHA: The mayor signed this and supported this resolution. [LR271CA]

SENATOR CORNETT: So he supports regressively taxing people that can't afford to remodel their homes or even own a home but not taxing people that can afford a home and remodel it? [LR271CA]

JACK CHELOHA: Well, let me back up. I think that's, you know, quite a way to characterize it, this economic stimulus bill. I mean, we're trying to encourage people to act, if you will. Those who, you know, know the tax laws, those who have the initiative or the desire or whatever are going to move forward and seek the benefits of this. It doesn't set any limit on, you know, their income or ability to...I mean, I assume they have to have the ability to pay because the contractors are going to want to be paid, but anybody who owns the primary residence is going to be able to use this and benefit from it whether they're a big house or a little house. [LR271CA]

SENATOR CORNETT: But, again...well, where does that say that in here? When we talk about what are we going to limit it to, are we going to as Senator White, I think it was Senator White or someone else, brought up that, is painting your home going to be considered an improvement? I can go out and paint my home myself, I don't need a contractor for it. Are we going to set a limit that it's only such a dollar amount for remodeling or construction? [LR271CA]

JACK CHELOHA: Well, that depends. I mean, that's something we could look at, we have to look at statutorily. What was the amount possibly of the improvement? And I can't answer for the county assessors. I don't know if they, you know, if they happen to go by and see houses and freshly painted, whether that gives them a sense to raise the value of the home or not as we operate now. [LR271CA]

SENATOR CORNETT: Well, when would the clock start running on this because I bought a heap of an old home that needed to be remodeled and I've been constantly remodeling it for three years now and I'm probably going to be constantly remodeling it for the next three years. [LR271CA]

JACK CHELOHA: (Laugh) I think what...there would have to be a formal start date, you know, in order to fill out your application and apply for it and move forward, do the completion, and then from that day forward you get the six years. [LR271CA]

SENATOR CORNETT: But then what time period are you talking about cutting this off?

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If I do my remodeling project and then that's finished and I do another one, do I get another six years? [LR271CA]

JACK CHELOHA: That's a good...you could answer that statutorily. Can you apply again after the six years runs? Conceivably, yes. Could you do a simultaneous improvement during the same time? That's another question to answer by the legislation. I mean, we just need the...this is the constitutional amendment. We need the general framework to be able to look at this and possibly start a program. [LR271CA]

SENATOR CORNETT: I'm sorry. Senator Hadley. [LR271CA]

SENATOR HADLEY: Senator Cornett. Jack, I guess I have a question concerning what I kind of visualize as a tax shift. To me, the winners in something like this are going to be the state because they have a sales tax on the materials that are being sold, etcetera. [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR HADLEY: The wages for the employees that are going to be involved in this are going to be income tax. [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR HADLEY: The city is going to have...a number of cities are going to be positive because they have a sales tax. [LR271CA]

JACK CHELOHA: Right, local option. Yes, sir. [LR271CA]

SENATOR HADLEY: Local option sales tax. On the other side, the losers are the school district because they're not going to get...for six years, they're not going to get this increase in valuation that they get to apply their mill levy to, so they're going to lose this. [LR271CA]

JACK CHELOHA: I see your point. Is that the... [LR271CA]

SENATOR HADLEY: Okay. Just a couple of others. [LR271CA]

JACK CHELOHA: Okay, sure. [LR271CA]

SENATOR HADLEY: And the county...the county is really going to get hit because they're going...in our county, they get about 19 percent I think of the property taxes, and so they're going to lose and they get nothing on the plus side. Whereas, at least the school district is going to maybe get some back because if it's an equalized district they

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might get more back from the state. I guess I'm trying to figure out... [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR HADLEY: ...who kind of...where the taxes are... [LR271CA]

JACK CHELOHA: That's right. [LR271CA]

SENATOR HADLEY: ...who's going to get more and who's going to get less when we're all done. [LR271CA]

JACK CHELOHA: Great. Those are all great points. If I could respond. [LR271CA]

SENATOR HADLEY: Okay. I didn't mean to go on and on. [LR271CA]

JACK CHELOHA: No, no, no, that's perfect. We think, though, as the contractors are busy and employees are busy working, that's going to help the community as a whole even more because they're going to be out, you know, spending money, buying things for their own personal lives, their family, etcetera, which once again will be a boost to the sales tax, or maybe these employees will be given a chance to actually buy their first home or whatever, you know, improvements as you move along in the cog of economic life, if you will. In terms of benefits, I mean, it is similar to TIF in the sense that we're asking people to forego, you know, some things at the present for the carrot, if you will, or the apple down the road. And ultimately that's going to help all property taxing entities, you know, after a certain period of time. And then once the program is up and running and established, I mean, that's...you know, the six years will come and go for the first guy, but then for the second homeowner it will start and will be continually going along and we'll have stimulated our growth as we went along. In terms of, you know, whether or not...you know, now is probably the perfect time to enact this just because of the fact that you could almost...in the past, you know, 30, 40 years or maybe longer, almost depend on your primary residence as...and I ask that that would grow in value. And now recently due to the...you know, some of the national concerns...you know, I don't know much about this but I know just a little bit to be able to try and talk to you. You know, due to, you know, the upheaval and the lending and the mortgage markets, you know, a lot of homeowners actually seen their value, you know, stay or some people have actually been the beneficiaries of some decreasing values, if you will. So maybe this would be the perfect time to move forward with this where we could get people to do some things on the front end, and then ultimately this is going to help us on the down road. In the meantime, though, Senator, one last point I want to make is even though we grant this exemption and stay for the six years, this will not keep any county assessor from doing their...as we covered in an earlier bill, at least in Douglas County, their four-year reevaluations and determinations on home values to see if those improvements have been made on houses that didn't qualify for this program. So you're

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going to have that, you know, constant, if you will, growth and improvement as we go along. I think the...you know, there's a great point Senator Adams and others have made on TEEOSA, but I think, you know, it'll have...the impact won't be as significant as we fear maybe. [LR271CA]

SENATOR HADLEY: Just one last and it's a comment. I always worry about unintended consequences. [LR271CA]

JACK CHELOHA: Right. [LR271CA]

SENATOR HADLEY: And suddenly we have a huge hole in TEEOSA that we've somehow created. It would be nice to know what kind of estimate of what the...you know, what do people spend on remodeling in Nebraska or, you know, just some idea of the magnitude we might be looking at. [LR271CA]

JACK CHELOHA: Right. That's more of a comment. Okay. [LR271CA]

SENATOR HADLEY: Oh, sure. Yeah. [LR271CA]

JACK CHELOHA: Right. Thank you. [LR271CA]

SENATOR CORNETT: Senator Adams. [LR271CA]

SENATOR ADAMS: Jack, I'm wondering if another possibility, and I'm just thinking out loud here, you don't even have to respond, but rather than deny other taxing districts growth, rather than potentially complicate uniformity as per our constitution, why doesn't...and rather than put an amendment up for the whole state to vote on, why couldn't let's say Omaha, or any town for that matter, why couldn't they go to their own voters with an LB840 plan? And we're going to commit some percent of our local option sales tax dollars to a no interest, low interest loan program to these homeowners that want to make the improvements and recapture it right away and haven't complicated things as much. It's just a thought. Maybe you can't use LB840 quite that way, but I... [LR271CA]

JACK CHELOHA: Right. That's a... [LR271CA]

SENATOR ADAMS: Now it's more targeted. If it's an Omaha issue... [LR271CA]

JACK CHELOHA: Right. No, I appreciate that. No. Correct me if I'm wrong, Senator, but LB840 would be a dedication of your sales tax, is that right? [LR271CA]

SENATOR ADAMS: Your local option. [LR271CA]

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JACK CHELOHA: Right. [LR271CA]

SENATOR ADAMS: Yours not the state's. [LR271CA]

JACK CHELOHA: Exactly, and from Omaha's perspective, I mean, we're suffering there right now, so it may not be (laughter). [LR271CA]

SENATOR ADAMS: You guys are suffering in all kinds of areas. [LR271CA]

JACK CHELOHA: Oh, I know, lots of suffering. That's why I'm here so often. [LR271CA]

SENATOR HADLEY: It'd be easier to name the ones who are not suffering, Jack. [LR271CA]

SENATOR ADAMS: Thank you, Jack. [LR271CA]

SENATOR CORNETT: Senator Utter. [LR271CA]

SENATOR UTTER: Just real quickly. I'm concerned about fairness again and notification. Who's going to tell whoever, Joe Smoe, whoever, that when he puts these improvements into his home, gets these remodeling, puts on his new roof but, hey, Joe, you're entitled to a tax break here or is he going to have to know about this? Are we just going to keep quiet about it and if he knows about it he gets it and if he doesn't know about it we'll just let it go? That's another fairness issue, I think. [LR271CA]

JACK CHELOHA: Sure. [LR271CA]

SENATOR UTTER: And maybe it could be handled with the building permit process, the notification. I don't know. [LR271CA]

JACK CHELOHA: Right. That's all good points and I appreciate the comment and the question, again, because, you know, these are things we could work out in the statutory implementing language. But on one hand, you know, we generally tax our citizens with knowing the law and knowing what's available, but on the other hand, if there's something that we truly believe in or we think that it really grants the right that they be interested in, we've done, you know, the ability to somehow to promote them or the word gets out and that's a great idea. Maybe we could put it within our planning department when they seek their applications for the building permits. I mean, we want people to, I guess, be aware of it and if we think it's as good of a program as it could be, we want them to be aware and we want them to qualify. [LR271CA]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Jack. [LR271CA]

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JACK CHELOHA: Okay. Thank you. [LR271CA]

SENATOR CORNETT: Next proponent. We'll move to opposition testimony. [LR271CA]

MIKE GOODWILLIE: Good afternoon, Senator Cornett, members of the committee. My name is Mike Goodwillie, G-o-o-d-w-i-l-l-i-e. I am the deputy county assessor in Douglas County, Nebraska, and speak in opposition to LR271CA. Let me start with basic principles, and that is the uniform and proportionality clause of the constitution. Taxes shall be...property shall be taxed by value uniformly and proportionately, which means that people should be at the same relative level of value. I guess the most obvious scenario to me, the most obvious flaw in LR271CA is if you own a house that's very well improved, very nice, and is getting valued at \$250,000 and I own the neighborhood project house and I bring it up to snuff--well, I've owned a house like that too (laugh)--and I bring it up to snuff at least for that six-year window, you're getting assessed at your full market value or near it and I am not. Now, if you do a constitutional amendment, I suppose that uniform and proportionate clause would not apply, but you've blown a pretty big hole in it. And from a public policy standpoint, whether you amend the constitution or not, I'm not sure it's fair to you and I as neighbors. I think you also see a tax shift in the sense that, yeah, you still have to have enough money to pay your contractor and pay for the materials and so forth. And so, yes, I'm getting a break in my value because I could afford to do that. That citizen who could not afford to do that is still getting taxed at his actual value, I'm at something less. And there's another element here too. If you are constraining the value of your base, meaning you aren't getting the growth from at least this kind of improvement, do you put some pressure on the levy rate, which means if I'm one of those unfavored people that couldn't get this tax benefit from doing my improvement, not only am I getting taxed at my actual value, I'm getting an extra penny or two on the rate potentially. Let's...I think before I move on, let me touch on TIF. I'm not sure this wouldn't hurt TIFs. And assuming it would apply to this kind of property because typically TIFs don't mean that the property is assessed at less than its actual value, it simply means that the taxes are split between the value on your starting point, your base which continues to go to the political subdivisions and the value on essentially what you've added, the value added, which is the excess which would pay off the TIF financing. I suppose what you would end up doing here is you would end up freezing that...you'd freeze the actual value which would come out of the excess which would mean paying off the TIF financing would become pretty problematic. So if you start at \$100,000 base, okay, and you had an excess of another \$100,000, and then you decide to take on an additional renovation project, okay, your excess would be frozen at \$100,000 over at least 6 years of that 15-year repayment window. I don't know what impact that would have on being able to pay off the TIF financing but, yeah, I think you would impair the ability to pay it off. From a practical standpoint I guess my question was, are you going to have minimums and are you going to have maximums? And the reason I ask is I live in an older part of

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Omaha and depending on which way I...I'll give you two scenarios depending on which way I drive home. One way there's a very small house, I'm not sure it isn't even condemned, on a very large lot. And so let's assume the value of that small house is \$10,000, but, boy, I have a big, big lot. Now, I know the discussion by the proponents of the bill are that, well, this is putting in windows or a roof or something that's a relatively low dollar amount that everybody is going to do. But the way I read that bill, it says any improvement, expansion, what have you, to your residence. So I buy that \$10,000 or \$15,000 condemned house. I then tack a million dollar improvement onto the darn thing. I'm exempt from tax for six years. The other way I could go home is through an old money part of town, and for quite a little while there was sort of dueling improvements between mansions on either side of the street. I see Senator White nodding. He may know the street I'm talking about. [LR271CA]

SENATOR WHITE: Actually, it's Senator Nelson's district. (Laughter) [LR271CA]

MIKE GOODWILLIE: Well, okay. That may be. But basically it seemed like each of those homeowners was outdoing themselves to make a bigger and more grandiose addition. I think all of that added value would be exempt for six years, quite a windfall for, you know, that kind of well-to-do taxpayer, not so much of a windfall for the person who owns a much more moderately priced house. I know...Senator Hadley just left but he had asked some questions about practical implications. And I realize that until there would actually be a bill, that is sort of "speculatory." But I will ask...I will raise this issue: I'm the neighbor that has the \$250,000 house and I protest because you know what? I'm not equalized with Goodwillie who's got the project house that took advantage of this. I think most assessment offices would basically have to keep two sets of books to be able to flag this for the benefit of the referee and the county board of equalization to say: Oh, well, this is not a good example to compare to Senator Cornett's house for valuation purposes because that value is statutorily constrained. I guess the next question I would have is...would be from a practical standpoint determining the contributory value of the improvement. My wife and kids are addicted to home and garden shows and occasionally there are shows about home improvements that talk about, you know, if you do this to your kitchen, you'll get X amount back when you sell it in terms of return on your improvement investment. And here's the scenario I wonder about. You're in a neighborhood and values start to rise, and what the sales are telling you is the houses in that neighborhood are selling for 8 or 10 percent more than they were last year. But then you also have somebody doing one of these improvements. So you maybe find a house that's sold recently that's comparable to this improved house, how much of that rise in value is going to be...and not the eight...is going to be attributed to the amount of work done on the improvement and how much of the ultimate taxable value of that property is going to be attributed to, say, that overall rise in the value of the neighborhood? I haven't...I've waited to raise these practical arguments because generally, you know, administrative difficulty arguments are not the most persuasive ones you can make. But, gee, I think this would certainly be a problem both from a

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fairness standpoint in terms of the valuation and taxation of property, and I think it would be a considerable problem in terms of its practical application. And with that, I would take any questions that you might happen to have. [LR271CA]

SENATOR CORNETT: Senator White. [LR271CA]

SENATOR WHITE: Well, I was thinking about the neighborhood dump house. [LR271CA]

MIKE GOODWILLIE: Yes. [LR271CA]

SENATOR WHITE: If I come in and I buy it, which I did, and then I pour a bunch of money in it, my neighbors sometimes would come by and say, thanks for improving the value of my house. And then the tax bill would come by and say, thanks for improving the value of my house. [LR271CA]

MIKE GOODWILLIE: And then they'd not be so thrilled, yes. [LR271CA]

SENATOR WHITE: So now I invest a bunch of money, I improve the value of their houses because you get rid of a bad house on the block... [LR271CA]

MIKE GOODWILLIE: Sure. [LR271CA]

SENATOR WHITE: ...it should have a dramatic impact on the joining property values. I'm not paying taxes on the better neighborhood but they are, right? [LR271CA]

MIKE GOODWILLIE: Well, that's the question I have. I mean, if the overall value in the neighborhood goes up, say, 5 percent but it's not necessarily attributed to the specific improvement you did, you could...yes, all the other neighbors get their 5 percent bump or 8 percent bump or whatever it is. The house that's done the improvement...I don't know if it would get even the neighborhood bump because if you could attribute all of it to the improvement, then maybe that qualifies under exemption. I don't know how you'd parcel the contributory value from that to what the neighborhood is getting overall. [LR271CA]

SENATOR WHITE: Thank you. [LR271CA]

SENATOR CORNETT: Senator Utter. [LR271CA]

SENATOR UTTER: Not a question but just a comment. It's just comforting to me to know that at times the folks from the great state (sic) of Omaha don't agree with each other. (Laughter) [LR271CA]

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MIKE GOODWILLIE: Well, it's a diverse place and I suppose it depends on whose ox is being gored. [LR271CA]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Mr. Goodwillie. [LR271CA]

MIKE GOODWILLIE: Thank you very much. [LR271CA]

SENATOR CORNETT: Next opponent. Is there anyone here to testify in a neutral capacity? Senator Nelson, you are recognized to close. [LR271CA]

SENATOR NELSON: Thank you, Senator Cornett and members of the committee. I appreciate your attention and all your excellent questions here. It's akin to what I think we do in Appropriations. You know, I might even like to move over to this committee sometime because it's very interesting. I just simply would like to point out that the statutory language here that we're suggesting, and this is on page 3, line 23, it talks about the increased value of the property. So there has to be an increase in value of the property according to this. And so there are probably going to have to be some guidelines in the eventual statute as to what increases the value and what doesn't. Painting probably does not. Replacing a window or two does not. So there would probably have to be some guidelines set there. We may have to...I mean, the Legislature certainly would have to do a maximum or a minimum, something of that sort. I just very briefly to the fairness issue, it's open to anybody to improve their home. Just because somebody is not able to improve their home either because they're not financially able or they can't get a loan or something like that, you know, is it fair to anybody else to not give them some benefit for the improvement and for the overall improvement of the neighborhood and the increase in value? There are a lot of technical difficulties probably from an assessor's standpoint, but I think we have to understand there would have to be some additional records kept if this is implemented and I don't know that that's always that hard. And all these things are always subject to subjectivity. So I would appreciate your careful consideration of LR...I forget the number here, LR271CA and I urge the committee to...even perhaps with some amendment to advance it on out to the floor. Thank you very much. [LR271CA]

SENATOR CORNETT: Further questions from the committee? [LR271CA]

SENATOR WHITE: Thank you, John. [LR271CA]

SENATOR CORNETT: Thanks. [LR271CA]

SENATOR NELSON: Thank you. [LR271CA]

SENATOR CORNETT: With that, that ends the hearings for today. [LR271CA]

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