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Rough Draft

Revenue Committee and Urban Affairs Committee  
November 30, 2012

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[LR520]

The Committee on Revenue and the Committee on Urban Affairs met at 1:30 p.m. on Thursday, November 30, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR520. Revenue Committee senators present: Abbie Cornett, Chairperson; LeRoy Louden, Vice Chairperson; Greg Adams; Lydia Brasch; and Paul Schumacher. Senators absent: Deb Fischer; Galen Hadley; and Pete Pirsch. Urban Affairs Committee senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Bob Krist; and Jim Smith. Senators absent: Brad Ashford; Tanya Cook; and R. Paul Lambert.

SENATOR CORNETT: I'd like to welcome you to the Revenue hearing for land bank. Before we begin the hearing, I would advise everyone to please turn your cell phones to either off or vibrate. If you are coming up to testify, please fill out a testifier's sheet and hand it to the page who will give it to our committee clerk. With that, I'll introduce the committee. I'm Senator Abbie Cornett with Revenue; Senator Amanda McGill, Chair of Urban Affairs; Senator Jim Smith; Senator Lydia Brasch; Senator LeRoy Louden; Senator Greg Adams...

SENATOR KRIST: Bob Krist.

SENATOR CORNETT: I know who you are, I just can't believe I forgot you. (Laughter)

SENATOR KRIST: Better forgotten.

SENATOR CORNETT: I kind like just skipped right over. Sorry about that. And Senator Paul Schumacher. With that, Senator Mello, you're recognized to open. [LR520]

SENATOR MELLO: (Exhibits 1 and 2) Well, good afternoon, Chairwoman Cornett and Chairwoman McGill, members of the Revenue and Urban Affairs Committee. My name

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is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. From the urban south Omaha neighborhoods that I represent, to small villages in rural Nebraska, vacant and abandoned properties have long been a problem for Nebraska municipalities. Particularly in older communities, vacant properties can have the effect of depressing property values and straining our already thinly stretched public resources. These abandoned buildings present serious health and safety risks, including increased risk of fire. They can serve as a target for criminal activities, including arson, graffiti, and drug trafficking. The foreclosure crisis has only worsened the problem, adding an increased number of homes and businesses to the vacant property rolls. The concept of land banking offers communities an aggressive new set of tools to address vacant properties and the urban blight that can result. A land bank is a public authority created to efficiently acquire, hold, manage, and develop vacant, abandoned, and tax-foreclosed properties. Although as recently as 2005, most land banks were being operated in an older, rust-belt communities, like Cleveland, Ohio; Flint, Michigan. And the land banking concept has grown significantly over the past few years. Just last year, four states passed enabling legislation to allow the creation of land banks at either the city or county level. While Nebraska fared much better than most states during the housing crisis, land banks in other states and communities have emerged as a key tool to help stem the decline in property values that affect not just the vacant properties themselves but neighboring properties as well. Last year, Chairman Ben Bernanke of the Federal Reserve recognized the role that land banks could play in helping communities address the large number of low-value properties currently in the housing market. For example, the land bank in Cleveland partnered with several major banks to accept the donation of unwanted foreclosed properties, with the banks paying demolition costs so that the land bank could get those properties back into productive use. As members of the Urban Affairs Committee will no doubt remember, I introduced legislation last year which would have enabled any Nebraska municipality to create a land bank. That bill, LB1137, was advanced by the committee with a committee amendment that made significant changes to the green copy of the bill. These vast majority of these changes were made to address issues raised by the loan organization

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that testified in opposition to the bill last session, and those changes were also made at the request of other organizations that brought some similar concerns to us following the hearing. In October, I sent my legislative aide, Trevor Fitzgerald, to attend the seventh annual land bank conference in Kalamazoo, Michigan. This allowed my office to make changes to the legislation over the interim based on lessons that have been learned in other states which have been operating existing land banks. My office has also worked extensively with the business community in the Omaha area, including the Greater Omaha Chamber of Commerce, the Omaha Board of Realtors, as well as statewide organizations like the statewide Property Owners Association, the Nebraska Realtors, and the Nebraska Bankers Association over the interim. The product of that work, although not yet the final draft, is a copy of REQ 00065 that was distributed before the hearing. This draft, which used LB1137 and the committee amendment as a starting point, includes a number of changes to address the concerns of the business community in the Omaha area. Chief among those changes is the requirement that the board include the following representatives: a member representing realtors; a member representing the banking industry; a member representing real estate developers; a member representing the chamber of commerce; a member representing a nonprofit housing sector; and a member representing large-scale landlords. In addition to the draft, I provided the committee members with a brief section-by-section summary. Touching briefly upon some of the major aspects of the enabling legislation, it would allow a municipality or a group of municipalities in the Douglas-Sarpy County area to form a land bank by ordinance or a joint land bank by interlocal agreement. Land banks have a variety of basic powers, including the ability to acquire and dispose of property; hire staff; adopt and amend bylaws; sue or be sued; issue bonds; enter into contracts; and obtain insurance. The land bank would not, however--I repeat would not however--have eminent domain authority or the ability to levy property taxes. Funding for the land bank's operations generally come from seven potential sources under the legislation: local funding from a municipality either in the form of direct funding or in-kind services; state or federal grants or assistance; philanthropic contributions; proceeds from the sale of real property; temporary rental income; proceeds from the redemption

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of tax sale certificates. And in Section 11 of the bill, after a property has been transferred from the land bank to private ownership, the land bank receives 50 percent of the property taxes collected on that property for a five-year period. Sections 16 through 18 of the draft contain some of the most important powers given to the land bank. Under Section 16, a land bank can extinguish tax liens on property it receives, which is essential to getting properties whose delinquent taxes exceed fair market value back into productive use. Sections 17 and 18 allow the land bank to participate in the tax foreclosure process both by investing in tax sale certificates and purchasing properties at a tax foreclosure sale. These sections also provide for an automatically accepted bid by the land bank which gives the land bank's bid in tax foreclosure proceedings a priority over other bids. This specifically is designed to be a limited-use power, and the bill requires the land bank board to adopt bylaws spelling out the specific scenarios under which the automatically accepted bid would be utilized. If an automatically accepted bid is given at a foreclosure sale, the bill would require that the land bank pay the full amount of taxes, interest, and costs owed. Both at the hearing on LB1137 last session and while working on the draft before you over the interim, the primary question that my office has fielded is the fundamental question of why an additional governmental entity is needed to fill this role as opposed to a nonprofit sector or an existing local government. First, many of the critical powers given to the land bank, including the ability to extinguish delinquent taxes, can only be given to a political subdivision under our state constitution. Second, land banks are designed to be narrowly focused on the rehabilitation of problem properties, and giving the powers of a land bank to a political subdivision that also has the power of eminent domain runs the risk of blurring that goal. As I stated at the beginning of my testimony, land banking is a growing trend, with many states and communities starting to look towards land banks as a potential solution to address a growing problem properties issue. Land banking is also a concept that transcends party lines or political ideology. Four states recently passed land banking legislation last year: Georgia, Missouri, New York, and Pennsylvania; and in three of those states the legislation was carried by Republican legislators and signed by Republican governors. In fact, many of these bills were passed unanimously or

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nearly so. Last session, my office delivered copies of the book Land Banks and Land Banking by Professor Frank Alexander of Emory University School of Law in Atlanta, Georgia, to members of the Urban Affairs Committee, and copies of the book were recently sent to the members of the Revenue Committee earlier this month. Professor Alexander is perhaps the country's foremost expert in the field of land banking and has been instrumental in putting together the legislation before you. He testified in support of LB1137 last session; and while he was unable to join us today for the interim study, I'm hopeful that he will be able to join us again next session when I reintroduce the bill. In lieu of Professor Alexander, of course I would be happy to answer any questions the committee may have. Also, we've invited testimony today from the city of Omaha, from Habitat for Humanity in Greater Omaha, as well as the Greater Omaha Chamber of Commerce. And knowing there are a good number of people behind me, no doubt there will be plenty of others who will want to testify and provide their feedback on the concept as well. Thank you, Chairwoman Cornett. [LR520]

SENATOR CORNETT: Thank you, Senator Mello. Questions from the committee?  
Senator Adams. [LR520]

SENATOR ADAMS: Thank you, Senator. I have a series of questions, Senator, and if someone else can maybe answer them better, you can defer. That would be just fine. First of all, how would you determine which properties would be eligible to be purchased and put in the land bank? [LR520]

SENATOR MELLO: Actually it's spelled out we think fairly clearly in the legislation before you in regards to targeting vacant, abandoned, and tax-foreclosed properties are the properties that the land bank authority would be actively searching to try to rehabilitate, so to speak, within the geographic boundaries of the Douglas-Sarpy County area. Ultimately it accepts contributions from individuals or businesses or private entities. So if a business wanted to donate a parcel of land, they could accept that parcel of land and ultimately rehab it, demolish it, and sell it back on the free market.

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[LR520]

SENATOR ADAMS: How would you see TIF commingling with this? [LR520]

SENATOR MELLO: Ultimately TIF is the responsibility of the municipality itself, the city council, and the mayor both within the municipalities in Sarpy County as well as the municipalities in Douglas County. And TIF ultimately is not decided or has real no, I would say, impact directly on the land bank authority itself. No doubt there may be properties that are acquired by the land bank that may be in an existing TIF district. But at the end of the day, their job, the land bank's job is to acquire the property, rehabilitate it, and get it back into the marketplace as fast as it can. Since the argument, and I made this in last year's testimony and Professor Alexander emphasizes it as well, the free market essentially has discarded a good number of properties which have become abandoned or ultimately are not to be able to be rehabilitated by private developers or private entities. Those are the properties that the land bank ultimately is searching out of trying to rehabilitate, get them in a shape where they can sell it to a private developer or a private entity, and get them back on the property tax rolls. [LR520]

SENATOR ADAMS: So would you foresee...so you have an area that's already been determined blighted and substandard, for instance,... [LR520]

SENATOR MELLO: Yep. [LR520]

SENATOR ADAMS: ...and some of these properties are within that. Could you see the municipality then using TIF to acquire the properties and then hand them over to the land bank? [LR520]

SENATOR MELLO: To be perfectly candid, Senator Adams, we've not really explored it I would say much more than the reality of what the city would do in regards to TIF, because the land bank ultimately...that's a policy that the city could ultimately create at

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the city level since this is enabling legislation. I guess the short answer is I don't have that answer in front of me. [LR520]

SENATOR ADAMS: Fair enough. [LR520]

SENATOR MELLO: It's something that we could easily look at and it's something you could ask I think the city of Omaha planning department who will be testifying after me. [LR520]

SENATOR ADAMS: Couple of other things. The 50 percent of the property taxes collected on real property conveyed by the land banks shall be remitted to the land bank for a period of five years. And that's all of the tax or just the municipality's share of the tax? [LR520]

SENATOR MELLO: That's all of the property taxes. [LR520]

SENATOR ADAMS: So the school, the NRDs, the county's share, that's all... [LR520]

SENATOR MELLO: That's a question that was asked last year in the Urban Affairs Committee because it's a unique concept. Right now, the properties, in theory, that are going to be going to the land bank, no political subdivision is getting property taxes from because either they're tax delinquent, going through foreclosure, or ultimately they have been abandoned and they have abandoned structures on them that ultimately the city has not been able to take them down, or they're vacant so that no one is paying property taxes because it's vacant and/or it's owned by a separate political subdivision. The argument is if political subdivisions are getting, you know, 100 percent of nothing right now on these properties, the land bank gives them the opportunity to get 50 percent of something by getting these properties rehabbed back into the marketplace; and for a five-year period that 50 percent of the entire property tax bill goes back to the authority for them to be able to do more demolitions on property, more rehab of the

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property, and get it back into sellable form. [LR520]

SENATOR ADAMS: One other question, and it may be here in your language or I can ask somebody else. What would be the term on the bonds? If the land bank is going to issue bonds, what would be the maximum term? [LR520]

SENATOR MELLO: It doesn't actually...the specific bill doesn't specify any specific...I would say any specific terms of bonding with the exception that they're mortgage-backed bonds essentially is the only way that they can do bonds or finance. They have to be able to finance the bond with the resources they have knowing that only the main resources they would have is the actual property or parcels of land, so. [LR520]

SENATOR ADAMS: All right. So the city's valuation would not be obligated to the bond? [LR520]

SENATOR MELLO: No, they would not be. No. [LR520]

SENATOR ADAMS: Okay. Fair enough. Thank you. [LR520]

SENATOR CORNETT: Further questions? Senator Krist and...now you've got me worried. (Laughter) [LR520]

SENATOR KRIST: Here. (Laughter) [LR520]

SENATOR CORNETT: No, I know it. Thanks. A little closer, I'm getting old. [LR520]

SENATOR KRIST: Thank you, Chair. We talked a little bit about the blighted areas and my concern, and obviously this could be worked out without issue. I think there needs to be some kind of exclusionary clause in there or causal factor whereby if you're looking

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at something that has previously been TIFed and then you're going to again give 50 percent of that income away, and the TIF is not negotiable at this point, it's got a 15-year term on it, you may be giving away the farm. And in that I guess I would note that you say in the bill and in your summary that it's possible for me to donate my land to the city and do it. So what brings to mind, I always think of those way-out examples that, you know, never happen, but let's just say that mansion outside of Gretna because of one reason or another takes a \$3 million piece of property and donates it to the city. Well, they're going to use it as a land bank, but that did create revenue and tax base because it was a very valuable piece of land. Is it a far-fetched example? Yes, I think so. But I think we need to define at some point. You can't go from being a good tax resource to being zero because you donated it to the land bank and start over. And I believe that would be an example. The other thing I would say is that knowing what I do about SIDs, there really isn't any difference between a land bank and an SID with all of its capability, except with an SID you're starting from scratch and developing, and with a land bank you are taking it down to nothing and developing it as a government entity. So we do have that issue already within the state. So just those two notes and if you'd like to comment on either one. [LR520]

SENATOR MELLO: You know, I think your example to some extent, if taxes are being paid in the theory on like let's just use the Kush mansion as the example. If property taxes are currently being paid on it and they were donated, that doesn't mean that, one, the land bank has to accept a property if they don't have a use for it to some extent. I mean, it's not something that they become a receptacle of last resort unlike our current Land Reutilization Commission statutes which makes the Douglas County Land Reutilization Commission the receptacle of last resort of any and all parcels that no one wants to claim or no one wants to buy. Tax... [LR520]

SENATOR KRIST: And is that written into this, I mean, in terms of exclusions? [LR520]

SENATOR MELLO: It gives the power to the authority, yes, to the board to determine

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what they want. I mean, ultimately with enabling legislation, we took a different tack I would say from what we normally do I think within the body, where enabling legislation usually provides that authority to the municipality or the political subdivision to ultimately create the legislation that works for them, to take that broad piece of legislation and conform it to their local needs. In part due, I think, to some concerns that were raised in last year's legislation in the Urban Affairs Committee, we went out of our way to work with a variety of organizations in the Omaha area to try to ensure that this enabling legislation was more tailored towards the greater metropolitan Omaha area in the sense of understanding what the needs are and concerns are in the Omaha area, primarily in the eastern part of the city where we know is where the planning department will walk you through where thousands of these properties are located. And ultimately, like I say, some of the day in, day out operations in regards to whether or not the board wants to accept certain properties or deny certain properties, that's ultimately going to be left to what the city council would do through their ordinance when they actually create the day-to-day operational bylaws of the land bank authority or whether it's the city council in Bellevue or the Sarpy cities together create their unified one, so. [LR520]

SENATOR KRIST: Senator, one last comment or question. Do you...this does not apply, as I understand it and read this through, to the counties. [LR520]

SENATOR MELLO: No. [LR520]

SENATOR KRIST: It was only to the political subdivisions. [LR520]

SENATOR MELLO: It only applies to municipalities within the Douglas and Sarpy County area. [LR520]

SENATOR KRIST: Okay. Thank you. [LR520]

SENATOR CORNETT: Senator Schumacher. [LR520]

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SENATOR SCHUMACHER: Senator Mello, if you maybe could walk me through a typical situation. An old building, for some reason or another dilapidated, maybe because of a partial fire or something, sitting in the county that you were talking about; how does the title get transferred from the private owners into this land bank? [LR520]

SENATOR MELLO: Well, ultimately that would be the process in regards...it would follow the same existing process that we have I would say in statute in regards to any transfer of title. It's simply I would say a political subdivision that can accept title through the tax foreclosure process. [LR520]

SENATOR SCHUMACHER: Do you have to hunt down the owners and get them to sign a deed? [LR520]

SENATOR MELLO: No, no. I mean, it's...once again it's...private property, if private property is owned and it remains private property, it's that private property owner's responsibility. The properties though, the dilapidated properties that we're talking about, are properties ultimately that have gone through a tax sale certificate process and/or the tax foreclosure process. Those are the... [LR520]

SENATOR SCHUMACHER: So the county at this point owns them or the...well, they've gone through a tax...? [LR520]

SENATOR MELLO: They've gone through a tax sale certificate process and/or a tax foreclosure process. [LR520]

SENATOR SCHUMACHER: The tax sale certificate though, they get...some investor comes in and buys the certificate, and then they've got to sit around waiting for whatever it is--two, three years--for the thing to happen and for them either to get a deed or foreclose on it. If...during that period they don't have anything to sell, the title is

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still resting with the old guy. [LR520]

SENATOR MELLO: You're correct. You're absolutely right. You're absolutely correct.  
[LR520]

SENATOR SCHUMACHER: So how does this title get out of the old guy into this bank if he's in California and he's not really responding to your letters? [LR520]

SENATOR MELLO: The best way I guess...the land bank authority would ultimately be able, as I would say, like other speculators who go through the tax sale certificate process, would be able to buy tax sale certificates on properties that they would want, and they compete against other entities as well. They get a special provision, though, that gets determined by their board where they can get ultimately and use an automatic bid in the process, if there's a property that they want and need for a specific purpose.  
[LR520]

SENATOR SCHUMACHER: Do they then have to...if they buy the certificate, do they have to sit on it and hatch it for the three years or... [LR520]

SENATOR MELLO: Unless the Revenue Committee would love to sit down and work on changing our tax foreclosure laws, which I think Senator Coash actually may be working on, they have to follow the same process everyone else does. [LR520]

SENATOR SCHUMACHER: So we've got to wait through this. This has got to sit vacant there and we've got to wait through this process for the three years, and if it's a foreclosure we've got to go through the district court and do all that. [LR520]

SENATOR MELLO: Yes. Yes. [LR520]

SENATOR SCHUMACHER: So it's only after that process conveys title to the holder of

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the certificate that this even begins to kick in. [LR520]

SENATOR MELLO: For those kinds of properties, yes. But ultimately as the city of Omaha will discuss probably after me, there's significant properties that the city of Omaha already owns that they can transfer to the land bank to start the process of demolition...you know, the demolition process of properties or existing structures on properties getting the land bank ultimately to rehab those properties to get them back onto...and, you know, back onto the property tax rolls and then back into the real estate market. The land bank has to follow the same process everyone else does when it comes to that three-year period in regards to redeeming a tax sale certificate until it reaches foreclosure. So there's no speeded-up process, so to speak. It's something that we learned in working with Professor Alexander from Emory is he noted Nebraska has very unique tax foreclosure laws that is a very long period of time in comparison to most other states that have land banks, have a much shorter time period when a land bank can acquire that property through a tax foreclosure process. All I know from, I guess the kind of, I guess, the general scope of questions is, I know Senator Wightman last year had raised this issue and I know that his office, we contacted them at the end of session when we started this process of looking at next year's bill, that they're exploring the tax foreclosure process right now in regards to trying...and Senator Coash mentioned it last year as well when we were discussing this bill, if there's a way to evaluate the existing process to speed that up. That's not ultimately the...that's not the focus of this legislation or the authority; that's a policy decision ultimately that would be created by the Legislature to change that entire structure. [LR520]

SENATOR SCHUMACHER: Thank you, Senator. [LR520]

SENATOR CORNETT: Senator Mello, over the last few years we've had multiple bills in the Revenue Committee regarding tax-foreclosed buildings and assessed liens on those buildings for maintenance or demolition that the city has incurred; and there's been multiple bills that have been introduced on how that title passes, how those liens are

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paid off. There was a bill I think last year or the year before that there would not be a clear title until the city received their money. I don't know if you introduced it or not. You have tax-foreclosed property. It's sitting there. There's large tracts of land where there's multiple pieces of property that need to be demolished. Is the city talking about transferring those properties to the land bank and then having the land bank assume the demolition, the upkeep? If they have already incurred debt or liens on that property for mowing, demolition, trash removal, whatever, is the city then going to say we just are washing our hands of that, or is the land bank going to assume those? I mean, because there was a large disagreement between the...no, not large...but a difficult disagreement between the city and the county in regards to liens on foreclosed properties and then with the banks themselves. And it has been a very, very difficult issue to work our way through, and nothing has gotten passed because there was no way, at least in the last seven or eight years, that we could get a meeting of the minds between the city, the county, and the bankers on how these properties transferred and the liens that were attached to them. Am I correct? [LR520]

SENATOR MELLO: Yes, and I'm trying to find a way...I'm trying to kind of narrow down that question. Ultimately the...through the tax foreclosure process, and we did a little...got a little research, and Douglas County, 2010, there was 267 legal actions or foreclosures, properties that went through foreclosure; 310 in 2011; and 310 in 2012, right now, based on the current numbers for 2012. Ultimately the land bank...at a foreclosure sale, they would have to...and this is an issue we've been working with the Nebraska bankers on, they would have to pay the full amount of taxes, interests, any costs associated with buying that property. [LR520]

SENATOR CORNETT: And liens. [LR520]

SENATOR MELLO: They have the ability...now liens, that's the... [LR520]

SENATOR CORNETT: Because liens are different, and that's where we ran into...

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[LR520]

SENATOR MELLO: You're absolutely right. And the ability...if a land bank bought a property at a foreclosure sale, they would be able to extinguish...they have the ability to extinguish tax liens. That's what makes them different than having the city do it or another political subdivision do it. And it's an issue, more than anything else on the banking sector side, and that's something that we've been working with, of trying to make sure that at the foreclosure process they have to pay...they have to compete against everyone else in regards to buying those properties. And it's some language that...we had some language last year; we're looking at some different language this year working with the banking industry, and I feel confident we'll get to yes here before session. But that's the difference between a land bank is they're able to extinguish tax liens that other entities cannot do in part because the properties they're going after are not...they're not going after properties that are, you know, a \$175,000 three- or four-bedroom home. They're going after properties that we know in theory no one else is going to really want and trying to get those properties to acquire enough parcels to build a large enough parcel to do multifamily housing, residential housing, commercial.

[LR520]

SENATOR CORNETT: Explain to me what you mean by extinguish. Are you talking about paying the political subdivision for the liens or the debt that they have incurred for demolition prior to the land bank and the maintenance and upkeep, or are you talking about just extinguishing them? [LR520]

SENATOR MELLO: Extinguishing. [LR520]

SENATOR CORNETT: Okay. [LR520]

SENATOR MELLO: No, they have the ability to pure...I mean that's...they have the ability to purely extinguish the liens. [LR520]

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SENATOR CORNETT: And we won't see...well, I won't be here, but there won't be a bill then later saying that the municipalities still want the money that they've put into that property up ahead of time. [LR520]

SENATOR MELLO: I have a feeling...and that's maybe a better question you can ask the city of Omaha after me. I mean, the reality is the properties that the land bank would be getting, they would be paying the taxes on them through the tax sale certificate process; and if they tried to buy a property at a tax foreclosure sale, they would have to compete against anyone else who wanted to buy that property as well, pay off the mortgage costs, any costs associated with buying that property. They have the ability though to extinguish tax liens though which no other entity under...I mean, as I mentioned, our state constitution. No other entity would get that authority besides a political subdivision. So it's an issue once again that makes it lucrative for this land bank authority to be able to acquire these kinds of properties that we know the free market has discarded, that there's not a private developer or private investor who's trying to purchase these properties because of multiple tax liens. Ultimately, one, they may try to just do it because they want to speculate on a tax sale certificate percentage that they would get, but that would be the only reason why some of these properties...and in the number of properties that don't go to the county and sit with the county, which if you...through the bill there's a section-by-section summary. It allows the land bank after the tax sale certificate process, those properties that are not...those tax sale certificates that are not purchased, it provides the land bank authority to go back to the county and purchase those...be able to select any tax sale certificate they may want that the county has so that the county ultimately, there's money being paid, there's property taxes being paid, but it's up to the land bank to determine what properties they want. [LR520]

SENATOR CORNETT: All right. Senator Coash. [LR520]

SENATOR COASH: Thank you, Senator Cornett. Senator Mello, on the...when you go

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to these tax foreclosure sales, those are, you know, usually at the courthouse, usually a bunch of investors there that do that, because I think you can get, what is it, 14 percent... [LR520]

SENATOR MELLO: Fourteen percent. [LR520]

SENATOR COASH: ...return on your money if the owner pays up. So it's an investment for them or...well, that's why they do it. They want to make some money. If this legislation was in place, would there be like an employee of the land bank who would go there and compete with the investors to do that or is it just if nobody buys...you know, if the investors turn down on a property, then the land bank can step in? Which... [LR520]

SENATOR MELLO: Both actually. [LR520]

SENATOR COASH: Okay. [LR520]

SENATOR MELLO: Both. And that's...to some extent that for some unique reason or another seems to be a point of contention where I think the city and others after me can provide some much needed feedback as well as that. Through the tax sale certificate process we see overwhelmingly in that process speculators outside of Nebraska purchasing tax sale certificates purely for that 14 percent interest that they would get. And so ultimately this allows a political subdivision to compete against...I mean the city of Omaha can't do that now, Douglas County can't do that right now, the Omaha Public School District can't do that now, but this would allow a specific authority to be able to go purchase tax sale certificates against...compete against private investors if they want to purchase that specific certificate with the understanding that they've got to pay taxes on it, they've got to pay the property taxes, and they've got to compete the same way against an investor. The lone catch, and you remember this from last year, is the land bank authority is given a special provision under the enabling legislation that, based on a board decision, which I remind you the board decision...and part of this was to provide

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a safeguard in regards to showing that we were ensuring that we had a very business-friendly and a very business-oriented board, the board would decide whether or not they wanted to use an automatic bid process on certain key properties that they felt were in the most strategic interest of the land bank to acquire for them to be able to rehabilitate and get back onto the private market in comparison to letting that property go to a speculator and have that speculator essentially oversee that property through the tax sale certificate process and the foreclosure process. That ultimately is part of that...that's part of your question is to answer that. So, yes, they can compete against private entities and, like I say, they're purely...they're speculators in the sense of trying to get that 14 percent interest, hoping that that property doesn't go to tax sale, to tax foreclosure, where as you can see there's a significant number of properties that do go to tax foreclosure every year in the Douglas County area. The other caveat though is your second question which is, after a tax sale certificate process is done, the remaining tax sale certificates go to the county, and ultimately the county becomes responsible for them, where the land bank has the ability after the sale to see which properties or which certificates were not purchased and can select properties or put bids on properties to the county to pick certain properties that were not selected by anyone else. [LR520]

SENATOR COASH: So maybe somebody from the city will answer this. So when we have these tax foreclosure sales, there are some properties that investors don't pick up? [LR520]

SENATOR MELLO: Tax...no, it's different. The tax sale certificate process, yes; that's the first process. The foreclosure is the second process. [LR520]

SENATOR COASH: Okay. Thank you for answering that. And my second question, you mentioned that you don't envision a land bank going after a \$175,000 home. But what, you know, what we've seen is, you know, the higher priced these homes, they are going into foreclosure because people have gotten in over their heads. Is there anything in the legislation that prohibits that? [LR520]

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SENATOR MELLO: No. In enabling...I mean, I think and to some respect I felt in regards to I would say making significant accommodations in last year's legislation to ensure that a more business-oriented board of directors of a land bank would best be able to make that decision on the sense as, well, I'm not a realtor, I'm not a private developer, I'm not someone who works for a bank or a nonprofit housing corporation, a landlord, that those board memberships, that board membership of those individuals with expertise could make the decision on whether or not that property, one, they want to submit an automatic bid on it, and they have to be able to show there was a strategic purpose for it. So if there was not a strategic purpose for them issuing an automatic bid on a \$400,000 mansion in Fairacres in Omaha, then they wouldn't be able to do it and/or they could be questioned legally because they are open to the open meetings law, they're open to the open records law. It's a political subdivision the same way that any municipality or county would be, as well as we incorporated more transparency measures in regards to reporting what they're doing on a monthly basis to the cities, as well as to the public, of what properties they're trying to acquire, what properties they do acquire, what properties they currently hold. [LR520]

SENATOR COASH: Okay. Thank you. [LR520]

SENATOR CORNETT: Senator Louden, then Senator Schumacher. [LR520]

SENATOR LOUDEN: Thank you, Senator Cornett. Well, Senator Mello, thank you for bringing this forward for some discussion, as out in the rural areas in western Nebraska and stuff we have a lot of these abandoned buildings and tax foreclosures and the whole bit. Yours is mostly for a municipality, but it's the same problem all over. As I read the bill and as I've been associated with some of these slick politicians from Omaha, (laughter) I'd have to look and ask, really the way the bill is written it's setting up kind of a little principality and a municipality, because they appoint the members and the members aren't...there's no voters that they have to answer to; so it's kind of...they're

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pretty well insulated. So my first question would be, when you talk...you list it as vacant, abandoned, and tax delinquent properties. Well, the way I understand the laws in Nebraska there's only about two ways you can acquire property if somebody doesn't sell it to you, and that's either a tax sale or eminent domain. And you're not going to have eminent domain in this that you have. So really the only thing you're talking about is tax delinquent sales is the only way that this system you have here can be set up to purchase land or acquire land. [LR520]

SENATOR MELLO: Actually no. I mean, they can accept land, and I think the city of Omaha can describe...there's...the city of Omaha is probably the largest landlord in regards to property in the metropolitan area. So if the city of Omaha or Omaha Public Power District or Douglas County wanted to transfer parcels of land for a development or a redevelopment project that they all agreed on, they could donate that property or transfer that property to a land bank authority which then the land bank authority would be the owners of that property. So they can acquire governmental... [LR520]

SENATOR LOUDEN: Now you're talking about a trust. Anybody could donate their land to it. You could donate it to the church for that matter and they could do the same thing. [LR520]

SENATOR MELLO: You're absolutely right. [LR520]

SENATOR LOUDEN: Okay. But I mean we're talking about acquiring land that's been abandoned or vacant, and the taxes are delinquent on it and it's tumbling down and all that. We're not talking about trading property around that, the way I understand this thing. So when you have this like this and you say that the municipalities...actually Omaha could do this themselves right now, the city of Omaha, couldn't they? Because when these tax sales come up in the part of the country I've been from, either the county or the city, and usually if it's in a town the city buys that property for the tax lien against it so that somebody doesn't buy it and they're out the tax money. I mean they

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bid it in at that. So Omaha, we're talking just in the municipality, could purchase this land for their...because they've already got a tax lien against it. And so they could actually just set up this committee themselves right in their own government and go ahead with this. There's nothing in state law that would have to be changed for them to do that, is there? [LR520]

SENATOR MELLO: I would argue that if that was the case, one, I would argue the city of Omaha no doubt probably doesn't have the financing to do that because part of the issue is there's no enough financing to be able to do demolition on the existing abandoned properties within the metropolitan area. The second component, Senator Louden, is, two, I would say one unique power that's given to the land bank authority that doesn't rest--and Senator Cornett mentioned it--doesn't rest with the municipality or a county or any other political subdivision, which is the ability to extinguish tax liens. And I don't think the Legislature at the end the day wants to give all municipalities the ability to extinguish tax liens. The third component which I think really is...and it was in my testimony, was I don't think...you know, part of it is the rehabilitation of property or abandoned or vacant property. The underlying question is whether or not you want to give a political subdivision with the ability that has eminent domain, to give them that ability and that focus to do that, which right now I would argue that most municipalities don't have the funding to deal with vacant and abandoned properties right now, and this is one of the reasons why land bank authorities have sprouted up across the country. [LR520]

SENATOR LOUDEN: Well, if they don't have the funding now, where does the funding come from to support this? They have to float bonds. So actually the most legislation you would need is to allow a municipality to float a bond to purchase this property, and they can do that now actually, can't they? [LR520]

SENATOR MELLO: You know, bonding was one component that we allow land banks to use bonding. But the bigger component in the conversations in the metropolitan area

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has been the philanthropic community is very interested in finding a way to pool their resources behind an entity that is able to deal with massive redevelopment, and I would say, in the eastern part of our city. The other aspect, and it was in my testimony, which is in other cities--Cleveland was a good example--very large banks, U.S. Bank and Wells Fargo Bank being two of them, donated thousands of properties and millions of dollars to their land bank to ultimately get those properties off the bank's books essentially... [LR520]

SENATOR LOUDEN: Well, yeah, they didn't want them anymore. [LR520]

SENATOR MELLO: ...and to be able to give it the authority ultimately for them to be able to, you know, do the demolition on, rehabilitate the property, and get it sold so that something useful can be done with the property and ultimately get that back on property tax rolls. So those are two we know, I would say, common funding sources that land banks have is private investment from the financial industry as well as donations from the philanthropic community, as well as they accept contributions from local government. If the state wanted to provide money through a grant, they could apply for a grant as a political subdivision. [LR520]

SENATOR LOUDEN: And that was...the banks had that property through foreclosure. [LR520]

SENATOR MELLO: Yes. [LR520]

SENATOR LOUDEN: And if the municipality wanted to do something with a bunch of that property, the bank can still donate them to that area. If they had a blighted area they wanted to clean up and do something with, they could still donate that land that they've foreclosed on because they were the sole owners of it through that foreclosure. Now if my memory serves me right, was that last baseball complex in Omaha, was there some bonding fund, some bonds or something used to build that, and were those

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bonds voted on by the people? Is that...was that in Omaha where they did something like that and the bonds weren't voted on by the people? [LR520]

SENATOR MELLO: Senator Louden, I think this committee, the Revenue Committee actually dealt with the bill, last year, actually, that dealt with nonprofit corporations in regards to municipalities that that was I think the example that the committee is well aware of in regards to a municipality who used that financing mechanism through a separate nonprofit corporation to finance the construction of a stadium that ultimately we all know did not go to a vote of the people nor did the bonding. The unique aspect though, and really I want to emphasize this point because it was the leading comment that you gave earlier in your questioning, is, one, the land bank authority and ultimately the board is appointed by the city council and the mayor, and approved by them and reapproved or reconfirmed by them. So in some theory they're held accountable by the voters in the sense of the city council members that appoint them. This was an issue that was brought up last year in the bill in the sense of the entity that opposed the bill said there's no real accountability put on this entity because they're nonelected board members. Most municipalities have numerous commissions that we all know of. Planning commissions is probably one of the more common used commission in small cities as well as large cities where those positions ultimately are appointed by a city council or a mayor. They don't run for planning commission. This authority... [LR520]

SENATOR LOUDEN: Do they have this much authority to have bonds and purchase property? As the bill is written, vacant property and that sort of thing, do those...when you say most commissions that aren't... [LR520]

SENATOR MELLO: You know what, I'm not familiar, Senator Louden, I think with every commission in every municipality; but I think the reality is, another commission that is structured similar to this is the Metropolitan Entertainment Convention Authority. The MECA authority in the Omaha area is a very similar authority like this, which is a separate political subdivision where their membership is not elected, but MECA has the

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ability ultimately to issue bonds if they so choose to as long as they're financed. They don't have property tax authority. They don't have the ability to...the same authority that a city has, but it's a separate political subdivision with a specific focus and purpose, and the finance mechanisms placed in this legislation is very narrowly targeted towards dealing with these kinds of properties. [LR520]

SENATOR LOUDEN: Okay. Well, thank you for your testimony, and I hope you have good luck with your quest to do something about vacant and abandoned buildings. [LR520]

SENATOR MELLO: Thank you, Senator Louden. [LR520]

SENATOR CORNETT: I apologize. Senator Schumacher had a question. [LR520]

SENATOR SCHUMACHER: Thank you, Senator. A couple of questions. If you could clarify for me, and if you can't maybe somebody later that's more familiar with the legal process can. When you say extinguish tax liens, let's say you have a situation where you've got a building that has \$5,000 in taxes against it. It burns down. It's dilapidated. It's not worth nothing. And you wait out the time on the tax certificate, and the county got stuck with this since nobody wants to buy a certificate on a building that's worth nothing. And it goes before the judge. The owners are served with papers, it goes before the judge, and the judge says, yeah, there's \$5,000 worth of taxes due on it. Sheriff, go sell the thing. And the sheriff goes out and somebody bids \$1. And the sheriff comes back and says, yeah, Judge, I got \$1 for it. And the judge confirms the sale. Said okay, it looks like a fair sale, this property for \$1, and orders the sheriff to deliver a deed. And now at that point the guy who paid \$1 has got the deed to the property. Is it the case then that the \$5,000 worth of taxes or \$4,999 worth of taxes are still on that property? [LR520]

SENATOR MELLO: Through the existing tax foreclosure process? [LR520]

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SENATOR SCHUMACHER: Yes, yes. [LR520]

SENATOR MELLO: I assume... [LR520]

SENATOR SCHUMACHER: Or are they all gone when... [LR520]

SENATOR MELLO: I assume that they go through tax foreclosure process. Ultimately you're paying...when you go try to purchase a property through the tax foreclosure process, you're paying, you're bidding on the property to pay the full...the cost of the property including I believe the liens. [LR520]

SENATOR SCHUMACHER: So the taxes are extinguished. Is that what you believe? [LR520]

SENATOR MELLO: Through the existing foreclosure process, yes. Well, it depends on ultimately what the price of the property is. [LR520]

SENATOR SCHUMACHER: If that's the case, then the district judge has got the power to extinguish the taxes and they're extinguished in every tax foreclosure. [LR520]

SENATOR MELLO: Senator Schumacher, I... [LR520]

SENATOR SCHUMACHER: Maybe we...you know, and I'm... [LR520]

SENATOR MELLO: We can maybe...I mean, maybe we can find...we can talk either off the mike or after the hearing and kind of dig into that scenario a little bit more. But ultimately...then once again the difference, and I think Senator Loudon asked that in his question, is the land bank authority has unique powers that no other political subdivision, municipality, county, or otherwise has, and that's the ability to extinguish tax

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liens. That ultimately if a city in accordance with Senator Louden's example, if the city of Omaha tried to buy properties through a tax foreclosure process or a tax sales certificate process and there were liens against that property, they couldn't extinguish those liens. They would have to pay those liens to acquire the property. [LR520]

SENATOR SCHUMACHER: For private liens or public liens? [LR520]

SENATOR MELLO: Public liens. Private...I'm sorry, private liens. Private liens. [LR520]

SENATOR SCHUMACHER: But private liens are extinguished in the foreclosure process if the bank or whoever has it has got a notice and is served. They go away. Maybe someone else who has gone through this. The other quick question here is, we're dealing with municipalities, villages, and cities only in a county of the metropolitan class or three cities of the first class. Is...what...Douglas County is a metropolitan. What is the other one intended to encompass? [LR520]

SENATOR MELLO: Sarpy County. [LR520]

SENATOR SCHUMACHER: Sarpy County. And do cities and villages in those two counties have any particular difference in needs or ability to clean up property than cities in any other city? [LR520]

SENATOR MELLO: The best way to give an answer I guess to that, Senator Schumacher, is sometimes the "don't let perfect be the enemy of the good," I guess, is a saying that some people like to use. And last year in the Urban Affairs Committee in regards I would say to my willingness to try to work out a compromise with a couple of members on the committee as well as the loan organization that came in opposition to the bill, we went out of our way even though we knew that this is an issue that affects small, rural communities as much as it affects the Omaha area or the Lincoln area in regards to abandoned properties that need to be demolished, that we limited the scope

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of the legislation and the authority to the Douglas-Sarpy County area exclusively. There was the concern while the League of Municipalities ultimately testified in support of it and would like to see this authority be used for small towns, you know, across the state who have a similar challenge, once again we went out of our way to try to accommodate a concern that a city did not...that this was more of an Omaha metropolitan area problem. It wasn't as much of a problem in the Lincoln area or other municipalities to the greater extent that it is in the Omaha area. So we tried to limit it to the Douglas-Sarpy County area knowing that there are multiple cities that rest within Douglas County. For example, Ralston is a city that's completely encompassed, a first-class city that's encompassed completely by the city of Omaha. The city of Bennington, which is on the basic outskirts of the city of Omaha, as well as a few other cities in the western part of the county, they could all join together within an interlocal agreement to do a joint land bank for all the cities within Douglas County. Same thing with the options in Sarpy County as well. They were communities that have problems, primarily in the eastern part of Sarpy County, I'd say, and the Bellevue area is where they have some challenges with finding ways to finance demolition and dealing with vacant and abandoned properties. So it really...the reason that it only impacts Douglas and Sarpy County was out of a compromise that I was willing to make with the committee as well as the loan opposition to the bill at first that did not want to see this issue expand outside of the Omaha area. [LR520]

SENATOR SCHUMACHER: But wouldn't our Interlocal Cooperation Act permit exactly that in that the Interlocal Cooperation Act says that any city or public body can join with any other public body who has the authority and exercise the authority jointly even if the first one never had the authority so that the city of Chadron could join the city of Omaha and this public entity operate in Chadron? [LR520]

SENATOR MELLO: I'm not as familiar I think as you are, Senator, in regards to the Interlocal Agreement Act. And ultimately I...when Bill Drafting, this was an issue that we worked with Bill Drafting on because this is similar language that has been used in other

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pieces of legislation that's targeted and narrowed certain acts and statutes to the Douglas-Sarpy County area. So to some extent I'd have to go back and see what our remarks were back from Bill Drafters when we used this specific language that's in the bill that uses the municipality of a metropolitan...city of a metropolitan class within a county as well as an adjoining county with three or more first-class cities which we know is only...the only county in the state is Sarpy County. So we can go back and revisit that and look at it with Bill Drafters. But that was the language they had suggested in regards to the multiple other bills that had been passed into this Legislature that targets Douglas-Sarpy County. [LR520]

SENATOR SCHUMACHER: Thank you, Senator. [LR520]

SENATOR MCGILL: I'd just like to thank Senator Mello for all the work he's put in on this bill. I know we had a lot of question about it last year in Urban Affairs, and many Exec Sessions, before we ultimately kicked out this bill due to many of the compromises Senator Mello worked on. And it sounds like you've spent a lot of this summer working with those groups continually to try to bring more people in here in support. I'd just give you the opportunity to share any of those updates if you'd like. [LR520]

SENATOR MELLO: Well, and to some extent...thank you, Senator McGill. I do appreciate the Urban Affairs Committee last year. You know, I think they were due diligent in regards to your questions. I know Senator Smith had specific question, Senator Krist, Senator Coash, specific questions that we worked I think very diligently to try to find compromise on and try to find a solution that the committee ultimately supported almost unanimously. And ultimately the organizations that we had worked on, primarily the Realtors Association being I would say the initial and probably first and foremost the group that really worked on trying to find some compromises. And last year's language, we incorporated obviously in the draft version you have in front of you. The Bankers Association, as well, has come forward with suggested changes to make this concept work, which they're familiar with these authorities in other large

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metropolitan areas across the country. And of late, you know, we've had, you know, property owners, statewide property owners as well as landlord association in the metropolitan area who's raised some interest in regards to wanting to work on it. The Omaha Chamber of Commerce will testify, a couple of testifiers after me, in regards to how this authority can be used in theory for some community development planning that has been done by the Omaha chamber over the last decade for the eastern part of the city and some of the challenges that the city and ultimately the chamber has run into in regards to acquiring property and making sure property can ultimately be used. But, you know, I'd say...as I said before last year, I mean, we had one lone opposition, and the issue I think at hand we addressed 99 percent of the issues. At the end of the day, this is...I would argue this is not...this is...you know, the argument last year I guess, and full disclosure to the Revenue Committee, the argument last year was this is government intrusion, big government coming in trying to take over private industry. And I have a tough time believing that conservative states, probably more conservative than Nebraska at times, states like Georgia and Missouri who ultimately passed this legislation with a very conservative legislature, and ultimately signed by at least one conservative governor, that they wouldn't have passed legislation that they thought was a government takeover of real estate, a government takeover of private industry, which I think that argument just doesn't hold, primarily because this entity...and this was the argument that we used last year, this entity is there to deal with properties that the private sector has discarded. The private sector has left certain kinds of properties left for dead through our tax sale certificate and tax foreclosure process where there's no real entity right now that has the ability to be able to take care of these properties, acquire them, and have a reliable financing mechanism which, as Senator Adams questioned earlier, the 50 percent turnback in property taxes helps to provide that reliable financing mechanism that doesn't exist for whether, as Senator Loudon asked, why can't cities do this. Because they don't qualify to be able to get 50 percent of their property taxes back from all property tax authorities within the city of Omaha to do this. That would be I think a much different policy argument because I think every city then would want to try to make that argument of if they wanted to do this, why not just

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let...why allow Omaha to do it and not let other cities be able to do it. That's why this authority was created that way similar to the MECA authority in Omaha which has a very specific focus, a very specific task, and has specific financing to deal with. [LR520]

SENATOR CORNETT: Senator Brasch, I believe you had a question. [LR520]

SENATOR BRASCH: Just one quick question here. I'm curious when we're talking about the dollars of extinguished taxes, do we have any idea today how much money we are talking about? Thousands, millions...you know, what is the...if what was sitting there today that we are speaking of were forgiven those taxes, what is that tax dollar? [LR520]

SENATOR MELLO: We can...you know what, Senator Brasch, we can do a...we can request...I would say we can request the amount on tax liens on properties or on foreclosed properties right now within Douglas County and see where they're at. Ultimately though the question is, is that the land bank authority wouldn't acquire all of those properties. So... [LR520]

SENATOR BRASCH: I'm just curious. [LR520]

SENATOR MELLO: Yeah, so... [LR520]

SENATOR BRASCH: What are we talking, you know? [LR520]

SENATOR MELLO: We can...I can put...I will definitely collect that information and I can send it to you and no doubt it'd be very helpful come next year when I introduce the bill in front of the Revenue Committee. [LR520]

SENATOR BRASCH: Okay. Thank you. [LR520]

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SENATOR CORNETT: Thank you. Any further questions? [LR520]

SENATOR MELLO: Senator Smith had one. [LR520]

SENATOR CORNETT: Oh, I'm sorry, Senator Smith, go ahead. [LR520]

SENATOR SMITH: Thank you, Senator Cornett. Senator Mello, you know, thanks for bringing this forward, and I know you've worked a lot over the summer to try and address some of the things that came out of the Urban Affairs Committee. And I do believe that it's a good tool to use for urban renewal and recovery. And particularly when you talk about properties that are in distress and that haven't had...that no one wants, that have been totally discarded. My biggest concern, you touched on just a moment ago, my concern is that this still...this continues to leave the door open though for the municipalities to compete against private businesses and individuals that want to invest in properties. And there will be a competitive advantage given to these municipalities through their ability to extinguish liens, their ability to access grants and low-interest loans. So that continues to be a bit of a concern and I know you've attempted to address that, but I'm looking forward to maybe hearing from some of the other folks that are going to speak today on that as well and to kind of understand from the private sector, you know, if these concerns remain. [LR520]

SENATOR MELLO: I think, Senator Smith, at the end of the day there's nothing I can do or there's no change to the bill that can be made essentially that would not compete against tax sales certificate speculators. I mean I think at the end of the day those who are speculating on property by buying tax sale certificates are exactly that, they're investment speculators, sometimes at the detriment of a municipality, because they're investing in tax sale certificates with no intention of trying to own the property. They're simply doing it to try to acquire that 14 percent interest rate return. And so to some extent the land bank authority's purpose is to acquire these properties when they feel they're a strategic...they are a viability, so to speak. And ultimately they know, and this

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is the question ultimately that continues to be explored, is who's purchasing these tax sale certificates. I mean, that's the underlying issue that I think if there's...we've requested some data from Douglas County. They weren't able to provide us...the hearing because it's...there are thousands and thousands of tax sale certificates every year, of where or who are buying these certificates. Who are the entities? Where are they from? You know, they're not mom-and-pop investors in the Omaha area who are purchasing these. And ultimately if you have an authority, a public authority that's looking out for the public interest in regards to property values in dilapidated parts of the city trying to acquire properties to demolish them and be able to put a new structure on it to protect the property values of the surrounding properties, that's a public policy discussion we need to have. And ultimately an authority would compete against a private speculator through this tax sale certificate process. And I can't...there's nothing we could ever do to change that process because ultimately we feel in the legislation, even the accommodations we've made, that it's in the public interest for the acquisition of these problem properties by a political subdivision so that they can take them, rehabilitate them, and use them for a productive use, whether it's through, you know, a redevelopment plan through the city or through some other private sale to a real estate entity. That's more important for the public use than it is simply allowing someone to collect 14 percent interest on a tax sale certificate process. [LR520]

SENATOR SMITH: And, Senator Mello, I get that. I mean I appreciate that very much. I spent probably 15 to 20 years on two different city planning commissions. I understand the interest of municipalities to renew or redevelop their inner cities. I think that's a great thing to do. I think there's great potential in this. But again I think that we're singling out the evil speculators, if you would, and there are still many, many legitimate businesses that it is their livelihood, as individuals' livelihoods, to invest in these properties and to do properly what you are, you know, seeking for the municipalities to do. And it's those legitimate businesses and legitimate individuals that want to do the right thing in their communities, it's those that I want to protect here and, again, allow them to have access to this as well, and to something we like to talk about is level the playing field, right, and

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level the playing field not to give the municipalities an unfair advantage whenever there are legitimate businesses that want to redevelop and invest in their communities.

[LR520]

SENATOR MELLO: Two facts and figures I'll throw out, and this is what we were able to get from the Douglas County treasurer in the sense that...to show that it's purely speculative I think in the sense of people who are buying tax sale certificates is roughly right now in Douglas County 70 to 75 percent of all tax sale certificates are purchased. So that gives 25 or 30 percent of all tax sale certificates are not being purchased by anybody, which ultimately the land bank could go after those after it goes through the process. Ninety-four percent roughly of those that are bought are redeemed, which shows that people are buying tax sale certificates purely for a speculative nature of trying to gain that interest rate. And I know Senator Schumacher has raised the issue in regards to lowering that interest rate to try to change that process. I think the...I mean at the end of the day, I mean, that's part of the argument I think, Senator Smith, that we've had that conversation in the argument of why ultimately allowing a land bank authority to compete against a private speculator is in the best interests of the city itself and it's in the best interest of the property owners, but. [LR520]

SENATOR SMITH: Thank you. [LR520]

SENATOR MELLO: Thank you. [LR520]

SENATOR CORNETT: Seeing no further questions at this time... [LR520]

SENATOR MELLO: Thank you. Thank you. [LR520]

SENATOR CORNETT: May I see a show of hands of the number of testifiers that are here for this bill? All right. The hearing on this bill was supposed to end at 3:00. I will put the light system into effect. You will have five minutes to testify. When the light goes

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from yellow to red you have one minute left. I will give you time to wrap up what you are saying though. With that, could I please have the first testifier? [LR520]

RICK CUNNINGHAM: (Exhibit 3) Good afternoon, Chairpersons Cornett and McGill, Revenue and Urban Affairs Committee members. My name is Rick Cunningham, that's R-i-c-k, and Cunningham, C-u-n-n-i-n-g-h-a-m. I am the city planning director for the city of Omaha. I am here today in continued support of a land banking legislation as proposed and as potentially another tool for, in this case, the city of Omaha to respond to some of the issues that we are dealing with and some of the visions that we have through our planning process put in place. Perhaps from three perspectives, and I don't want to spend a lot of time on them, but they all have to do with a sustainable city. And how we've defined it in the city of Omaha has to do with where we need to reinvest, where we need to infill, and that's basically within the 680 corridor. Now that's the eastern part of the city, the older part of the city. It is the densest part of the city right now. We need to continue that trend and intensify the density in order to be a sustainable city. Having said that, the city and the state quite frankly are currently great places to live. We recognize that because of the rankings that the state and the city gets from external sources, not internally. I was born and raised in Omaha. I think it's a great city. But other folks who haven't been born and raised in Omaha, don't live in Omaha, have recognized Omaha and the state of Nebraska as a great place to live. We maintain, I maintain that if we try to just maintain the status quo, we've already died; we are just sitting on the vine waiting to wither away. So we have to work at maintaining that and improving the quality of life in our city and in our state. We recognize, one, that we need to work on mobility in and around our city. We need to work on connectiveness between the various aspects, the various assets that we have in the city--arts, culture, and so forth. We need to provide choice, many levels of choice for folks, whether they be the young, the Generation Ys and others, the Millennials, or folks who are getting older and changing their life from empty nesters and beyond who can't drive anymore. So basically we are saying that we need to reinvest in the older part of the city to provide that kind of density and opportunity. We also want to respond. And through our

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planning process our consultants told us that we need to, instead of having 120,000 of the projected 130,000 new Douglas County residents in the next 20 years locating outside of 680 and only 10,000 inside of 680, we need to make a slight change in that goal and have 100,000 outside of 680 and 30,000 inside of 680. And by doing that, we will make significant changes in how our city...and the way our resources are invested and the liabilities that we have based on that. The other thing from an eastern part of the city, we tend to have some of our social economic liabilities. For example, in the eastern part of the city, specifically in the northeastern part of the city, we have the two census tracts with the highest unemployment, 30-plus percent, in our city. We also in that northeastern part of the city of Omaha have the highest poverty rates of 50 percent-plus. So we need to deal with those issues and liabilities, structural issues within our city, and that all comes down to again reinvesting in our city. We think that land banking will be a tool, not the only tool, but a tool that will help us to deal with, for example, the one table that you have shows that basically within the 680 loop we have over 15,000 vacant condemned properties that are unfit and unsafe and demos. I will just point out that we do not own all of those vacant lots. In fact, we only own 8 percent of those. The rest are in private hands. So what we have found in our efforts to reinvest and infill is the difficulty is to obtain properties, to aggregate the properties into chunks that can make a difference, to be developed, redeveloped, and especially to be developed and redeveloped by private developers. We can use block grants to do single lots or to do ten lots, but private developers need larger pieces of property in order to be able to effectively do their development and redevelopment. James Thele, who is the assistant director of the planning department for housing and community development who is probably our current expert on land banks, will be following me to answer any really tough questions. So if you've got some softballs, I'll catch those, and then I'll leave the hardballs for James. [LR520]

SENATOR CORNETT: Well, I'll throw you one. [LR520]

RICK CUNNINGHAM: Okay. [LR520]

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SENATOR CORNETT: I asked Heath a question regarding the city of Omaha and the bills that they've brought before the Revenue Committee over the past few years regarding liens on these types of properties and how the city would be able to acquire reimbursement for the money they had already invested in these pieces of property. So we have a bill here for a land bank. Heath is saying that the liens would be extinguished by the land bank. Explain to me, one, if extinguish means that they go away; and if so, how is the city planning on being reimbursed for the money that they have put into these properties that we have talked about multiple times over the last few years? Or are you actually meaning they would be extinguished? Or as of a couple of years ago you had a bill where it would be a secondary lien on transfer or property. I'm sure you remember the one I'm talking about. So where are we talking about how is the city of Omaha trying to recoup their money for these properties or are they just saying it's going to the land bank? [LR520]

RICK CUNNINGHAM: That's kind of a hardball question since I'm not an attorney, I'm not a land real estate attorney, but I will begin the answer and I will dish it off to James. Part of the issue is we're not collecting those at this point in time. So it's kind of a six in one hand, half a dozen in the other. And if we obtain properties, a lot of times we...depending on how we obtain them we have to pay them anyway, so it's kind of like paying ourselves back. So we're robbing from Paul to pay Peter, so yeah. But the basic...my understanding is by the...if I look at extinguishing them, they go away. And I guess conceptually if we're not getting them anyway, it really is not foul to us, it's not foul play because we're not getting them anyway. [LR520]

SENATOR CORNETT: So you're giving up on the fight that you've... [LR520]

RICK CUNNINGHAM: But we've got significant things that we need to do in the eastern part of the city to make these properties that are nonperforming, underperforming, and return them as performing. The results, the payback, the return on those investments I

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think will far outweigh on a conceptual level looking at 40,000 feet down at it are going to outweigh that amount of money. [LR520]

SENATOR CORNETT: But I think this is, I don't want to say necessarily a better approach, but a more reasonable approach than what we've been trying to do in the past. [LR520]

RICK CUNNINGHAM: We certainly are trying to collect all liens and everything that's due to us, and have been in the recent couple of years or so have been more successful. But there are certain properties out there that we will never collect any liens that are due to us because we've mowed lawns, weeds, or we've picked up trash or we've demolished properties. We just never collect them. What we sometimes end up with then is the property and, you know, basically we have a piece of property that's underperforming or not performing and not doing anything for the city. We have been trying to download those properties, however, and selling them on the market. Some cases they sell, sometimes they don't. [LR520]

SENATOR CORNETT: Because the issue was with the bill a couple of years ago was that the lien wasn't extinguished upon sale, but the person that purchased it then would have to pay the liens that had been incurred. [LR520]

RICK CUNNINGHAM: And I believe that that's the way it is currently still. So and then the way I read it I think for the most case that still would be the case because this authority would not be obtaining all properties. I think one of the things that sitting back and hearing the questions that I would offer is that even though it's a separate entity, our thought is we would still be working closely together. And by that I mean we have strategic areas that we are trying to invest in, reinvest in, that we are trying to turn around and create as a stronger component of our city. Then that the agency would be working with us in those areas and focusing in those areas and not just willy-nilly all over the place. We would be working as a partnership so that we can force multiply on

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the return on all investments in that area. I will tell you that in the northeast quadrant of the city, in the southeast subquadrant of that, because of our investment of block grants and all other funds and partnerships with agencies, some of which you'll hear of, we have at this point stemmed the downward trend of population. We have, in fact, turned that around a little bit in that one subquadrant. And so it does show that when we concentrate and focus, we can have an impact, we can change the bottom line. And so within that area of the southeast quadrant, we have in fact in northeast Omaha changed the population trend which was like this and now it's slightly upticked. So that's what we want to continue to do for the whole part of the eastern part of our city. [LR520]

SENATOR CORNETT: Senator Brasch. [LR520]

SENATOR BRASCH: Thank you, Senator. And thank you, Mr. Cunningham. I'm curious on the numbers you've provided here. Do these reflect the combination of commercial, residential, multifamily? Do you have a break...or when we talk about the numbers here, what are we...are we talking households, empty building, you know, single-family dwellings, or what's here? [LR520]

RICK CUNNINGHAM: It is not broken down but I will tell you the vast majority, the vast majority of those are residential properties, yes. The reason... [LR520]

SENATOR BRASCH: Okay. But in the number you do have, it involves more than just residential. [LR520]

RICK CUNNINGHAM: There's more than just residential there, but the vast, vast majority is residential property. [LR520]

SENATOR BRASCH: Is residential. Single... [LR520]

RICK CUNNINGHAM: I will tell you how that came about. When we were doing our

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transportation master plan and we were looking at that whole split of population, our consultants said we needed 3,000 new single-family rooftops in the eastern...inside the 680 loop in order to attract...in addition to other multifamily projects, in order to attract 30,000 or to accommodate 30,000 people. And so my question was, well, do we have that much property to accommodate 3,000 new single-family houses as well as multifamily. So that table came from GIS, from my GIS folks, what properties were out there, how many. We didn't know up to that point until we generated those maps that are attached and then that table that indeed within 680 we've got 15,000 lots, so.  
[LR520]

SENATOR BRASCH: So do you intend to replace them with like, you know, family-for-family, business-for-business, apartment complex-for...? You know, what is the plan? [LR520]

RICK CUNNINGHAM: That has been our strategy all along. [LR520]

SENATOR BRASCH: Is that...okay. [LR520]

RICK CUNNINGHAM: We're not building, you know, the space age, future types of things. If you drive around in those areas that I talked about in the eastern Omaha now, if you look very carefully you will see where infill housing has been accomplished and is not a sore thumb in most cases. I can see the...I'm an architect, so I can clearly see that which is infill housing versus the older stock that was there. But if you look, you will see that...especially in the northeast quadrant where we have made a focused effort to do infill housing that it fits very, very well with the neighborhood and the community.  
[LR520]

SENATOR BRASCH: Very good. Thank you. [LR520]

RICK CUNNINGHAM: But the strategy would be not just single family in order to get to

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that 30,000; it would be multifamily because we need to also accommodate more density in order to make our whole system, our whole infrastructure system work better. [LR520]

SENATOR BRASCH: Very good. Thank you. [LR520]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LR520]

RICK CUNNINGHAM: Okay. Thank you. [LR520]

JAMES THELE: (Exhibit 4) Good afternoon, Senators. My name is James Thele, T-h-e-l-e. I'm the assistant planning director for the city of Omaha. I'm responsible for housing community development. And as you may notice, there's a little gray in my beard. I started in economic development and community development in 1974, before some of you were born, I imagine, and worked for Omaha since...in the Omaha area, I should say, since 1979. The legislation you have before you is without a doubt in my mind the most transformative piece of legislation to address the problems of deterioration in the older areas of Omaha. I did provide a handout. It talks about a number of advantages of the Municipal Land Bank Act. I don't want to take or spend any time because I know we're running a little bit short. There will be other people here that will talk a little bit about its benefit to the citizens of the Omaha, the individual people. I just want to bring up the issue of dollars and cents--money. It's through this land bank we have the opportunity to bring properties back on the tax roll at productive values that are much higher than are existing now. We're not collecting the taxes anyhow. Let's move forward and get that into the tax rolls. Secondly, research has shown that property values within 300 to over 600 feet of a deteriorated structure decrease in value. We are losing our tax base. Our school districts, the county, the city is losing its tax base by not removing these eyesores and putting them into productive use. Additionally, by putting them into productive use and revitalizing those neighborhoods, we'll stabilize the neighborhood with greater opportunities for home ownership. So there's a lot to be said

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in terms of dollars and cents for this act. Secondly, let's talk about the revenue side, from the expense side. The state, the county, the city, we have expenses that are directly related to the cost of social services, healthcare, and public safety. By improving these neighborhoods, we're going to be reducing those costs. So not only do we increase our revenues, we decrease our costs. That's a win-win for Nebraskans, and I think this act is extremely important from a dollars and cents standpoint as well as from a concerned standpoint for our citizens. So with that, I'd answer any questions you have or at least try to. [LR520]

SENATOR CORNETT: Questions from the committee? Seeing none, that was succinct. Thank you. [LR520]

JAMES THELE: Thank you. [LR520]

SENATOR CORNETT: Next testifier. [LR520]

VIV EWING: Good afternoon. My name is Viv Ewing. I'm the director of government relations for Habitat for Humanity of Omaha. I'd like to recognize Madam Chair Cornett and McGill and also all of the senators who are here this afternoon. I'd like to give testimony in favor of the land bank. And I have just a couple of points to make this afternoon. First of all, the vacant and dilapidated properties in our communities are a dreadful problem. If you've ever seen a dilapidated house in your neighborhood, you know what that looks like. And if you can just step back for a moment and imagine a vacant house that's been burned, for example; it is partially boarded up; it has become an eyesore and has sat there for many years. Gang activity has started to take place in this house, and violence and crime happens in this particular house. And this house is located next door to let's just say your grandchildren or even next to you. What we are saying is that the land bank provides an opportunity to get rid of and put these houses into productive use back into our society. With that in mind, we know that there are many reasons for vacant properties in our community. However, Nebraska's lengthy

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process with regard to tax sale certificates helps to compound the problem. And as it was stated earlier, I just want to reiterate that: When an owner abandons their property and it goes off the grid, they stop paying taxes. When taxes are not paid on the property, a tax certificate is created and sold many times to out-of-state investors. The tax sale certificate investors buy the certificates without seeing the property. After three years, if the taxes are not paid, the investor has the right to foreclose on the property. However, the investor in many cases will send someone to view the property, and when they see that it's dilapidated and vacant and in horrible condition, they choose not to foreclose the property and it stays in a never-ending cycle in the tax sale certificate process. With Habitat, we've actually seen some of these properties stuck in the process for up to 12 years, because we follow it very closely. With the land bank authority, it becomes an investor in the tax sale certificate process; and the difference is this: at the end of three years the land bank authority would be able to foreclose on that property, freeing it up for redevelopment, removing it from the never-ending cycle of tax sale certificates which are never paid, and in essence put that house back into productive use into the community. And we feel that the land bank authority is really the solution for clearing up these titles and getting these properties back on the tax rolls. And the land bank actually will breathe new life into those vacant properties, it breathes new life into those families who will ultimately purchase those homes, and it breathes new life into our community. So we're asking for you to support the land bank. [LR520]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Oh, I'm sorry. [LR520]

SENATOR MCGILL: Paul, did you have one? [LR520]

SENATOR SCHUMACHER: I just had a brief question. In the example you gave where the out-of-state people send their scout back, and they say this property is garbage, we don't want to...we've just lost some money by buying those tax sale certificates, in those particular cases, what's stopping an organization such as yours to contact the person

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holding the certificate and say we'll take the certificate? [LR520]

VIV EWING: Well, actually Habitat does do some of that. Where we can, we will try to get those properties. [LR520]

SENATOR SCHUMACHER: I mean, do they say, no, we're not going to give them to you? If they've abandoned it for all practical purposes... [LR520]

VIV EWING: They can say no. Yes, they can say no. [LR520]

SENATOR SCHUMACHER: They can but do they? If you contact them and say, look, you're abandoning this property; you made a bad deal. You paid, you know, money for a tax sale certificate and you've got nothing in exchange; give us the certificate. [LR520]

VIV EWING: Yeah, and that's a good question. I'd have to go back and check our records to see who has said no, who has said yes, and I'll be happy to provide that for you. I don't have that information here today. [LR520]

SENATOR SCHUMACHER: Thank you. [LR520]

VIV EWING: I'll make a note of that. [LR520]

SENATOR CORNETT: Seeing no further questions, thank you. Next testifier. [LR520]

JAMIE BERGLUND: Good afternoon, members of the Legislature. My name is Jamie Berglund, and that's spelled J-a-m-i-e B-e-r-g-l-u-n-d. I'm the senior director of community development for the Greater Omaha Chamber. And you might be wondering why is the chamber involved in this sort of discussion. In the early part of this decade, our then-chair of our chamber board said if all of Omaha doesn't thrive, then none of Omaha thrives. And he was particularly referring to the eastern part of our city. And so

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thus began an almost decade-long journey that we've been in as an organization trying to figure out our role and the best way we can support community development in our city. And through that effort we've done three master planning projects in midtown, north, and south Omaha in cooperation with the city of Omaha, numerous individuals, businesses. The business community, as a matter of fact, has been our largest supporter financially and I would also say with guidance that they've given to our staff personally for redevelopment in the area. Through those master planning efforts, we've taken on multiple approaches with numerous audiences to encourage physical redevelopment: one-on-one investor tours, redevelopment tours with specific developers, walking through properties. I can't tell you how many times I was in heels and hard hats walking around different buildings just trying to get people to want to bite on wanting to do things in this part of town. The scale and the complexity of the challenge that we face is significant, but it's really not insurmountable if we can create and deploy focused structures, tools, and funding mechanisms that will address our redevelopment needs. Just during a recent market analysis of housing in south Omaha, a very small part of this area that we're referring to in east Omaha, developers voiced that a lack of available sites was their top barrier that they faced in doing any kind of redevelopment or new construction or redevelopment in south Omaha. That was their top barrier: available sites. So the deficiency of available land and the ability to clear a title and clear the structures and make them shovel ready is really not just something that's relegated obviously to south Omaha, but we can see that throughout the entire eastern part of the city. So over the years, again, also countless developers have also expressed frustration and fear over making an investment to develop different parts of east Omaha, in part due to the lack of assurance that nearby vacant, abandoned, and condemned and foreclosed properties adjacent to them wouldn't also be revitalized. It's really tough to make the case to them to go and invest in that property when nearby properties have been sitting vacant for decades and there's no sign of hope at the end of that dark tunnel. So a land bank, if created and implemented and managed properly, and I stress properly, we've been very involved with Senator Mello and others in the community in trying to craft the right language that should go into this bill. And we

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understand that it is enabling legislation, and so then once it goes to the municipality and is created as an actual structure, at that level there's a lot more work to be done, and we're committed to being a part of that discussion and being vocal and hopeful leaders in that effort. But we just feel it's a very much needed resource for physical development. It would provide a means for land acquisition, assembling site preparation that act as a catalyst for redevelopment, stabilize and raise our tax base, and rebuild our neighborhoods, which is the crux of why we as an organization care. So I really appreciate the opportunity to speak. And if you have any questions, I'd be happy to answer. [LR520]

SENATOR CORNETT: Senator Smith. [LR520]

SENATOR SMITH: Thank you, Senator Cornett. And thank you for being here today and testifying; and it's good to hear from the Chamber of Commerce and your perspective. You probably heard my exchange a little bit earlier with Senator Mello. And I'm curious, from your perspective, you represent an organization that does represent nonprofits... [LR520]

JAMIE BERGLUND: A private market. [LR520]

SENATOR SMITH: ...but it represents a lot of for-profit developers and investors. Do you have any concerns about the concept or the potential for this competing with the private sector, and do you feel like there is room to refine this to prevent that risk from occurring? And specifically I'm thinking of local bankers, local banks from...you know, you're getting grants and low-interest loans; there's a bit of inequity there. So just help me out a little bit. [LR520]

JAMIE BERGLUND: Yeah. You know, I can certainly understand that concern, and obviously, we as an organization that advocates for the private market and for private developers in our community would want to try to respect their interests and their

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abilities to earn profits. I think where I really don't have a concern related to this is if those individuals were interested in our community they would be there right now. And I haven't seen it; I don't see it. On a day-to-day basis I don't see it. And we've approached many of those people that we're kind of talking about and invited them, you know, begged, borrowed, charmed them to come and to do work in this area, and they're not. And so if their is altruistic and pure and that they're buying these tax certificates to then go and flip the property or do whatever, great, come in, do that. But we're talking about the ones that aren't doing that. And I think as an organization, you know, we have put a high value on raising prosperity for our entire community, and we can't do that when we have systems like this not working to help make that happen in those areas. [LR520]

SENATOR SMITH: Yes, no doubt. I think we're on the same page... [LR520]

JAMIE BERGLUND: Yeah. [LR520]

SENATOR SMITH: ...when it comes to actions and tools for last resort. I guess I'm thinking more in lines of those properties that are that desired properties, and to level the playing field for competitiveness between the private sector and the municipality. Are you comfortable that this takes care of that concern? [LR520]

JAMIE BERGLUND: I think so; I feel it does. [LR520]

SENATOR SMITH: Okay. All right, thank you. [LR520]

JAMIE BERGLUND: Thank you. [LR520]

SENATOR CORNETT: Seeing no further questions, thank you. [LR520]

JAMIE BERGLUND: Okay, thank you. [LR520]

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SENATOR CORNETT: Next testifier. [LR520]

GLORIA AUSTERBERRY: (Exhibit 5) Good afternoon, Senators. And thank you, Senator Mello, for bringing this issue to light and this opportunity to light. My name is Gloria Austerberry, that's spelled G-I-o-r-i-a, Austerberry, A-u-s-t-e-r-b-e-r-r-y. I'm a member of Augustana Lutheran Church, which is a member organization of Omaha Together One Community, a broad-based community organizing effort to improve the quality of life for all in Omaha. I serve on OTOC's housing and neighborhood revitalization action team for one reason, our core value, which I have to believe everyone in this room shares, that all children and families deserve safe, decent homes and neighborhoods. All children deserve safe homes and neighborhoods. We need the Omaha land bank to turn property back to productive use. Now, in OTOC, for several years we have been involved in working with housing code enforcement to make an impact in Omaha. And our pressure has brought about a new ordinance to increase fees on owners who fail to make repairs and pay their reinspection fees. These higher fees, if unpaid, will show up in credit reports, and so the effect on the pocketbook should improve maintenance of housing. We have helped to restore the number of housing code inspectors that are following up on citizen complaints about housing that they observe. We have also helped increase by a half-million dollars the amount the city is spending for demolition in the coming year. We're happy to begin collaborating with Habitat for Humanity and the city planners to get greater efficiencies in the demolition process; but it seems like all that we can do is still not going to be enough as long as the huge backlog of abandoned and neglected properties is not being dealt with. And here we have to certainly consider the socioeconomic costs, the human costs to allowing the current status quo to maintain, because the consequences for families living near vacant and condemned properties are severe. Children are not safe, unguarded outside, for any period of time. Imagine never feeling free to let your children play outside. Fires happen, sometimes displacing families living in adjacent homes, because fires spread. Or perhaps what has happened in my street, the fire truck siren

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wakes you up at midnight, lights are flashing, and they're fighting the fire in the vacant house across the street. We thank God our house was unscathed from that episode. Illicit activities like prostitution, gang activity, drug involvement go on. Vacant houses are magnets for kids and magnets for trouble. Dead animal odors, vermin, fear of walking down the street in broad daylight. Who deserves to live in a neighborhood that looks and smells like this? What happens to the city tax base when housing values are assessed downwards over time? With less money in the public coffers to serve local needs, fewer people want to live there; fewer businesses are able to survive; fewer jobs employ residents. It's a downward cycle that has to be stopped. We call the worst of the worst VOV: vacant, open, and vandalized. The good news is that you, dear senators, have the power to authorize an Omaha land bank to replace our current, ineffective system limited to tax sales certificates that doesn't let abandoned property get dealt with in a timely manner. You can educate other senators and government leaders, your constituents, and the media. Please do all you can to protect our older Omaha neighborhoods and all Omaha neighborhoods. Thank you for considering my views and those of my colleagues in Omaha Together One Community. [LR520]

SENATOR CORNETT: Questions? Seeing none, thank you. [LR520]

GLORIA AUSTERBERRY: Thank you. [LR520]

SENATOR CORNETT: Further testifiers? [LR520]

PETER KATT: Good afternoon, Madam Chair. My name is Peter Katt, K-a-t-t, and I appear in a neutral capacity on this bill. I followed it with some interest in the last several months. I appear with a background, as Senator Mello is wont to characterize me, as a speculator, which offends me. In my professional practice, I'm a land-use development attorney in the city of Lincoln. I agree with Senator Mello's premise that there is a serious problem with regard to abandoned and neglected properties in the Omaha metro area and throughout our state. The declining economies in the rural communities

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have created the same problem. The problem that I have with the proposed solution is that it creates a lot more government that is not necessary to solve the problem. And much of what they propose won't address all of the problems that they're talking about. It just doesn't make any difference about it. I am working with a local business group, Lincoln Independent Business Association. We'll probably work on some suggestions. Our committee thinks that there can be some improvements that will make it better, but we don't need a huge expansion in a government program to make that happen. At a minimum, several suggestions; and it's number one: A land bank, if created, authority should be limited only to the problem properties, not the carte blanche which I read in the current legislation. Number two, one of the significant problems that they would have if the legislation stays as it has, or us--tax lien speculators--is the problem that occurs between the date you make an investment on a tax lien and the date you're able to acquire title. A lot can happen in three years; and no one has any legal authority to do anything with that property other than the property owner during that three years. That's the problem. It's a problem for the land bank authority; it's a problem for a tax lien investor. My company invests in tax liens in about ten other states throughout the country. Georgia is a state that allows a tax lien investor, when you've made that investment, to then go in and take possession control, board windows up, mow grass, take care of the property for the purpose of making sure that that property doesn't deteriorate in value, because that tax lien investor has made the investment in the property. That has the added benefit, in my opinion, of protecting the neighborhood. And so there are a number of tweaks and adjustments to our current tax lien system that could address the majority of the identified problems. And the land bank authority, if it's created, should be more narrowly focused on problem properties. I'd be happy to answer any questions. [LR520]

SENATOR CORNETT: Senator Louden. [LR520]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, thank you for your testimony. And that was my question early on, is there actually something in place now

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that this can be taken care of; mostly because municipalities can buy that property for whatever their tax lien is against it. [LR520]

PETER KATT: In my opinion, there is legal authority. It is very difficult in some circumstances for it to be used very effectively. And let me give you the example. Given the fact that no one has the authority to do anything for three years, the city of Omaha will go in and clean up garbage or take steps to protect the property, they have the right to create a special assessment lien on the property; but when the tax lien foreclosure goes through at the end of three years, they lose their lien. So no one has any real authority to go do anything with that property for that three-year property because whoever makes that investment is going to lose it. And I think we can do better to make sure someone has the ability to go in and take care of those properties during that three-year period and make sure that they don't become a worse problem for the neighborhood. [LR520]

SENATOR LOUDEN: Well, your municipality would, as you say, put some liens against it, mechanic's liens or whatever you call it, to maintain the property, but at the end of that time then they purchase that property for what they their liens are against that property. I mean, that's the way it's... [LR520]

PETER KATT: Many times the total of the tax lien and the special assessment lien is less than the market value of the property, for a lot of reasons, but that does happen. [LR520]

SENATOR LOUDEN: Well, and that's how your land bank would acquire that property. They're going to get it for less than what it's worth or there won't be any point in doing something. [LR520]

PETER KATT: (Laugh) That's true. [LR520]

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SENATOR LOUDEN: And the other question I have is, since we have this handout of these pictures of these properties and where they're located, if someone went in there and purchased that property and fixed it up, would they be able to sell it or rent it for enough money to make a profit on the thing because of the location of the property or something like that? I mean there's a reason this property is sitting around there abandoned and nobody wants to pick it up. Either you can't make any money there, or you can't turn it if you do fix it up or something, because, I mean, there's enough entrepreneurs in Omaha that would be able to pick these up and do something with them if there was money to be made. [LR520]

PETER KATT: There is an active market in Omaha, people that make those investments and make those improvements. However, there are parts of Omaha where no one...it's so bad that no one is willing to put any private money at risk to go in and take some of those properties down. [LR520]

SENATOR LOUDEN: Okay. Now, along with that questioning, how would this land bank change that any? [LR520]

PETER KATT: It is part of a long...I would say it is part of a longer term solution to identify those areas that have become so toxic that the market will not invest in them. And then they have to do a long gradual process, just as Mr. Cunningham testified, of combining resources with the city/county grants and improving the entire area so that the market is, once again, willing to invest in it. Someone has to start. And so whether it's the land bank or whether it's a renewed commitment to use the current resources, it doesn't matter, the government sector is going to have to step into those places where the market is not investing. [LR520]

SENATOR LOUDEN: I understand that. Now if they go in and purchase these properties and fix them up, and like you say, nobody really wants to do much with them, then do they actually end up to be rented out as low-income housing? I mean, I was in

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Cheyenne when back there in about the late '60s when Warren Air Force Base closed up and you went up there and you drive down the streets and all these big shields from the U.S. government owned these houses and that's what they did with them. They went into all the neighborhoods and they just set them up as low-rent housing. And I'm wondering if this is what will eventually happen if this land bank goes into some of these areas to purchase this property. They're going to actually be a slum lord themselves. [LR520]

PETER KATT: Well, I think they've tried to address those issues with the makeup of the selected board with a broad enough focus of people that are not necessarily...I mean, it depends what the objective is. But having a broad cross-section of the community that would sit on the board with the stated objective to do redevelopment and get the properties back on the tax rolls, presumably that group would recognize what you would recognize and what I would recognize, is that it's not a long-term market solution to just put affordable housing projects in; that you really need to create a dynamic area that the marketplace is willing to invest in again. And the market is generally hesitant to make investments adjacent to low-income properties. So it depends how the board that is making those decisions decides it wants to function. And I think the legislation gives the ability with saying we get five years of tax revenue, they've got a pretty good incentive to bump up the tax revenue so they can get the money coming in. [LR520]

SENATOR LOUDEN: Well, yeah, I agree. Now the other question I would have is then...and I understand residential housing and commercial housing. Now as far as this land bank deal, I think that could be scaled down or worked around and work great for commercial properties that are abandoned in some of those areas, and that they could go ahead and probably fix them up or demolish them or whatever they do and sell them again for commercial properties. But I think you're talking about two different horses here, and one is black and one is green, I guess, or white or whatever. But you got two different horses. As the fellow says, he couldn't tell the difference between his horses, so he cut the tail off of one, and then the next day he went out and decided that the

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black one was a little taller than the white one. So anyway, that's what I wonder with these houses here, if you should have something in the bill that would address residential housing and another system to address commercial property. [LR520]

PETER KATT: I don't know that I have an opinion on that. [LR520]

SENATOR LOUDEN: Okay. Thank you for your testimony. [LR520]

PETER KATT: Yes. [LR520]

SENATOR CORNETT: Senator Brasch. [LR520]

SENATOR BRASCH: Thank you. And thank you, I'm very pleased to hear you step forward and in a neutral capacity and your concern about government, another layer of it, costs, is that correct, what you're seeing more... [LR520]

PETER KATT: In my experience, in what I do in my profession, it is rare that a governmental entity has the flexibility or the skill set necessary to execute in this particular arena. And, you know, it's clear to me that government has the ability to do this now; it just doesn't have the skill set. And I don't know why creating another layer of government with new stuff has a high likelihood of making it better. [LR520]

SENATOR BRASCH: And, Mr. Katt, thinking along your lines a little bit as I listened closely to the testimony and I looked at these homes I started to wonder about the person, the family, the individual that left these homes; you know, what where those circumstances brought them to that position to abandon 15,000--tally that up--what, 20,000, 30,000 households or buildings. And then I wonder is, you know, by who this grant money will go to, like you were just saying, you know, is it going to give whoever left this house, that family, the skill set, the tools, the wherewithal, the sweat equity to build another life in another community. When we had the 2011 Missouri River flooding,

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we had hundreds of people who needed homes, and so we looked...we have a homeless housing fund, but I don't know. And so your solution rather than government would be how do we bring these homes back to life? Bottom line, my question, if you had a magic... [LR520]

PETER KATT: If I had a magic wand? [LR520]

SENATOR BRASCH: ...wand, yes. [LR520]

PETER KATT: Well, the first level would be to empower the private sector to not let them get that far along in the process. [LR520]

SENATOR BRASCH: Okay, I agree. [LR520]

PETER KATT: And shorten the three-year time period up so we create less problem properties. The second step then I think is to identify what we're talking about as problem and abandoned properties, okay? Right now there's no definition. There's no definition in the legislation of what that means. That becomes a wild card for people to play in. What I think we could do would be to have the governmental entity, the municipality, identify problem properties. Give them to the county treasurer, and then if they go through a process where the county has identified them as a problem property, that creates then, perhaps, some special rights that either a land bank or a private sector investor in that property could take advantage of because the community has identified it as a problem property. I think there are solutions. And it may not be possible to address all of them without some improvements in the governmental powers of authority, but a lot of them can be made better; and the private sector could make it better without another layer of government. [LR520]

SENATOR BRASCH: Okay. Very good. Thank you very much. [LR520]

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PETER KATT: Um-hum. [LR520]

SENATOR MCGILL: Senator Cornett. [LR520]

SENATOR CORNETT: Yes. [LR520]

SENATOR MCGILL: Hi, thank you for coming and I appreciate your input and some of your suggestions, but I don't agree that it could be done with what we have. But I think we're going to have to pass something in order to get movement on this, because, I mean, Omaha is sitting with all of this property, but they don't have the money to rehabilitate it. And so there needs to be some sort of money pooled together to be able to deal with that issue, I mean. And do you see any other way to do that? I mean, they're sitting on a bunch of vacant properties, but. [LR520]

PETER KATT: I think you have identified the exact problem. The problem isn't that there isn't the authority to deal with it; the problem is there's a lack of political will, and primarily there's a lack of funding. [LR520]

SENATOR MCGILL: Yeah, the funding is the key of it. [LR520]

PETER KATT: And so, I mean, you could give the funding authority to the municipality and then people dealing with the municipality would at least get to deal with elected officials on these issues as opposed to an appointed board. But then it gets, probably, back to my suggestion that you don't have, probably, a very good skill set in existing government and city offices to be able to effectively do it. You would probably gain something with the land bank board with the outside expertise in real estate development and banking issues that you would lack if it was just city employees. So, you know, I don't...I am very new to this. I didn't participate last year. [LR520]

SENATOR MCGILL: Okay. [LR520]

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PETER KATT: No one has asked me to craft the perfect solution yet. I think... [LR520]

SENATOR MCGILL: Well, welcome to the table. [LR520]

PETER KATT: But I think...and like I said, I'm neutral. I agree there's some problems, but there's a lot of this that concerns me that it goes too far and creates another unnecessary level of government. And the risk is that if everybody operates within the boundaries, you're okay, but we're creating a pretty big boundary here that you have to say, hmm, we'll trust or not trust. [LR520]

SENATOR MCGILL: Well, thank you for coming. [LR520]

PETER KATT: Thank you. [LR520]

SENATOR MCGILL: Any other questions? I don't see any. (Laughter) [LR520]

SENATOR CORNETT: Sorry, no, I...we're discussing public debt versus...Senator Smith, did you have a question? [LR520]

SENATOR SMITH: No. [LR520]

SENATOR CORNETT: Okay. Seeing no further questions, thank you. [LR520]

PETER KATT: Thank you. [LR520]

SENATOR CORNETT: Any further testifiers? Senator Mello, you're recognized. [LR520]

SENATOR MELLO: Well, thank you, Chairwoman Cornett, Chairwoman McGill, Urban Affairs and Revenue Committee, for your lengthy time this afternoon. I think it lasted a

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little longer than, I think, we all thought, but I think that was good, primarily for, I think, at least the members of the committees who will be coming back next year, where this issue, no doubt, will be brought forward again. A couple points...I guess a couple points of clarification, I would hope. One, ultimately--and I do appreciate, I guess, the last testifier's acknowledgment that this is a serious problem. I think the reality is land bank authorities across the country are public/private partnerships. There is no way a land bank authority is operating without the private sector's support and assistance to make it happen. And I think that's pretty key in the sense that any time there's an argument placed forward that it's just another layer of government, that it's government trying to do something more that it shouldn't be doing; when the reality is, ultimately the city of Omaha has the responsibility for those who own property within the city of Omaha. And this is essentially another form of not expanding...over expanding all of our statutes when it comes to the tax foreclosure system to incorporate all municipalities in that. It's a very segregated, it's a very narrowed approach to deal with what we know is a very big problem in the eastern part of the city of Omaha. Another component that was mentioned, and it needs to be mentioned again to some extent, we understand and we've researched the history of our tax foreclosure system. And that is part of the problem. Senator Schumacher asked questions earlier about it. It is something that Professor Alexander, who has helped us draft this bill, has mentioned multiple times that Nebraska has a very archaic tax foreclosure process. And part of that, in researching it, the reason we have that lengthy three-year process was in part--it's put into the constitution--was to protect those farmers who ultimately lost their property and lost their farms, and to give them a three-year period to be able to acquire their property and their farm back. That hasn't been changed for a number of years. And so, by all means, I completely agree, if we could reform our tax foreclosure system to speed up the process, this may not be fully needed. Now I ultimately think that this provides some funding for municipalities that currently they don't have, and I'm always intrigued to find other people wanting to raise other municipalities' property taxes to pay for other local issues. But the underlying argument though is if we want to explore the tax foreclosure system, that's an issue the Revenue Committee can do. And I know Senator Wightman

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has put an ample amount of time in exploring ways to reform that process, whether to shrink that three-year period or to reform the whole process in general. That's something I think we can all come to an agreement that needs to be looked at over the next two to four years at least. But if anything, moving forward, this obviously is still a draft. By no means this is not a bill introduction. It's not an official, I would say, bill hearing today. It was an interim study on the concept. I know my friends in Urban Affairs heard a lengthy testimony last year, and for those on the Revenue Committee where this is a new issue, this will be an issue that we will bring up again next year. And the thought and hope was to introduce the concept, introduce the concern and the problem in the Omaha area of why this is needed, and ultimately, a little history in regards to how we got here. Senator Louden has asked some questions in regards to cities should just be able to do this. If the cities were able to do this now, this bill and concept, we wouldn't have this in front us, and ultimately, the city of Omaha wouldn't make this a priority of theirs in regards to trying to deal with what they know is an ongoing problem that our friends at the Omaha Chamber of Commerce have spent a decade trying to work on and trying to change, which is that redevelopment of where we know is a very highly impoverished area of east Omaha. If it was that easy, it would have been done. And if the tools were already there, we wouldn't be at this hearing today. So moving forward, I look forward to working with the members on the committee who are going to be coming back. By all means we're going to get some information to Senator Brasch who requested it. And Senator Schumacher, I have to follow up with you a couple of questions you asked where you were correct and I believe I was incorrect in my understanding of the final component of the tax foreclosure process as it comes to extinguishing tax liens. But, ultimately, moving forward, if there are suggestions the committee has, obviously we've been taking suggestions for over a year now on this bill and on this interim study that I always have an open door policy and look forward to working both with the Urban Affairs Committee, as well as the Revenue Committee, moving forward to see this tool become a reality. Thank you. [LR520]

SENATOR CORNETT: Senator Mello, I do have a couple of questions for you and I

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apologize; I know it is late in the day. You said that it is a public/private partnership. Explain what you mean by the...what is the private component in this, as the bill is written? [LR520]

SENATOR MELLO: Ultimately...well, I guess you could say to some extent the way the bill is written, one, they can accept private donations, they can accept private philanthropic contributions. You have the private sector, and the private sector essentially makes up the board of the land bank authority. And ultimately, and this was a conversation I've had with many interested parties in Omaha and not just in the business community, but also the philanthropic community, that ultimately this can't move forward without the private sector's strong involvement and guidance in the Omaha area. That's a strong realization the city has. Myself as the introducer of the bill, as well as the business and philanthropic community, knows this will not occur even if the legislation...we wouldn't be here today or discussing the legislation if we didn't feel that we had the entities that, ultimately, will help finance this concept moving forward. We're behind the actual financing and understanding that this is going to be a way to deal with the long-term community redevelopment issues that the city has been dealing with for decades. So, it's a public/private partnership. Maybe I don't have the exact public/private partnership language in the bill in regards to that designation. But the reality is, for it to work, and the reality of it to work, it has to have the private sectors' support financially. And we've incorporated their support, obviously, in the makeup of the board. [LR520]

SENATOR CORNETT: Okay. I have a couple more questions. The next one is the land bank has the authority to issue bonds for the project, correct? [LR520]

SENATOR MELLO: Yes. [LR520]

SENATOR CORNETT: If the project fails, who is obligated on the bonds? [LR520]

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SENATOR MELLO: Well, they only have access to do bonding in regards to mortgage-backed bonds or they have to have secure assets to secure the bonds. So, ultimately, that's the only financing mechanism that they would have available as a land bank to do bonding. Our research... [LR520]

SENATOR CORNETT: The secure assets would be...? [LR520]

SENATOR MELLO: Whether they have...I mean, financially other...I mean, whether someone left them an annuity or someone left them some other kind of financing mechanism as an organization to be able to finance the bonds. [LR520]

SENATOR CORNETT: So if the project fails...because we had a bill a few years ago that if the project failed, then it fell back on the taxpayers of the municipality, that there are safeguards in there? I have not fully read the bill. [LR520]

SENATOR MELLO: Yes. That was an issue raised the last time we had a meeting in regards to separating the city, the city and the municipality, away from any liability in regards to the actual land bank authority, since...and ultimately, the research we've done has shown that very few land banks in the country have done any bonding. All of them have the authority, but very few of them have it, because the reality is it's...they're able to find the resources from the private sector, as well as the selling of the property, to generate the money back, that they're able to do it on a, I would say, a good-paced way of maintaining and disposing of this property, that they don't need wholesale bonding to do it. [LR520]

SENATOR CORNETT: Last question. [LR520]

SENATOR MELLO: Okay. [LR520]

SENATOR CORNETT: The bill specifically prohibits the power of eminent domain by

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the land bank. [LR520]

SENATOR MELLO: Yes. [LR520]

SENATOR CORNETT: But if they are attempting to do a large tract where they purchase a number of properties in a certain area to do a development, if they're short a piece of property, what is to stop the municipality then from declaring eminent domain on that property and donating it to the land bank? [LR520]

SENATOR MELLO: I would say at this point, I mean if a municipality wants to use eminent domain for the purpose they want under current state statute, they could use eminent domain to acquire that property. [LR520]

SENATOR CORNETT: Even though it's for the land bank project? [LR520]

SENATOR MELLO: They could do it for...I mean, if there is a development in Omaha right now that the city wanted to use eminent domain to acquire property, they could do that for a development project. The question, ultimately, is the land bank authority doesn't have that authority. It rests with the city. Their specific focus and vision and purpose is to acquire properties through the means listed in the legislation, not through using eminent domain. [LR520]

SENATOR CORNETT: And there will be another public entity? The land bank is established as a public entity or as...? [LR520]

SENATOR MELLO: It's created as a political subdivision of the municipality. So, ultimately, it...and we drafted it so that there's as much transparency as humanly possible in the sense, probably more, I would argue, than in the current MECA board statutes in the sense of... [LR520]

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SENATOR CORNETT: Okay, that was my next question. [LR520]

SENATOR MELLO: ...open records laws, open meetings laws, monthly reports to the city that are publicly available, land parcel holdings that they have to be able to display publicly that anyone can acquire and see what they own. It's trying to make sure that it is a very open... [LR520]

SENATOR CORNETT: That was my question. Because those statutes are so convoluted, there's been issues that have arisen out of them. [LR520]

SENATOR MELLO: Yeah, yeah. [LR520]

SENATOR CORNETT: Senator Schumacher. [LR520]

SENATOR SCHUMACHER: Just a couple questions. One term that appears when I think I get to reading the bill (inaudible) on page 16. What's not defined is "automatically accepted bid." What's that? [LR520]

SENATOR MELLO: That was...I described that earlier in the testimony where it's a power that is given to the land bank authority where, by a vote of the board of directors, they can issue an automatic bid on a property at a tax certificate sale so that they automatically get that tax sale certificate. Now the issue at hand that we've been discussing, and we're making changes in regards to working with the Nebraska Bankers Association, is trying to limit that automatic bid at the actual foreclosure process. It's something that, once again, it's trying to find a compromise that works, I think, for the financial industry, as well as ensuring that the land bank authority can still acquire those properties, those foreclosed properties at tax foreclosure sales. [LR520]

SENATOR SCHUMACHER: So really that definition is not fleshed out yet. [LR520]

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SENATOR MELLO: Senator Schumacher, I'm always open for suggestions from you.  
(Laugh) [LR520]

SENATOR SCHUMACHER: And then a follow-up here, where the meat seems to start appearing in Section 16. [LR520]

SENATOR MELLO: Yes. [LR520]

SENATOR SCHUMACHER: Whenever any real property is acquired by a land bank and has a lien where tax is owed to subdivisions, the land bank may, by resolution of the board, extinguish the lien and file a paper with the public records saying that's been done. [LR520]

SENATOR MELLO: Yeah, um-hum. [LR520]

SENATOR SCHUMACHER: So, am I hearing this right that there's...you see an old dilapidated house out there and you go to whoever is the record owner at the courthouse and you say you got a dilapidated piece of house we want to get. It has \$5,000 worth of tax against it, but we'll give you a hundred dollar bill for a quit claim deed. And the guy says, fine, I'll take the hundred dollar bill. And then you go find a banker that might have a lien on that property, and say, you know, banker, you really screwed up making a lien on this house because it isn't worth anything. It isn't worth the taxes. We'll give you a hundred dollar bill to go away and release your mortgage. The banker says, yeah, I guess it's the best I'm going to do, and release the mortgage. And then you go over to the city and say, you know what guys, all your tax liens are vamoose, gone. Okay? Even though there might have been some equity there yet. You've just declared the taxes gone. And you're doing this as a political subdivision because these things are kind of political subdivisions. And our constitution, I think, says that you cannot get rid of real estate taxes by... [LR520]

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SENATOR MELLO: Political subdivisions can. It gives specific authority. This was a constitutional issue we had to research after we introduced the bill last year to clarify it more that...and that was one of the reasons that entities have come forward and said, can't we give that authority to a nonprofit organization? Or if there was a business who wanted to do a venture, can't we give that ability to extinguish tax liens to other entities? [LR520]

SENATOR SCHUMACHER: Does the state have the authority to forgive real estate taxes? [LR520]

SENATOR MELLO: Our understanding, and this was through Bill Drafters who worked with us on it, that the way we have it drafted in the sense of creating a political subdivision, which, ultimately, a political subdivision is a creature of the state, has the ability to extinguish tax liens. [LR520]

SENATOR SCHUMACHER: So how does Junior have more authority than the parent? And with that kind of... [LR520]

SENATOR MELLO: We can talk more about...I want to be respectful of everyone's time, but we can talk between you and myself and Bill Drafters. We can have them walk you through their rationale in regards to how it was drafted to ensure that that component of extinguishing tax liens by a political subdivision is constitutional. And that was an issue that took a lot of time to finesse. [LR520]

SENATOR SCHUMACHER: Thank you. [LR520]

SENATOR CORNETT: Further questions from the committee? Seeing none, Heath, thank you. [LR520]

SENATOR MELLO: I want to thank you, Senator Cornett. It is my understanding this is

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your last interim study hearing for the Revenue Committee... [LR520]

SENATOR CORNETT: Thank god. [LR520]

SENATOR MELLO: ...as Chair. Thank you so much. [LR520]

SENATOR CORNETT: Thank you. [LR520]