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Urban Affairs Committee
February 07, 2012

[LB1115 LB1121 LB1137]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 7, 2012, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1137, LB1115, and LB1121. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Brad Ashford; Tanya Cook; Bob Krist; R. Paul Lambert; and Jim Smith. Senators absent: None.

SENATOR COASH: Good afternoon. It's 1:30. We're going to go ahead and get started. I'm Senator Colby Coash from Lincoln; I'm the Vice Chair. Senator McGill is introducing bills in another committee today, so I'm going to get us started today. Let me take this opportunity to ask folks to silence your cell phones. We're going to introduce my colleagues. To my far left is Senator Lambert from Plattsmouth, Senator Smith from La Vista, Senator Cook from Omaha. This is Laurie; she's our legal counsel. And that's Katie on the far, far left, our committee clerk. If you're here to testify, please sign in and hand your sign-in sheet to Katie. We're going to take up LB1137, Senator Mello's bill, and LB1115, Senator Flood's bill, after that, and finally LB1121, which is Senator Lambert's bill. And those will be our three bills for today. We are...oh, we're going to wait for Senator Mello, and which I'm sure...

SENATOR FLOOD: All right.

SENATOR COASH: That's fine. Sure. Sure he's on his way.

SENATOR FLOOD: You want me just to go forward?

SENATOR COASH: Well, why don't we do that?

SENATOR FLOOD: Sounds like a good idea.

SENATOR COASH: Just...we're going to have a...we're going to take our prerogative and let Speaker Flood go first on...open on LB1115. [LB1115]

SENATOR FLOOD: Thank you very much, Mr. Vice Chairman. Members of the committee, my name is Mike Flood, F-l-o-o-d, and I am from Madison County. I live in Norfolk, and I represent District 19, which also includes a portion of Stanton County. In July 2007 the city of Norfolk lost a potential 200-plus jobs because our natural gas service and capacity was inadequate, 200 jobs that could have helped defray the loss of our packing plant in 2006, 200 jobs that would have helped keep our student census high in the Norfolk public school system and surrounding communities, 200 jobs that would contribute to the economic opportunity in our community of 24,000, a community that is an hour and a half or more from an interstate, in any direction. I wish I could say that, now five years later, Norfolk's natural gas capacity issues have been remedied. But

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they haven't. Let me back up and provide a small amount of background. As you know, there are a couple types of natural gas pipelines. Interstate pipelines transport natural gas across state borders and are under the regulation of the Federal Energy Regulatory Commission, or FERC. Intrastate pipelines operate within the state borders and link natural gas producers to local markets and to the interstate pipeline network. Intrastate pipelines are now under the regulation of the Public Service Commission. Another term you will hear is "local distribution company," or LDC. Or, in Nebraska, they are also called "jurisdictional utilities." Jurisdictional utilities, such as Black Hills, are typically under the regulation of the Public Service Commission. The State Natural Gas Act that was signed into law in 2003 placed the distribution of natural gas under the Nebraska PSC. The PSC regulates rates and service quality of investor-owned natural gas public utilities, pursuant to the act. And the PSC approves who can be a natural gas provider within the state of Nebraska. The act divides customers into two basic categories: jurisdictional customer and nonjurisdictional customers, or high-volume ratepayers. A customer must have an average daily usage of 50 MMBTUs or more to qualify as a nonjurisdictional customer, or a high-volume ratepayer. There are three interstate natural gas pipelines in Nebraska that deliver the majority of natural gas to Nebraska customers. Kinder-Morgan Interstate Gas Transmission and Pipeline, otherwise known as KMIGT; Northern Natural Gas Pipeline Company of America; and Northern Natural Gas Pipeline. FERC regulates the rates charged and services offered by interstate pipelines, as well as certifying and permitting new pipeline construction. Basically, in order to build new pipelines or expand existing infrastructure, pipeline companies such as KMIGT must show FERC how the new or expanded pipeline will serve the public interest, that is, economically feasible and it does not have a significant environmental impact. Some of the objectives of FERC are to prevent inefficient investment, unfair pricing, and wasteful duplication of facilities. These objectives make it difficult for an interstate natural gas pipeline to increase its capacity and charge its existing customers for the cost. And this is why the natural gas pipelines typically must have customers lined up, to pay for pipeline expansion or to build a new pipeline. Otherwise the pipeline's existing customers would have to pay for the cost to expand capacity without receiving any direct benefit. Added to this Catch-22 is the fact that there are roughly 16 ethanol plants on the KMIGT system in Nebraska, which have made obtaining natural gas increasingly difficult. To put Norfolk's situation in perspective, the natural gas transport capacity on KMIGT in the Norfolk area varies between 22,325 MMBTUs a day to 26,925 MMBTUs a day. The transport capacity of the Northern Natural pipeline in the Sioux City area is around 480,000 MMBTUs per day. So what happened in Norfolk in '07? Well, the gas companies simply tallied up what it would cost their company to build the extra infrastructure by looping the line and adding extra compression. And obviously, as a start-up company, the soy plant could not afford the \$10 million-plus of additional expense simply because they wanted to be in Norfolk. The challenge is plain to see. The difficulty is finding an answer. And this bill is an attempt at an answer. In sum, this bill provides for an efficient model whereby a jurisdictional utility may implement a plan to construct rural natural gas infrastructure. Prior to constructing a

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natural gas facility, the jurisdictional utility shall consider factors such as economic impact to the area and economic feasibility. Following a utility's determination that an area is unserved or underserved, the bill contemplates a jurisdictional utility making a tariff filing with the PSC to reflect those costs. Costs would then apply to customers as set forth in Sections 4, 5, and 6 of Section 8 of the green copy. I am offering an amendment for your consideration, AM1892. And it makes clear that the only rate area within the unserved/underserved area may be asked to absorb the cost of new infrastructure. It also takes care of a concern that one jurisdictional utility may try to encroach on another jurisdictional utility's territory. The Public Service Commission is represented here today by Laura Demman, who is director and legal counsel in the PSC's natural gas department. She will offer an amendment as well. The PSC amendment will do a lot to alleviate the concerns of the League of Municipalities. I appreciate the commission's help and expertise and remain open to all suggestions. Maybe there is not a solution at this point, maybe the timing is not right, and perhaps there can be no effective solution that bridges the interests of all parties involved. But the current system has put up a barrier to economic development in rural Nebraska, and I think this is a good vehicle to pursue these further discussions. I want to just make something very simple here. This public hearing is an opportunity to take input on what the potential solutions are. If we do not address the natural gas infrastructure in this state, in 20 years you're going to look at a map of Nebraska like that, and there are not going to be new ag industry expansions, there are not going to be new jobs. Lindsay Manufacturing in Lindsay, Nebraska, in northern Platte County can't add another job at a wonderful place of business and factory because they need more natural gas. And without the natural gas it makes it difficult. You might hear from the propane suppliers. This is not an attack on propane. We're not talking about running, you know, a medium-size business here. We're talking about a plant like Nucor Steel that employs 500 people. We're talking about melting down steel, we're talking about making it into steel bar and shipping it across the country to keep America moving. Places like Norfolk and other locations, like York and across the Platte Valley, we celebrate ethanol, and ethanol has drawn a lot of capacity out of the system. But we need more natural gas to make things work in places like Lindsay and Norfolk and Madison and York and across this state. This is the introduction of a problem to this committee. I am not married to the green copy. What I am married to is a solution so that in 20 years we don't look back and see this kind of development happening in places where we have only a big, big, big line. And I want to say this about the gas companies, we have been down a lot of roads together between Kinder-Morgan and Black Hills. And one of the best things that's occurred so far is that these companies, in their commitment to trying to find a solution, remain strong today. And you're going to hear from Black Hills. They have a lot of skin in this game in our area, and they're going to come up here and give you some ideas. I don't want to be at odds with the cities. In fact, I want to find a mutually beneficial solution. This is not about hurting anybody, it's about making sure parts of Nebraska can grow. And right now that's a real barrier. And the choke point in the system is the natural gas for us. Thank you. [LB1115]

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SENATOR COASH: Thank you, Speaker Flood. Speaker, this isn't a new...you gave a great example of an industry that wanted to come in, and that was in 2000...your opening statement. [LB1115]

SENATOR FLOOD: 2007. [LB1115]

SENATOR COASH: Two thousand seven, and they couldn't do it because of the...have you heard from other communities? I mean, is this...was this a one-time issue, or have we found examples of different companies coming...wanting to come into different communities and saying the same thing, the infrastructure just isn't there? [LB1115]

SENATOR FLOOD: Well, the word is out in our area that we don't have enough natural gas. And when you're looking at paying 57 cents a decatherm or less and along that bright green line or maybe in Grand Island or Beatrice is like the natural gas capital of Nebraska, when you're looking at paying a low amount per decatherm down there, and you say, but you know what? Those folks up in Norfolk, I'd really like to locate my plant there. And the answer is, well, it's going to be \$1.08 up north, it prices us right out of the system, and we are a flyover area for major expansion that requires natural gas. We have existing businesses in Madison County that would like to grow their business and would like to add on and add additional shifts and jobs, but the gas capacity is a barrier for us. And it's something that, you know, this is one of those problems that doesn't have an easy answer. If there was an easy answer, we'd wave the wand and we'd celebrate and we'd have natural gas. Tough problems have even harder solutions. And nobody is going to come in magically and build capacity. This is not public power, these are private businesses and I respect that. But you know, public power, under our state constitution and our laws, has a duty to serve. And they spread it out over all the ratepayers. Kinder-Morgan can't spread that over existing ratepayers because FERC doesn't allow that type of assessment to a large degree. [LB1115]

SENATOR COASH: Seems like we're kind of chasing our tail, you can't build the infrastructure until there's the need. You can't build the need until you have the infrastructure. [LB1115]

SENATOR FLOOD: Um-hum. [LB1115]

SENATOR COASH: So all right. [LB1115]

SENATOR FLOOD: And this would at least help us get some gas increased up to our area. To increase gas to the tune of about 2,300 decatherm a day it would cost about \$5.6 million, to take it up to 6,000 MMBTU a day it would take us to about a \$26 million improvement. And to get 10,000 additional decatherm into the Norfolk area would cost about \$49 million. Now I don't...I'm not talking about the \$26 million, the \$49 million

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options, I'd be happy with 2,300 more decatherm a day just to serve the existing customers and a process by which communities can advocate at the Public Service Commission for their own area. If we turn the gas on too high in Norfolk, little kids in Wisner don't have heat in their house, because that's how taxed the system is, because Wisner is at the end of that line that branches out east of Norfolk. And we're not ever going to compromise their ability to heat their homes in Wisner, that's a priority. And I don't want to...I'm not using it as a scare tactic. I use it to illustrate how capacity is the issue in our current system. [LB1115]

SENATOR COASH: All right. Thank you, Speaker Flood. Do we have any questions from the committee? Seeing none, thank you, Speaker. [LB1115]

SENATOR FLOOD: Okay. [LB1115]

SENATOR COASH: We are going to start testimony of the proponents to this legislation, have you come on up. Welcome. [LB1115]

SCOTT ZARUBA: Good afternoon, Chairman Coash and members of the Urban Affairs Committee. My name is Scott Zaruba, Z-a-r-u-b-a. I'm appearing before you today representing Black Hills Energy in support of LB1115. We thank Senator Flood for introducing this bill and continuing his efforts to address the issue on behalf of northeast Nebraska. I have served as a regional manager in the Norfolk area for the past 17 years. I was the manager at Norfolk when Norfolk wasn't selected as a site for the last significant economic development project, the soybean processing plant, due to inadequate interstate gas capacity issues. Since that time, Norfolk's natural gas capacity issues have not improved. Black Hills Energy distribution system is sized to meet the energy needs of the communities we serve and is able to serve the next large community project or expansion of existing companies. However, this is not true of the available capacity on the interstate pipeline system. Additional interstate natural gas pipeline capacity is needed to get more natural gas to areas of northeast Nebraska for future industrial and economic growth. These interstate pipeline challenges have affected Norfolk and the surrounding area in the past and are continuing today. There is a cost to expanding our state gas pipelines. This will require new, creative solutions, public and private partnerships, and additional local and state and national investment to provide the benefits to support Norfolk and the region that it requires. LB1115 addresses a piece of that expansion and creates a mechanism for Black Hills Energy to participate in a process in multiple ways--through expansion of the interstate pipeline or building infrastructure. The bill creates a potential way to fund new natural gas projects. Black Hills Energy supports LB1115 and wants to be a partner in the process to expand interstate natural gas pipeline capacity and further economic development. Black Hills will continue to partner and work with Senator Flood and all parties involved to encourage its passage by the Nebraska Legislature. I urge you to advance LB1115. Thank you. [LB1115]

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SENATOR COASH: Thank you, Scott. And thank you for working with the Speaker on this. I know this is a big deal for his area, a big deal for the state. I know you've got a lot of skin in the game, so thank you for continuing to do that. We'll see if there are any questions from the committee. Seeing none, thank you, Scott. [LB1115]

SCOTT ZARUBA: Thank you. [LB1115]

SENATOR COASH: We'll take the next proponent. Welcome. [LB1115]

SUE FUCHTMAN: Well, good afternoon. Thanks, Senator, I appreciate that and certainly all members of the committee here. I appreciate the opportunity to be before you today. My name is Sue Fuchtmann, F-u-c-h-t-m-a-n, and I am mayor of the city of Norfolk, certainly here in support of LB1115. Obviously, you heard from our Speaker and our Senate friend there in Norfolk. And I don't know that it's worth me going into all the details and tell you once again just how devastating the loss of the organic soy plant was for the city of Norfolk in 2007. I will say, though, as the Senator stated, our community spent many months working to secure this opportunity and working with the company to find a suitable location. And in March of 2007, the company gave the city of Norfolk the official good news in that they would be locating in Norfolk. And, obviously, we were more than ready to have them come and very welcoming of them. And then it was a couple of months later when Norfolk came to find out that we were at our natural gas capacity and could not come close to handling the natural gas needs of this new company and, therefore, the company moved on. But what happened in Norfolk is that we haven't been able to move past that. We're still at capacity and not even able sometimes to meet the firm needs of our existing businesses and that's an issue. It's hard to explain just how much this lost opportunity would have meant for our community. Obviously, the 200-plus jobs, the new student enrollment, the tax revenues, it was a pretty tough blow. And it emphasizes the importance of LB1115 or certainly a bill like it. How do we as a community grow? How do we build adequate infrastructure so that we can retain and as well attract new businesses to our area? I will tell you this has been an ongoing conversation within the community of Norfolk and the area for some time. And I will tell you that we see LB1115 to at least allow us some different direction to go with that conversation. As a community, the city of Norfolk is certainly at the table, and so are a lot of willing partners. You just heard from one. Our future economic vitality is at stake. And together as partners we want to help craft a solution, one that encourages new infrastructure construction by the pipeline and the utility companies but does so in a fair way and in a way that does not put a disproportionate burden on the ratepayers who did not directly benefit from the new infrastructure. Again, I thank you for the opportunity to be before you today in support of LB1115. I appreciate your consideration of this bill. It's an important issue to Norfolk and certainly the entire rural area to have such a tool within our reach, which to me is certainly what this will mean for us, and it will allow for the partners to explore options to allow us to resolve

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our inadequate natural gas supply. Again, I appreciate, Senator Flood, the introduction of this. We certainly support and appreciate as well the support from those that have signed on with him. With me today, too, we've come down together and I want you to realize that we have with us some of those that the Senator has referenced--Curtis Lancaster, with Faith Regional Health Services; Greg Oswald, with Lindsay Manufacturing; and as well Dennis Houston, Norfolk Area Chamber, all partners in what it is and how it is that we can look to make this bill successful. So thank you. [LB1115]

SENATOR COASH: Thank you, Mayor, appreciate you coming down today. We'll see if we have any questions from the committee. Seeing none, thank you very much. [LB1115]

SUE FUCHTMAN: Thank you, appreciate it. [LB1115]

SENATOR COASH: We'll take the next testifier in support. [LB1115]

GREG OSWALD: Thank you, Senator Coash and all the members of the committee. My name is Greg Oswald, O-s-w-a-l-d. I am the vice president of manufacturing at Lindsay Corporation in Lindsay, Nebraska. And I want to start off by saying I am a true proponent of LB1115 as we were curtailed last year 21 times in a certain period of time. Now when I'm talking about curtailment, I'm not talking about curtailment of 100 percent, but we're talking about a certain percentage that we were curtailed. Now if you look at the years past and you look at what the data tells us, we weren't curtailed in 2007, 2008, and maybe twice in 2009. So the curtailments are going up. And as we use in Lindsay, Nebraska, we use in our peak months about 10,000 MMBTUs a day. And that seemed like a tremendous amount of gas to me, but there are some companies that have moved into northeast Nebraska that use 10,000 MMBTUs in a couple of hours. So we are all competing, Lindsay Manufacturing and northeast Nebraska, on a global scale. And we need to understand that organizations have capital money and this capital money is mobile. And to compete in the global market, and if you look at our gross domestic product number as we grow it, we have to grow the infrastructure pipeline with it, otherwise we're going to be stuck with where we're at, and we don't grow. So I am a true proponent of LB1115. Any questions? [LB1115]

SENATOR COASH: Thank you, Mr. Oswald. Thank you for coming today. [LB1115]

GREG OSWALD: Yep. [LB1115]

SENATOR COASH: While the next testifier is coming up, I'll introduce the two members of the committee that have joined us. On my far right is Senator Ashford from Omaha and Senator Krist from Omaha. Welcome. [LB1115]

CURTIS LANCASTER: Thank you, Senator Coash and the Urban Affairs Committee for

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allowing me to come in, in support of LB1115. My name is Curtis Lancaster, L-a-n-c-a-s-t-e-r, and I'm the executive director of support services, and I work at Faith Regional Health Services in Norfolk, Nebraska. One of my responsibilities is to ensure we have facilities that provide a safe and comfortable healing environment that overcomes the extreme temperature fluctuations that occur in our geographical region. Faith Regional Health Services is the largest employer in Norfolk, Nebraska, including Madison County. Vital to our strategic plan is to anticipate the economic growth and development in the region and deliver comprehensive healthcare services to the underserved population in northeast Nebraska. We have crucial, strategic initiatives that we are aggressively building the foundation to recruit additional physicians, develop rural network systems, and expand our service lines and facilities. Citizens in our region rely on Faith Regional Health Services to provide high-quality healthcare and the facilities to accommodate them. We are committed to our customers and have every desire as a consumer to work as a regional partner to meet the needs of our community. Growth and economic development needs of Norfolk are paralleled with Faith Regional Health Services, and the necessity for the transportation of natural gas to our location is in question. Recently, a request directed to our natural gas supplier for firm service was denied due to the fact that no additional space is available on the main transportation line to our region and ultimately to our campus. In the future, expanding services without adequate supply of natural gas proves to be challenging as the overall process to switch from natural gas to fuel oil costs are more than double, which does not include the increased maintenance and equipment costs or the increased liability due to the comprehensiveness for fuel oil operations. Additionally, an inadequate supply of natural gas may impose serious complications to provide essential services and emergency management responsibilities to the region as our facilities would be the safety net for the region in the case of a long-term outage due to an extended winter storm. The inability to supply the appropriate volume of natural gas to our region will directly affect the growth of healthcare, stall the employment opportunities related to new business development, and restrict the tax revenue well beyond the year 2012. Thank you. [LB1115]

SENATOR COASH: Thank you, Mr. Lancaster. Appreciate you coming down today. [LB1115]

CURTIS LANCASTER: Okay. [LB1115]

SENATOR COASH: I don't see any questions from the committee. Thank you. We'll take the next testifier. Welcome. [LB1115]

DENNIS HOUSTON: Welcome. [LB1115]

SENATOR COASH: (Exhibit 1) While you're getting settled, I'll take this opportunity to read in a letter of support for LB1115 from the Nebraska State Chamber. Thank you.

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[LB1115]

DENNIS HOUSTON: (Exhibit 2) Chairman Coash and members of the Urban Affairs Committee, my name is Dennis Houston, D-e-n-n-i-s H-o-u-s-t-o-n. I am the president and CEO of the Norfolk Area Chamber of Commerce. On behalf of the Norfolk Area Chamber of Commerce and its more than 650 member firms, the 15,000 area residents and jobs they represent, and the 125,000 people in the Norfolk trade area, we urge your support of LB1115 to allow the authorization of construction and operation of natural gas pipeline facilities by jurisdictional utilities. I would like to personally thank Speaker Flood for bringing this important issue to the forefront. In rural Nebraska we have a dire need to expand natural gas capacity, which would in turn help create economic development opportunities throughout the state. This means job creation, this means people attraction. The need for increased natural gas pipeline capacity is not just to attract new business and industry. We have lost opportunities in the past, as you have heard about today, due to the lack of natural gas capacity. We need to increase capacity to allow current Nebraska businesses to expand, create jobs, and attract more people. This is not just a Norfolk problem, this is a rural Nebraska problem. We currently face a roadblock to job creation when presented with new economic development opportunities. The big question each time is: Which comes first, the natural gas capacity or the business that needs the natural gas capacity? In our current environment, you simply cannot have one without the other. LB1115 provides for a streamlined, less regulated process whereby a utility may develop and implement a plan to construct a rural, natural gas infrastructure in areas not currently served, as well as those underserved areas. The business community is simply asking for the ability to collaborate with interstate natural gas pipeline operators, local utilities, and municipalities to develop and fund new natural gas capacity. We are standing up and saying that we want to take care of our own. Communities throughout Nebraska are willing to step up to the plate and show significant support for such a project if the project creates economic success. When we partner together as one, we all win. This is just the first step. A vote for LB1115 is much more than a vote for natural gas expansion. A vote for LB1115 is a vote for jobs. It is a vote for people retention and attraction, it is a vote for the economic vitality of our state's future. Working together we can create economic development success stories across rural Nebraska. Thank you for your service to Nebraska, and thank you for helping lead the charge in support of LB1115. [LB1115]

SENATOR COASH: Thank you, Mr. Houston. The Speaker gave us an example of one business. You're probably the point person for other businesses who are calling around to look for capacity. Do you get a fair amount of calls and have to give them the truth about your natural gas capacity? [LB1115]

DENNIS HOUSTON: It's certainly a big issue, not only with our existing businesses that are looking to expand, but as you look at businesses that have a presence in rural

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Nebraska, that have facilities in other parts of the country, when that corporate office is determining where they're going to expand and it's much tougher and more expensive for them to do so in Nebraska, you know, the unknown new job opportunities are out there that it's hard to quantify. So that's definitely an issue. And Curtis' testimony earlier regarding Faith Regional as our largest regional hospital, it's a scary thought when you learn that the largest regional hospital in our area has been told that they can't have that solid, permanent, firm commitment for natural gas, that there's basically no room at the inn. And that's for the largest hospital in our region of the state. That's a big issue. That's a safety issue and a life and death issue. [LB1115]

SENATOR COASH: Thank you, Mr. Houston. Senator Lambert. [LB1115]

SENATOR LAMBERT: I think you brought up a point that maybe we're kind of missing. I mean, it hurts to lose 200 jobs, a business you never get. But the businesses you've got, they cannot grow, that 10 employer can't go to 20, or the 30 to 50 because of this. I mean, I see that as...from my experience in the city, that's a bigger problem. Yes, it hurts terribly to lose 200, but if you can't do that gradual, solid growth within your community, I see that as a bigger problem. [LB1115]

DENNIS HOUSTON: That's a very valid point, Senator. I mean, because it's...as you know, it's much easier to hold onto a customer than it is to gain a new one. And our challenge is trying to hold onto some of our current businesses and customers that we have. And it's a big issue that we all need to address. We look at this not so much as a natural gas bill, but more so as an economic development bill. [LB1115]

SENATOR LAMBERT: Thank you. [LB1115]

SENATOR COASH: All right, thank you, Mr. Houston. Any other questions? Yes, Senator Ashford. [LB1115]

SENATOR ASHFORD: How are you? [LB1115]

DENNIS HOUSTON: Hello, Senator. [LB1115]

SENATOR ASHFORD: Good to see you again. How about...what is your population within 50 miles of Norfolk? Do you know? [LB1115]

DENNIS HOUSTON: We...Norfolk proper is just short of 25,000. Our trade area is 125,000 that comes into the Norfolk area. Madison County is in the low 30,000 range. [LB1115]

SENATOR ASHFORD: And just what sort of businesses are you looking at from the chamber's perspective to come into Madison County and the Norfolk area right now?

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What are you looking...what is your...what kind of targets are you... [LB1115]

DENNIS HOUSTON: Well, when you look at how you can grow and some of your successes, we're very fortunate with Faith Regional Health Services as our largest employer. So there's certainly opportunity there for expanding healthcare services in our part of the state, as well as the strong presence we have from the steel industry, as home of Nucor Steel, as well as Norfolk Iron and Metal. So we're looking at facilities that can complement those. And, ideally, as far as attracting those businesses and industry that would stay in your area it's always great to go after those suppliers of existing businesses we have as well as customers that have a strong connection to existing businesses. So those would be some of the people on that target list. [LB1115]

SENATOR ASHFORD: That would be your focus then,... [LB1115]

DENNIS HOUSTON: Yes. [LB1115]

SENATOR ASHFORD: ...to support businesses to the industry. How many employees does Nucor have? [LB1115]

DENNIS HOUSTON: Nucor has four facilities in the Norfolk area. It's the only location in the United States that has four Nucor facilities. They really like the work ethic. If you add up the mill, the Nucor detailing center, which is the latest addition to their facility, as well as the Vulcraft That creates the truss systems. And there...in their coal processing mill you're looking at around 1,100 positions total. [LB1115]

SENATOR ASHFORD: Big deal. [LB1115]

DENNIS HOUSTON: Yes, it is. [LB1115]

SENATOR ASHFORD: Thanks. [LB1115]

SENATOR COASH: Thank you, Senator. Any other questions? Seeing none, thanks for coming down from Norfolk today. [LB1115]

DENNIS HOUSTON: Thank you. [LB1115]

SENATOR COASH: We'll take the next proponent. [LB1115]

JESSICA KOLTERMAN: Senator Coash, members of the committee, for the record, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm here representing Nebraska Farm Bureau Federation where I serve as director of state governmental relations. Farm Bureau has previously had policy on this topic specifically related to natural gas capacity. Going back to the discussions our membership had when that

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policy was put into place, we recall that a majority of their thoughts were about the lack of capacity in rural areas, exactly what Speaker Flood is trying to address with this legislation. Additionally, our rural development policy would support what Speaker Flood is trying to do because it states we'd like to see utilization of agriculture as a foundation for rural growth and opportunity through public and private partnerships. Our board of directors will be meeting with the Speaker tomorrow to talk about this legislation specifically. But I can tell you at that time we hope to get more feedback from them on this specific piece of legislation. But our policy in a variety of ways does support the concept here. And, basically, we just wanted to come forward today and say we're excited about what the Speaker is trying to do, and we're excited to work with the committee as you look at resolving this issue. [LB1115]

SENATOR COASH: Thank you, Jessica. Any questions? Seeing none, thanks. [LB1115]

JESSICA KOLTERMAN: Thank you. [LB1115]

SENATOR COASH: Take the next proponent. Is anyone here, anyone in addition to speak in favor of the bill? Seeing none, we'll go to the opposition. Anyone here to testify in opposition to LB1115? Seeing none, we'll go to neutral testimony. Here comes Lynn. Welcome. [LB1115]

LYNN REX: Thank you. Senator Coash, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I appreciate the opportunity to be here today. And I do want to thank Speaker Flood for introducing this measure because he has identified the right problem. We have concerns about the solution that is being proposed in this bill as originally drafted. I'd like to outline some of those concerns with you this afternoon. But I do think it's important to note that the problem that he's outlined is critical not just for Norfolk but for other municipalities across the state. Norfolk is not the only one that's at maximum capacity in terms of natural gas service. And consequently, what happens is these cities and villages are in a position where they simply can't grow, they can't attract new businesses. And what you indicated, too, Senator, is so important, the current businesses can't expand. And I think this is important not only for these communities, but also for the state of Nebraska. That being said, this clearly is a problem. I hope that this can be addressed this year. I think it needs to be addressed this year. I think LB658, which passed in the 2009 session, may be a starting point for this committee to look at because that does allow utilities to come in and on an emergency basis do infrastructure projects and then allow the PSC to also review those within a certain period of time. But with that, let me just share with you some of the concerns that we have about LB1115. First of all, if you go to page two of this bill, and you look on lines 14 to 18, page two of the bill, lines 14 to 18, just the definition of unserved or underserved area. And what is throughout the bill is that it's going to be at the sole discretion of the utility. In other words, what constitutes

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an unserved area is basically the determination of the utility itself. And we think that this needs to be a neutral party, the PSC needs to be involved in this decision-making because, for example, at the end of this one of the issues I'm going to raise with you is there's really no recourse for a municipality if the utility decides that it's either an underserved area or not an underserved area or they simply don't think it's in their long-term interests, and those are the words in the bill, to build it. So then what resource do you have? And there really is no point in passing a bill if at the end you find out you really haven't accomplished the purpose. And the purpose of this bill is an extremely important one, which is why we really appreciate Senator Flood bringing this to the forefront. So again, the issue of unserved or underserved areas as determined, on lines 16 and 17, by the jurisdictional utility, we think that needs to be a decision of the PSC. Section 3 of this bill, on page two, starts on line 19, lines 19 through 24. Very concerned about this because this basically says the jurisdictional utility can plan, finance, and do what they need to do for this. And the operative words in this that really cause us concern on lines 21 and 22 are the words "interstate." This could allow, basically, unfettered development of pipelines without PSC oversight. And we think that is important. It's one thing to do intrastate, it's quite another to be looking at interstate, and we're concerned about that. In addition, on Section 4, which begins on line 25 of page two and goes on to page three, lines 1 through 7. If you look on line 2, this talks about the fact that prior to construction of the facility, the utility considers factors. And one of those factors would be economic feasibility and again, as determined by the company, because there are no standards put in here in terms of what constitutes economic feasibility. In addition, economic feasibility to one party may seem to be quite different to another. There really needs to be a balancing of interests here, not only for the city but the ratepayers, customers, and businesses, as well as the utility itself. There needs to be a balancing test, which is why the PSC needs involvement in this as well. And by the way, the PSC has not asked me to testify for them today. I haven't had a discussion with them. So I think that this is very important. In addition, these rates need to be just and reasonable. The terminology "just and reasonable" are the terms that these companies have to live and die by, and we think that that's an appropriate standard. It's been a long time standard in the state, and it needs to be applied in this case as well. Page three, lines 8 to 11, outline Section 5. And this also is a concern. It says, the utility exercising the power granted in this shall not be subject to the State Natural Gas Regulatory Act. This is really important to balance these interests. It's extremely important to have this because, basically, by taking them outside the act you've eliminated the protections that the Legislature has had longstanding for consumers, ratepayers, and businesses in the state of Nebraska. Going on, if we look on Section 8 of the bill, page three, lines 19 through 24, this indicates a jurisdictional utility may file a rural infrastructure system development cost recovery charge tariff. If you go on to read this, which I'm not going to read it to you, basically, they just get to file the tariff. There's no overview, there's no oversight. They just file the tariff. And then you go onto the next page, and certainly you go on to page four, lines 8 through 13 in the same section, it says, the commission shall approve this. It does it basically on standards that are put forward by and identified by

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the utility, rates identified essentially by the utility, and the commission has to approve it. We have some real concerns with how this would operate. If you look on page four, lines 20 through 25, we think this, too, has some serious concerns because of the vagueness and how it could be applied. If you look on page four, again lines 20 through 25, it says that the development cost and the recovery cost and supply cost and the tariff and any future changes thereto, so in other words all the charges, the rates shall first be applied--I'm looking at line 22, page four--shall first be applied to customers receiving direct service. Who are those customers? Are the customers the businesses that benefit from it, or are the customers basically part of the community or all of the community? And we can be looking at a city the size of Lincoln. We're thinking today about Norfolk, but this could at some point be the city of Lincoln. Is it all the city of Lincoln? Is it just the businesses in northeast Lincoln, southeast Lincoln? Where would it be? So we're concerned about how you define that, because again it's really the company that would define who the customers are receiving the direct service. And then you go on and look at this, which I think is very important, it says that, if such resulting rates--and I'm looking on line 24--if such resulting rates are uneconomic or commercially unreasonable to those customers on round one then the utility shall recover the cost from the general--going on to page five, lines 2 and 3--from the general system residential and commercial customers in a manner proposed by the jurisdictional utility. What does that mean? Does that mean everybody in the rate area? Who does that apply to? And I think what's important is Lincoln, for the most part, stands alone as a rate area. And we can provide you, and I will get it to your committee counsel and also to you, the rate areas for all of these, because we're talking about Black Hills today, but there are other companies involved in this too. So we have huge rate areas. And whether or not if Scottsbluff, Nebraska, wants to pay for improvements that may be in Lexington or vice versa. So what does that mean? Does it mean that if the area first benefited doesn't...it's not economically feasible to go that route and you can't justify it, then you can take it to the whole system? That seems to be what it says. And some of the attorneys that have reviewed this think that that's what it said. So we have concerns relative to that as well. Page five, lines 5 through 10, this is where I think it's important for the committee counsel and others to look at LB658 that passed in 2009. That was brought forward because the company said that when there's an emergency and they need to build some infrastructure, they need to be able to do that. And it's never been used, not once. We think that that may be a starting point for the committee to look at when they decide how to move forward on this bill, because this bill I think does need to pass this year in some form, just not this form. Also, you'll note that in Section 8 it says that the utility can collect this infrastructure cost for a period--on lines 7 and 8 on page five--not exceeding 60 months after its initial filing and until such costs are fully recovered, even though they've not filed for a general rate filing. It's very important here that this not be exempted from the PSC's five year rate review because that is something that is now allowed, it is statutory. This is something that I think you don't want to take that out. And in fact LB658 even said that they could go forward on an emergency type project, they can build that project, but that project would still be subject

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to the five year rate review. And why is that important? Because you don't want certain costs shifted to other ratepayers, you want to be able to make sure that you have a neutral, third party seeing how all of this is done. And I know these companies do their very best and we appreciate that. But at the end of the day, we want to make sure the ratepayers are protected and their interests are also protected in this process. If you look on page five, lines 11 to 15, it says, a utility is not required to proceed, I think this is really the crux of it. The utility is not required to proceed with infrastructure system development in an unserved or underserved area, which they define, if in the judgment of the jurisdictional utility the development is not either in the long-term interests of its customers or the long-term interests of the jurisdictional utility. So what does that mean? That means at the end of the day, if they don't want to do it, they don't have to do it. So what recourse does a city like Norfolk have? And that's our concern, because I do think that the issue that Speaker Flood brought forward is extremely important for the economic vitality of the state as well as the municipalities within this state. And in order to accomplish this you have to be able to say at some point you need to be able to do this, there needs to be some type of a process. And that's why the PSC is so important in this, so that if they say to Norfolk, let's assume the bill passes in its current form, which we hope it doesn't, if the bill would pass, and at the end of the day the utility says, you know, it's just not in our long-term interest to do that. Well, what about the long-term interests of the city of Norfolk? What if it's Lincoln? What if it's Grand Island? What if it's Scottsbluff? So we do have some real serious concerns about the application of the bill. Again, we really look forward to working with this committee as well as Speaker Flood on resolution of these issues that we have brought forward today. We think this issue absolutely needs to be addressed, and it needs to be addressed this session because this has been a longstanding problem. We've had city after city bring this same issue forward. We really didn't know how to handle it, so I really commend Speaker Flood for coming forward with something because it's more than we did. Even though we're here in a neutral position, presenting some issues and some concerns about his proposal, at the end of the day we've had cities like Central City come forward and say that hey have an ethanol plant, they're ready to go, and the company involved said, nope, we can't do it because we just can't provide you the natural gas. That particular city administrator was able to find another system somehow by which he could get...another pipeline that was close by, by which they could access it. And within very short order they were informed by the other company that, no, they now could provide that. So in any event, we do think that this is important. And I'd be happy to answer any questions that you might have. [LB1115]

SENATOR KRIST: Any questions for Lynn? I have a comment and a question. As I look through this piece of legislation, and I didn't find as many references as you did in your paid political announcement for the PSC. But... [LB1115]

LYNN REX: And I have not talked to them, but I will after this hearing. (Laughter)
[LB1115]

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SENATOR KRIST: But I did find several references myself that seem like we were bypassing the current structure the PSC provides, both to protect the consumer and the provider of the service. So point well taken. My question though, and everyone agrees this is a problem that we need to do that, it seems to me that your comments though have gotten me to a point where I'm protecting one bad actor on one side potentially from a bad actor on the other side. By that I mean a provider that doesn't want to expand because economically it's not in their best interest as opposed to the interests of the city that wants to expand because it wants an economic base. Do you think that's...that that is afforded for in the current structure with PSC oversight, or do you think we need to go further and change the PSC oversight in terms of making that a priority for economic development? [LB1115]

LYNN REX: That's a really good question. And my, this is just an initial thought, and I'll give it some more thought and get back to you with probably a more detailed response. But first of all, I don't think you have two bad actors. I think you have two good actors on both sides. [LB1115]

SENATOR KRIST: In this case you're absolutely right. [LB1115]

LYNN REX: I think you have two good actors. I think that you have basically the jurisdictional utility that reports to stockholders, we understand that. You have mayors and city councils and village boards that report to citizens. And you have businesses that have to report to their stockholders. And you have the PSC that is the neutral party in this. And I guess what I'm suggesting is that there does need to be oversight. We think the PSC is the appropriate place for that oversight to occur. And I do think that the purpose, what Senator Flood was trying to accomplish with this was to streamline the regulatory process because my guess is, and I've not ever been before the PSC, but my guess is that it's not a walk in the park, but it's not supposed to be. By the same token, I think that there may be a way, and maybe this bill is the catalyst for doing that, to say that you can have an expedited process for addressing some of this. And I think that's where LB658, that passed in 2009, might be a good starting point, because really that is for these types of projects, and it does still allow PSC oversight. [LB1115]

SENATOR KRIST: Thank you so much. I really enjoy your testimony. You usually dissect it and get to the point. I appreciate you coming forward. [LB1115]

LYNN REX: Thank you for your time, thank you. [LB1115]

SENATOR KRIST: You bet. Next testifier in the neutral capacity. Welcome. Yeah, we have evolved down from the Chair to the Vice Chair to the flunkey, so bear with me. (Laughter) [LB1115]

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LAURA DEMMAN: (Exhibit 3) Good afternoon, Senator Krist and members of the committee. My name is Laura Demman, L-a-u-r-a D-e-m-m-a-n. I'm the director of the Natural Gas Department at the Public Service Commission, testifying neutral today. Commissioner Rod Johnson, of the commission's 4th District, had intended to testify today, but he is ill and unable to be here. The commission understands the goal of LB1115 to spur economic development by providing a method to expand natural gas capacity and facilities into underserved areas. As a general matter, the approach in the proposed bill is contrary to established principles of rate regulation which are reflected in the State Natural Gas Regulation Act. For example, any utility property generally must be in operation at the time that those costs are collected from ratepayers by being included in rates so that customers don't pay for speculative investments. Costs must be prudently incurred as that term has been defined by a body of case law. Additionally, the act prohibits granting unreasonable preference or advantage to any person and prohibits subsidization of one class of ratepayers by another. With these responsibilities under the act, the commission carefully evaluates how costs are allocated, whether costs are prudent, and how those costs are collected from ratepayers. The bill would separate a single category of costs and does not afford the same review. Therefore, any shift away from these established principles should be carefully crafted to minimize detrimental effects to ratepayers. The commission has proposed an amendment intended to make clear the administrative process that would occur for a filing under the bill. And this amendment is attached to my testimony which was circulated. The proposed amendment strikes the original Section 8 and replaces it with an expedited review by which the commission would determine whether a particular area to be served is unserved or underserved. We've outlined the nature of the evidence to be provided and have included a 90-day time line for approval. Once a determination is made, the utility would file a tariff with the commission showing the surcharge to be collected. Additionally, we've added language permitting the commission to review the surcharge that's collected in order to ensure that no overcollection of costs has occurred and order refunds if necessary. We have similar authority regarding collection of gas costs. Finally, we have proposed a change exempting a jurisdictional utility that pursues a project under this bill from the act. The change is intended to clarify that the utility's exemption applies only to that particular project and to ensure that ratepayers do not bear long-term costs of stranded investment. The commission would urge the committee to consider the amendment. The commission is also available to work with the parties on this issue. That concludes my comments. I'm available for questions. [LB1115]

SENATOR KRIST: Thank you, Ms. Demman. Are there any questions? Seeing none, thank you for your testimony. [LB1115]

LAURA DEMMAN: Thank you. [LB1115]

SENATOR KRIST: Thanks for making the trip. The next testifier in the neutral capacity.

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Welcome. [LB1115]

ANDY POLLOCK: Thank you, Senator Krist and members of the Urban Affairs Committee. My name is Andy Pollock, A-n-d-y, Pollock is P-o-l-l-o-c-k. I'm here on behalf of Northwestern Energy, a natural gas company serving Kearney, Grand Island, and North Platte, and I'm here as their registered lobbyist. Let me start off by saying that Northwestern absolutely supports the goal of the Speaker with this piece of legislation, and that is to facilitate economic development, particularly in our rural developments. I can tell you that Northwestern, when we first saw the green copy of the bill, had serious concerns about the bill, and it's a concern that Speaker Flood addressed in his introductory comments, and that was that it might open up service areas, if you will, of one utility to competition by other utilities. And that's something that's kind of been taboo from the beginning of time. I had assurances from the people who drafted the bill that that was not the intent. And we had offered some language which Speaker Flood has incorporated into AM1892. And with that amendment, assuming the committee adopts it, we would support the legislation. So I want to be clear on that. Essentially, what you see, just to give you an example, is Northwestern serves Grand Island. Under this bill it could be read to allow Black Hills, which does not serve Grand Island, to try to claim that Grand Island is an underserved or unserved area and therefore build facilities in Grand Island, which would thwart the principles of natural gas regulation, just plain and simply. With AM1892 that issue, that concern is resolved. And so we thank the Speaker very much for tendering that amendment. I would like to comment just briefly about some of the other things that have been discussed and in particular the...well, I guess first of all I'd address, I'm sorry that Senator Coash is not here, he asked if there were other communities that had similar concerns. And I think Ms. Rex mentioned one community, Grand Island was a community not too long ago that had a similar concern, not for private enterprise but their electrical plant in Grand Island had issues with capacity, they needed more natural gas. And so it was a real life example of where additional capacity could be helpful. And I'm sure there are many more examples that people in the economic development world could point to. We do have just briefly some concerns about the Public Service Commission's AM1861, which has been tendered to you. And I assure you that we'll work with the commission, the league, and the other utilities as well as the Speaker's Office to try to address those. Senator Krist, you mentioned that the bill as drafted may move some things out of the PSC's domain that have been there. And I would submit to you that from my client's standpoint the rate regulation may be a point of legitimate concern. Although, we might have concerns about removing the decision for what's underserved or unserved from the jurisdictional utility that is serving that particular area right now. And we'll discuss those reasons with the Public Service Commission. It's not a...the Public Service Commission has historically not regulated who serves what, with the exception of disputes, the Sarpy County disputes. And while this language wouldn't give the PSC direct authority to determine service territories, it kind of takes a step toward that direction. And we'd have concerns in that regard. Secondly, we think that the way the PSC's amendment is

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drafted it might inject the public advocate into the decision-making on whether an area is unserved or underserved, and we think that would be a mistake and would complicate and prolong the process significantly. That said, I think what you've heard today is clear testament that everybody agrees that there is an issue, everybody agrees that there ought to be a solution to that issue. And as Ms. Rex said, it's just finding the right form, and we'd commit to working with the committee and all the other players to try to reach that resolution. [LB1115]

SENATOR KRIST: Thank you, Mr. Pollock. Any questions? Seeing none, thank you, sir. [LB1115]

ANDY POLLOCK: All right, thank you. [LB1115]

SENATOR KRIST: Thanks for your testimony. Any other testifiers in the neutral capacity? Welcome. [LB1115]

LYNN SCHOOLER: Lynn Schooler, appearing on behalf of the Nebraska Propane Gas Association. I'll be very brief and just echo that we have the same concerns as the League of Municipalities concerning unserved and underserved areas and allowing the companies themselves to determine that. So if there were some changes there, we would be in support of the bill. [LB1115]

SENATOR KRIST: Thank you, Lynn. Any questions for Lynn? You got lucky. And I'll return to the "dudette" in charge. [LB1115]

SENATOR MCGILL: I take it we're on opponents. Is that where we are? [LB1115]

SENATOR KRIST: No, we're on neutral. That was the last neutral. [LB1115]

SENATOR MCGILL: Oh, neutral. Okay, well, that's great. So do we have any other testifiers? Senator Flood. [LB1115]

SENATOR FLOOD: (Exhibit 4) Thank you, Chairman McGill, members. This is my last year in the Legislature, and I'm not going to have the privilege of representing my constituents in this manner as I return to private life. But I want you to know that this bill, if I could fit 38,000 people behind this desk today I would, because everyone of them cares about it. And among the three of you or the six of you I'm talking over 220,000 Nebraskans by and through your representation. And while this bill is not perfect in its current form--and I've got the amendment that I should have handed out before, and I'll have the page do so--I need a champion on this committee that understands natural gas to help us make this work, for not just the Norfolks but the Central Citys, because the 38,000 people that I'm responsible to want to know that these businesses can grow and that they've chosen to live in an area of the state that's ready to progress into the

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future. And that might sound corny on some level, but when you live and work and love a place as much as I like my hometown, like all of you like yours and the areas that you represent, you want the best for them, and you want the best for the next generation. And you want to close your eyes some days and dream about what other opportunities might come to rural Nebraska or to Omaha or to Lincoln. And so I appreciate everybody that testified today. The challenge here is these are private businesses and we're attempting to use a government solution. And so as I appeal to you as a committee and, as Senator Smith who's worked in energy issues for 30 years and probably knows a thing or two about natural gas, I also appeal to those companies that sit behind me that employ folks here, that pay taxes here. I don't want to come into their world and "governmentize" it or to take it over, I want them to go to bed at night, as much as the 38,000 people that I represent are worried about it, and I want them to wake up the next morning with creative solutions. And I had a much different bill in mind when I started this process. But I've been impressed with the dispatch they've shown on how to solve this problem. But it's going to take this committee, this Legislature, and more than anything it's going to take those private businesses, like Kinder-Morgan and Black Hills and Northern Natural in certain areas, and it's going to be about creating capacity. And if I could leave this session knowing that this problem isn't going to be around for the next 20 years, I'd feel really good about the future for some of these businesses. We are going to survive one way or the other. The question is in rural Nebraska at what pace and what level and at what lost opportunities. And I want those opportunities. There's too many young people that want to live and work in this area of the state, I just want to make sure those jobs are there for them. And we want to be productive citizens in Nebraska, we want to produce goods and services. We're proud of being a steel town. We kick out more steel than almost any other Nucor plant out of our community, and it's on trucks across this country. And you know what the average wage at Nucor is? Seventy-eight thousand dollars, \$78,000, and that is worth protecting and growing. And so with that, I don't have the silver bullet, but I want to work with you to find it. And I think somewhere on this committee there's a few ideas bouncing around in some heads that I'd like to know about. And I'm ready to go. [LB1115]

SENATOR MCGILL: Well, I am with you, Speaker Flood. I'm sorry I missed the hearing due to other bills. [LB1115]

SENATOR FLOOD: No, no, I know. [LB1115]

SENATOR MCGILL: And I look forward to reading the transcript and hearing from people in here individually. But in a world where why not locate...why should a business not locate in Norfolk, with the technology we have, and people should be able to live there and make a good living and be attractive for other businesses to come there. So I am with you. Senator Krist, did you have a comment? [LB1115]

SENATOR KRIST: Sure, a comment and a question. First of all, I think the people

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behind you that testified in any capacity, there's clear understanding that there is a problem that needs to be solved. You had probably some of the sharpest minds come forward and say the PSC cannot be uninvolved, yet we want to protect the expeditious nature to move forward. I think you have that resolve from this committee. It is an issue and I think it can be solved. It will take this committee and the experts out there to do that. And then the only other question is, can we have a Speaker priority? That would be the other part of it. I'm not going to put you on the spot. (Laughter) That was... [LB1115]

SENATOR FLOOD: Well, let me just make this comment. The shoemaker's kids don't always get shoes first, but they always get shoes. (Laughter) [LB1115]

SENATOR KRIST: Thank you, Speaker. [LB1115]

SENATOR FLOOD: Thank you. [LB1115]

SENATOR MCGILL: Are there any other questions from the committee? Comments? No. Thank you, Mr. Speaker. Okay, Senator Mello. I'm glad I was able to make it back for this. LB1137. Let's let people file out of here real quick. Okay. Just a second. If everybody could quickly funnel out of the room so we can move on. All right, Senator Mello. When you're ready. [LB1115 LB1137]

SENATOR MELLO: (Exhibit 5) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District, in south Omaha. LB1137, which would adopt the Nebraska Municipal Land Bank Act, is one of several bills I introduced this session as a result of the LR203 interim study before this committee dealing with the problems municipalities face from vacant and abandoned properties. Vacant properties have long been a problem for Nebraska municipalities, from the urban south Omaha neighborhoods I represent to the small villages in rural Nebraska. Particularly in older communities, vacant properties can have the effect of depressing property values and straining our already thinly stretched public resources. In addition, these abandoned buildings present serious health and safety risks, including increased risk of fire, as demonstrated by the multiple fires in the Omaha area in recent weeks that started in abandoned houses but soon spread to neighboring properties. The current foreclosure crisis has only further worsened the problem, adding an increasing number of homes and businesses to the vacant property rolls. The concept of land banking, which has grown in popularity in recent years, offers municipalities an aggressive new set of tools to address vacant properties and the urban blight that can result. Land banks are public authorities created to efficiently acquire, hold, manage, and develop vacant, abandoned, and tax-foreclosed properties. While in 2005 there were just a handful of land banks being operated exclusively in older urban communities, a number of land banks nationwide have exploded to 79 different initiatives in communities of all sizes. As

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the housing crisis brings some of the highest foreclosure rates on record, existing land banks in other states and communities have emerged as a key tool to help stem the decline in property values that affects not just the vacant properties themselves but neighboring properties as well. Just last month 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 an example, the land bank in Cleveland recently 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 put the land to good use. This committee should have received a copy of AM1750, which would replace the bill and includes additional language which had not been finalized at the time of bill introduction. Touching briefly upon some of the major aspects of the amendment, it would allow a municipality or a group of municipalities to form a land bank by ordinance. Land banks would have a variety of basic powers, including the ability to hire staff, adopt and amend bylaws, sue and be sued, issue bonds, enter into contracts, and obtain insurance. Land banks would not, I repeat, would not have eminent domain authority or the ability to levy property taxes. Funding for land banks could come from a variety of sources, under the bill and the amendment. In addition to the ability to receive any and all local, state, and federal funding, a land bank may generate revenue through investment of its assets or by leasing land-bank-owned property. Once a property has been transferred from the land bank back to private ownership, the land bank also would receive 50 percent of the property taxes collected on the property for a five-year period. Section 16 of the amendment contains some of the most important powers given to the land bank. Under this section, the land bank can extinguish any tax liens on property it receives and participate in both judicial and nonjudicial tax-foreclosure sales. Additionally, this section would give the land bank's bid at a tax-foreclosure sale priority over all other bids. The amendment also gives the land bank the ability to receive property from a land reutilization authority, although only one such authority currently exists, in Douglas County. While land banks are ultimately a separate political subdivision, they would be subject to any limitations placed on them by the municipality that created them. Municipalities have the ability to establish the priorities of a land bank in the acquisition and deposition of property, as well as the ability to require a supermajority vote of the land bank board for many decisions. My office delivered copies of the book that you see here, Land Banks and Land Banking, by Professor Frank Alexander of Emory University School of Law in Atlanta, Georgia, who is probably the country's foremost expert in the field of land banking. I want to thank Professor Alexander not only for his assistance in drafting LB1137 and the amendment, but also for his willingness to join us today and testify in support of the bill. I will likely defer many of the detailed questions to him, because I tried to make sure our testimony would not overlap, but otherwise I'd be happy to answer any questions you may have. [LB1137]

SENATOR MCGILL: Any questions from the committee? No? Thank you, Senator Mello. First proponent. [LB1137]

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FRANK ALEXANDER: Madam Chair Senator McGill, members of the Urban Affairs Committee, my name is Frank Alexander, F-r-a-n-k A-l-e-x-a-n-d-e-r; I'm a professor at Emory Law School in Atlanta, Georgia. And I'm delighted to be in Omaha and with you today and appreciate your taking the time to allow me to testify and to consider LB1137 and AM1750. My comments, to the extent I refer to specific provisions, will be with respect to the text you have on AM1750. Because Senator Mello has already inflicted upon you the text of my book, I am not going to hand out to you written testimony. Instead, I'll just make a few brief, relatively brief, observations and then be happy to take questions on any aspect of this legislation. As the senator indicated, land banks have been around in the United States for about 30 years: first St. Louis, then Louisville, Cleveland, and Atlanta by 1990, focusing primarily on tax-delinquent properties but with a very thin set of powers and not very effective. In the late 1990s, I went up the road, up I-75, from Atlanta to Flint, Michigan, and started working in Flint and Detroit as they began to encounter significant inventories of vacant, abandoned, and tax-delinquent properties. We were working also--I was--with my colleagues in New Orleans, as both pre-Katrina and post-Katrina, to deal with these properties. This emerged into a new national organization we created--I cofounded with Dan Kildee two years ago, three years ago now--called the Center for Community Progress. Our goal and the goal of land banking is to find ways to deal with vacant and abandoned properties. The senator gave a completely accurate definition of a land bank, which is a governmental authority that focuses on the conversion of vacant, abandoned, tax-delinquent properties into productive use. The key at all times, from my perspective, is to remember what a land bank is doing and what it's not designed to do. It is not a magic bullet any more than legislation resolving your natural gas pipeline controversies is. A land bank is to deal with those properties that the market itself has abandoned. A land bank deals with those properties where no one wants them, where the owners have walked away, the mortgagees won't touch them, where taxes exceed fair market value, where there's badly fractured title or other issues. As your legislation states, the goal is to turn these vacant spaces into vibrant places. Or, as I have said in other occasions, the goal is to find a way to turn the liabilities into assets. I haven't been to Omaha in 30 years. I've never been to Lincoln. But on the way here this morning from the airport, I was taken down 24th Street in north Omaha. Could that be right? Is that where we were? And I was struck by the number of homes that were boarded or that were deteriorating and not boarded, that were partially burned, that were collapsing, not fit for occupancy. And I confess, I'm one of the weird folks, I looked at it and said, "That is so exciting, because that's gold; those are assets for the community." The question and challenge is to find out how to convert those liabilities into assets. The data is real clear. Every piece of vacant, abandoned property is a liability. It's first a liability because it's not paying taxes right now. It's second a liability because it drives down the property values of adjoining properties. Our empirical work in Flint, Michigan, where we spent \$3 million in 2002 demolishing structures, doing nothing but demolishing structures...within 24 months it had increased the adjoining property values by in excess of \$100 million, a 30-to-1

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return on every demo dollar. The goal is to convert these liabilities into assets. Now let me help you all be real clear about what a land bank is not. It, first, is not a financial institution. It does not take money in, and it does not give money out. It is not a lender. I've made that mistake in the senate banking committee in my home state of Georgia. It took me awhile to get that straight. Second point, a land bank is not a developer. This is not a development authority or redevelopment authority as you may have those here in Nebraska. A land bank specializes in this junk property that no one else wants and puts it back into productive use. On rare occasion a land bank may partner with a developer, but most of the time a land bank takes the property, cleans it, whether demolition or rehab, and then gets it back on the tax rolls or other productive use. As Senator Mello said, a land bank does not exercise the power of eminent domain. So it's not out to take anyone's property. A land bank is not withdrawing property from the marketplace. Insofar as the private market will deal with property, more power to it. A land bank is to facilitate the gaps in the marketplace, the very properties that are hurting our communities, increasing fire costs, police costs, beginning to undermine our public schools. In the legislation you have before you, particularly in the form of AM1750, there are four key features that characterize this as the third generation of land banking. I helped do a little bit of the first-generation statutes back in the 1980s, early '90s. I helped write the Michigan and Ohio land bank statutes in '01 and in '02 and most recently authored the New York Land Bank Act, which Governor Cuomo signed last summer. And I've got parallel legislation pending in Pennsylvania, Georgia, Missouri, and somewhere else, I forget it. But what you have before you...Senator Mello was too kind, I did not draft this bill. I looked at it and said, "This is the best example of land bank legislation in the country." It actually is clear and readable and makes sense; it's not the things I normally draft. (Laughter) There are four features of this bill that I love. First is that this is entirely permissive at the local government level. It does not create any obligations on any local government in Nebraska to do anything. It's a tool that the Legislature is making available to the municipalities that want to exercise it. Second, it is incredibly flexible. The local governments that create a land bank use it in the manner that meets their own needs. I do not know, and I apologize, the demographics of Lincoln as compared to Omaha. But what I saw in Omaha was more than enough for me to realize that a land bank, at least along 24th Street, is exactly what is needed there. If a land bank is to acquire, manage, and dispose of real property, it's got to be questioned how is it to be used. Well, this bill allows the local government to determine how the properties are to be reused. In some communities the most important thing is public space, whether it's for parks or community gardens. That's popular in Detroit right now. In Atlanta we use the land bank for affordable housing because there is simply a shortage of safe, decent, and affordable housing. This bill leaves the priorities to the local government that creates the land bank. Third feature of this legislation is that it can be completely internally financed. One of the reasons your land reutilization authority, which I did study back in 1998, has not proven to be that effective is it has no financing mechanism. It doesn't have strong disposition authority. This bill has, as Senator Mello indicated, numerous ways in which a land bank operations can be funded, including the

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five-year, 50 percent tax recapture; the sale of properties on the open market, where there is a market; and other methods. The fourth most important feature about this bill is the opportunity for intergovernmental collaboration. Again, I don't know y'all's state well enough, and I apologize. But in most jurisdictions where I work, the need is overriding for a municipality to work with other municipalities for economies of scale, for comprehensiveness in planning. This piece of legislation before you maximizes the opportunities to combine land banking with intergovernmental collaboration and cooperation. Never mandatory, but it makes clear that this is a new tool that could be available to be shared by counties, by cities, across a region. Those are the key features of this legislation. I'm happy now to take questions and dive down into details of any particular line of AM1750 or LB1137 that you may have any questions about. But most importantly, I just want to thank you for what you're doing here because it will serve as a model back for my home state of Georgia and the rest of the United States. Thank you, Madam Chair. [LB1137]

SENATOR MCGILL: Thank you. Questions from the committee? It's a lot for us to take in. [LB1137]

FRANK ALEXANDER: It is. But I'm excited about it, and I'm happy to be of assistance if any of you have any questions at any time. [LB1137]

SENATOR MCGILL: Well, it's nice to know that you like the language here. That's great. Senator Cook. [LB1137]

SENATOR COOK: Thank you, Madam Chair. And thank you, Professor, for coming... [LB1137]

FRANK ALEXANDER: My pleasure. [LB1137]

SENATOR COOK: ...up to north of the Mason-Dixon line again. What were the primary challenges...I've done some research about ideas that they attempted in Detroit, one of them involving eminent domain. We haven't said those words in here, by the way. What have been the challenges when you've brought it for initial discussion in legislatures or among community leaders in a Detroit or in a Flint? [LB1137]

FRANK ALEXANDER: I wish you'd asked me about other cities, (laugh)... [LB1137]

SENATOR COOK: Okay. [LB1137]

FRANK ALEXANDER: ...Senator Cook, but I will answer... [LB1137]

SENATOR COOK: Well, I just was thinking about Detroit... [LB1137]

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FRANK ALEXANDER: Sure. [LB1137]

SENATOR COOK: ...because of the articles that I've read. [LB1137]

FRANK ALEXANDER: I will answer the question; it's a fair question. [LB1137]

SENATOR COOK: All right, thank you. [LB1137]

FRANK ALEXANDER: I was first called into Detroit by the mayor... [LB1137]

SENATOR COOK: Yeah, Bing? Or the...? [LB1137]

FRANK ALEXANDER: Gosh, no, not Mayor Bing, though I am working with Mayor Bing on it now. This goes back three mayors, 15 years ago. And I went up, and they called me in to brainstorm their inventory of city-owned properties that were tax-foreclosed under Michigan law. This is in '99. They have 40,000 properties in 1999 owned by the city of Detroit through its old tax-foreclosure process that have badly fractured title. And they asked me to come up with a solution. And so I said, well, we could redraft and create a land banking program for you. But it died in Detroit because...internal politics. The city council would not agree to let the mayor have any say. The mayor would not let the city council have any say. And the planning department didn't want to obey...or follow the instructions of the city council or the mayor. So they deadlocked. And then I went up the street to Flint. As you know, it's just up the street. And they had a very different attitude. The city of Flint was in receivership, bankrupt. Genesee County said, we've got to do something. And so then we wrote the legislation. I'm pleased to say that under Mayor Bing's leadership, the Detroit Land Bank Authority was finally created, 12 years later, just last spring, and it's beginning to deal with that. But the Detroit situation is different than most. Detroit has built up this very large inventory of properties it already owns that it doesn't know what to do with. Using the powers of the Michigan Land Bank Authority statute, it can now more effectively put those properties back into productive use, whether for community gardening or green spaces, bike paths, to a certain extent with housing. A better example, perhaps, is Cleveland; their new land bank has really taken off. It was just created and became operational 15 months ago. They...as Senator Mello indicated, Fannie Mae and Freddie Mac, Bank of America, and Wells Fargo have transferred significant volumes of their seriously deteriorated REO, the real estate owned, post-foreclosure, and paid \$7,500 per parcel. So they didn't just give the property; they gave cash to the land bank to do the demo work up there in Cleveland. So the politics of Detroit were different. We now have 42 land banks that exist in Michigan, 43 if we count Detroit as well. I've got 15 in Georgia. At Governor Cuomo's request, we hope to get the first 10 kick-started in New York in the next six months. And those will probably be Buffalo, Syracuse, Rochester. As you can see, older industrial cities, but we're also doing this in Little Rock, Memphis, New Orleans, Baton Rouge... [LB1137]

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SENATOR COOK: Um-hum. [LB1137]

FRANK ALEXANDER: ...this kind of state-enabling legislation. [LB1137]

SENATOR COOK: Right. [LB1137]

FRANK ALEXANDER: That was a long answer, I apologize, Madam Chair. [LB1137]

SENATOR COOK: Well, I appreciate it. [LB1137]

SENATOR MCGILL: No, that's very helpful. [LB1137]

SENATOR COOK: Very complete. Thank you, Professor. [LB1137]

SENATOR MCGILL: Senator Krist. [LB1137]

SENATOR KRIST: Thanks for coming. [LB1137]

FRANK ALEXANDER: My pleasure. [LB1137]

SENATOR KRIST: I'm...I did read part of your book. And, to be honest, it appears to me that we're sitting in front of someone who has tried, failed, tried, failed, and tried, succeeded, succeeded. So I so much appreciate your comments about this piece of legislation because there's nothing better than someone who's been there, done that, worn that T-shirt, tells us how to go forward. Is it the best piece of legislation that we can have? Would it...there is any suggestion that you might look at in terms of making it better? [LB1137]

FRANK ALEXANDER: Oh, Senator Krist, you're so kind, but you don't ever ask a law professor is there anything else he has to say. (Laughter) But... [LB1137]

SENATOR KRIST: Okay, you got 30 seconds. Go. [LB1137]

FRANK ALEXANDER: All right. Three seconds, yes. But what you need to fix are not things to fix in this bill. [LB1137]

SENATOR KRIST: Okay. [LB1137]

FRANK ALEXANDER: You need to fix your property tax foreclosure system. It's 60 years out of date and creates a dilemma of properties that are tax delinquent sitting for four years, vacant, before you can do anything, even with this bill. I'm also...I haven't researched it, but I'm puzzled by your code enforcement liens and whether the city of

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Lincoln or the city of Omaha or others have the ability to enforce housing and building code violations. As I rode down 24th Street, I can't find any justification for letting that many structures stay boarded up in that deteriorated status for this long. It's either because they're hung up in your tax foreclosure system, or your code enforcement system is woefully inadequate. And there I'd cite New Orleans. New Orleans in the past 18 months has completely turned around and has adopted one of the most aggressive code enforcement programs in the entire country and have been yielding, as someone has observed, yielding more revenue, ironically, to the city of New Orleans, through active code enforcement, than any other program. [LB1137]

SENATOR KRIST: Necessity is the mother of invention. [LB1137]

FRANK ALEXANDER: Yes. Well, I don't wish Katrina upon anyone. [LB1137]

SENATOR KRIST: Absolutely. [LB1137]

FRANK ALEXANDER: But I hear you. Those are the two things. But I wouldn't try to fix them in this bill. [LB1137]

SENATOR KRIST: Thank you so much. [LB1137]

FRANK ALEXANDER: Yes, sir. [LB1137]

SENATOR KRIST: Thanks for coming. [LB1137]

SENATOR MCGILL: Yeah, that's great. Other questions from the committee? [LB1137]

SENATOR ASHFORD: I actually... [LB1137]

SENATOR MCGILL: Yes, Senator Ashford. [LB1137]

FRANK ALEXANDER: Senator Ashford. [LB1137]

SENATOR ASHFORD: You've really hit on exactly the frustration that I've had in working with affordable housing. And that is the lack of code enforcement. And also the...or just the, you know, basically, over the years, code enforcement having a lesser priority budgetwise, so there's just not the foreclosures that are necessary. And the inability to get title, clearly the case. As a result, there's been a...what has happened over the last 25 or so years, there has been an influx in federal money, obviously, as there has been in many cities. The problem with that is that it is...it's a bit, not a bit, it is spotty within the areas that you've designated, North 24th Street, to the east and the west. And the money goes to certain areas, based on criteria that are almost one-off. They aren't so much systemic or systematic changes as you're talking about. One of the

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questions I have, in these other cities, in New Orleans, what, for example, with the replacement housing that has gone in, what do they do about property tax? Do they defray property tax for a period of years? Do they...what do they do about property tax and recovering...? Once those houses are redeveloped, those homes are redeveloped or replaced...I suppose it depends on the program that these homes are in. Is that...would that be accurate? Or are they back on the tax...? Generally they wouldn't be back on the tax rolls in the near term, would they? [LB1137]

FRANK ALEXANDER: Actually, your last point...they are. [LB1137]

SENATOR ASHFORD: Are they back on the tax rolls? [LB1137]

FRANK ALEXANDER: As soon as they are conveyed...in New Orleans' case, it's through the New Orleans Redevelopment Authority and, in part, using what are called Louisiana Land Trust properties, which are the Katrina federal dollars that bought it out. [LB1137]

SENATOR ASHFORD: So they subsidize those. But then how are the property taxes determined? [LB1137]

FRANK ALEXANDER: Nothing in... [LB1137]

SENATOR ASHFORD: How are the valuations determined? [LB1137]

FRANK ALEXANDER: Oh, different questions there. Nothing in what I do changes the millage rate prospectively for anything. The only thing about what I do is that when property is held by a land bank, it's governmental owned, so it's tax exempt during that period of time. [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: Your questions of both incentives for different kinds of developments, yes, there are other programs that create incentives, whether it's for a HOPE VI kind of public housing redevelopment in New Orleans, or in Atlanta or elsewhere... [LB1137]

SENATOR ASHFORD: That was maybe the last HOPE VI ever, isn't it? [LB1137]

FRANK ALEXANDER: Perhaps it may well have been, but it...yes, and they're still going on. So the construction of replacement housing for the HOPE VI is still going on with federal subsidies and HUD subsidies. Your earlier reference, Senator Ashford, to the NSP program, the Neighborhood Stabilization Program, you're absolutely correct. That is a very significant \$8 million infusion of federal money to the local level. But it is

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census-tract-specific; it doesn't address system flaws. [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: And if anything, what we should have learned over the past six years is that we've got fundamental systemic failure both in mortgage originations/secondary mortgage market but also in property tax... [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: ...enforcement and in code enforcement. We built systems, if we were lucky, in the early half of the 20th century for thriving markets... [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: ...not for down markets. [LB1137]

SENATOR ASHFORD: So if you overlay a conventional, traditional methodology for evaluation of property tax collection onto an area that is...has been in deterioration for 50 years, it doesn't really go together. [LB1137]

FRANK ALEXANDER: No, well, there are two separate things. One is valuation, and the other is enforcement. [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: The valuation becomes a part of the problem. Because when owners walk,... [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: ...they no longer challenge the valuation. You'll have a multifamily project that's abandoned,... [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: ...but the owners walked away from it doesn't challenge the fact that it's not worth the \$300,000... [LB1137]

SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: ...the assessor calls it. [LB1137]

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SENATOR ASHFORD: Right. [LB1137]

FRANK ALEXANDER: So that piece of the problem feeds the problem. [LB1137]

SENATOR ASHFORD: So what happens with that then? [LB1137]

FRANK ALEXANDER: Well, from my perspective, the goal is to then do a clean, much shorter tax enforcement proceeding that results in marketable, insurable title. And you're part of the way there with your judicial tax foreclosure statute. Why it still takes three years...I mean, I'd recommend some changes. We did...in Georgia, I took the one-year right of redemption and moved it presale. It says, you've got one year, but after you've been delinquent for a year, we're coming after you in as little as three months, we're putting that property up for sale. But we do it with constitutional notice to all parties, so we've got better title insurance coming out the back end there. [LB1137]

SENATOR ASHFORD: Then do they train assessors on how to value those types of properties? And how do they...? [LB1137]

FRANK ALEXANDER: Well, upon resale, the property then is in new ownership, and that new owner will then work with the assessor. Yes, sir. That needs to be done and is...a lot of work is being done on that. That's not as much my area of focus. But it is being done both... [LB1137]

SENATOR ASHFORD: But it is a part of it, isn't it? [LB1137]

FRANK ALEXANDER: It is a part of the problem, whether it's New Orleans, Detroit, Atlanta, Syracuse,... [LB1137]

SENATOR ASHFORD: Okay. [LB1137]

FRANK ALEXANDER: ...yes, sir. [LB1137]

SENATOR ASHFORD: Okay. Thank you. [LB1137]

SENATOR MCGILL: All right. Thank you, Doctor. I think that's it. [LB1137]

FRANK ALEXANDER: (Laugh) You're kind. [LB1137]

SENATOR MCGILL: And we've lost some committee members. You scared them away. (Laugh) [LB1137]

FRANK ALEXANDER: I apologize for scaring them away. [LB1137]

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SENATOR MCGILL: No, they have other commitments as well. [LB1137]

FRANK ALEXANDER: Thank you very much, Senator McGill. [LB1137]

SENATOR MCGILL: So thank you for coming here. And don't miss your flight. [LB1137]

FRANK ALEXANDER: Thank you. [LB1137]

SENATOR MCGILL: Get home. [LB1137]

FRANK ALEXANDER: Do we have...? We've got a few minutes, I think. [LB1137]

SENATOR MCGILL: Okay, good. The next proponent then. [LB1137]

RICK CUNNINGHAM: Is somebody else going to actually get here? [LB1137]

SENATOR MCGILL: Sorry, Rick. [LB1137]

SENATOR LAMBERT: Waiting for an audience. [LB1137]

SENATOR MCGILL: Well, we're down to Senator Lambert and I. [LB1137]

SENATOR LAMBERT: Well, the two most important. [LB1137]

SENATOR MCGILL: Exactly. [LB1137]

SENATOR LAMBERT: Yeah. Thank you. [LB1137]

SPENCER DANNER: (Exhibit 6) Thank you, Madam Chair, members of the committee. My name is Spencer K. Danner, Jr., S-p-e-n-c-e-r K. D-a-n-n-e-r, Jr. I'm the community affairs officer and manager of the community development corporation for Mutual of Omaha Bank. We have locations, obviously, here in Lincoln, Nebraska, and Omaha and across the United States. I am also a board member of Habitat for Humanity in Omaha. My mission as a longtime resident of the Omaha community is to ensure that we become a mechanism for positive, sustainable change in the creation of economic growth in all the communities in which we all live and work. Nebraska's vacant, abandoned, and tax-delinquent properties have large costs associated with demolition, safety hazards, and the decline of neighborhoods. We have to enable these municipalities in Nebraska that are concerned with these issues a chance to turn these vacant and blighted spaces into great, vibrant places. Additionally, they must have access to obtain properties and assist in the development and demolition of these condemned and vacant properties so they can be put into productive use, as stated earlier. I'm going to state a couple figures. The median household income, at least from

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an Omaha perspective, is \$70,600. Roughly 36 percent of Omaha residents, total household income, make under \$57,000. Out of that number, 82 percent of those individuals are in north and south Omaha. There is an obvious correlation between income and geography when it comes to our major cities of Lincoln and Omaha. These vacant and condemned homes are being used for a multitude of despicable acts: drug stores with illegal drugs and dangerous over-the-counter mixed drugs, sexual indecencies such as rape, incest, child molestation. We hear these in the news all day, every day. We hear these in...I work quite a bit with the communities and with a lot of youth groups, and I couldn't tell you the number of stories that I hear on a daily basis, talking to these kids and talking to these young adults, in regard to the things that happen in these abandoned properties down north and down in south Omaha. Underage exploits of kids drinking, doing drugs, and also other sexual encounters are also happening in these abandoned houses. This might, obviously, sound unbelievable, but I have personally been in these houses. I have talked to kids and adults who willingly or reluctantly participate in these actions. I personally have witnessed "For rent" signs and "For sale" signs actually stolen so people won't know that those houses are actually for rent and for sale. And they break into those houses and perform these type of acts there quite often. I've walked into homes and seen homeless people sleeping in basements. I've seen bottles, syringes, stolen pieces of houses, whether they're pipes or drywall or whatever, all throughout the houses. In most cases, it's better to demolish these homes rather than attempt to rehab or rent, to convert these for...just for tax delinquencies. Early in the past decade, the Housing Authority in Omaha...those projects of Hilltop and Pleasantview were demo'd. According to Omaha Police Department, the reported drug and domestic violence calls dropped 72 percent the following year just in those areas. That's amazing. We have over 400 condemned or vacant properties that are currently on Omaha's list, and these particular properties sit for almost ten years, in the same area, same boarded houses, all the time. I don't know about you, but I, personally, I don't know how likely someone is going to want to invest and purchase a property if they know a crack house is on a corner or if they know a boarded house is right next to them. Not only that, those property values go down tremendously. And when those property values go down, tax values do not; the tax dollars still stay the same. And in some instances, they go up. And that hurts individuals who want to invest in small-business opportunities, entrepreneur opportunities, and actually wanting to purchase these homes in these areas. This is obviously not a race issue. It's not a black issue; it's not a white issue; it's not a Hispanic issue. It's a class issue. It's an opportunity issue. And it needs to be on the forefront of not only our legislation here in Nebraska but in a lot of states. And I definitely commend what Mr. Alexander has done across the nation. I actually read his book last year. And it was my first time meeting him this year. I will tell you, I was very, very appreciative to be a part of this. I was not...I didn't anticipate to be the one to pick him up from the airport, so...but I was very, very honored to do that because, again, I heard a lot about the individual before he came today. And as you saw today from speaking with him, he's very infectious, and he cares about this issue. And he sees exactly how much this issue

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is...just from our drive down north, how one block can really make a big difference on somebody that doesn't live here and hasn't been here in 30 years. Building a land bank won't stop crime; it won't all of a sudden build economic equality or resolve the class issue here in the city. What it will do is help reduce crime; it'll help provide investment opportunities for individuals and families, spur community growth and stabilization, enhance economic growth and revitalization, encourage small-business and entrepreneur investments. The land bank is not just about acquiring land or demolishing blighted properties, this is about community reinvestment. Nebraska needs a public corporation in the government capacity that will be a permanent and perpetual responsibility for this endeavor. Additionally, it is equally important to identify accountable professionals who have the expertise in finance, mortgage, property management, and community affairs to manage and run this land bank. That is extremely important. There's not a purpose to approve the land bank if we can't put the right people in charge of it, because then it goes to waste. It is...eventually, this may lead to the rewrite of the tax foreclosure statutes in the future. But it is absolutely ridiculous to have vacant, abandoned properties sitting in these neighborhoods for five to ten years. And if I live next to one of these properties, as I stated before, my value goes down; there's more crime; people move out of the neighborhoods; and you have more abandoned houses; and it just becomes an extreme epidemic. The land bank will provide a direct transfer of property out of the tax foreclosure status to the land bank, so the land bank does have the power to relinquish the taxes. It's these ideals that a land bank initiative is needed for the state of Nebraska. Please consider the responsible establishment of the Nebraska Land Bank. I thank you for allowing me to speak today, and I'll take any questions. [LB1137]

SENATOR MCGILL: Thank you. Any questions from the committee? No? Thank you very much. [LB1137]

SPENCER DANNER: Thank you all. [LB1137]

SENATOR MCGILL: Next proponent? [LB1137]

DAN BREWER: (Exhibit 7) Madam Chair, committee members, my name is Dan Brewer, B-r-e-w-e-r. I'm the director of construction for Habitat for Humanity of Omaha. The city of Omaha has approximately 2,400 unsafe and unfit homes. There are 450 on the city's demolition list, with only 15 to 20 taken down each year by the city. These blighted houses lead to gang activity and violence, as you've heard before. The land bank legislation as proposed by Senator Mello is the solution. It would enable the city to rid itself of blighted properties that are preventing investment in the most vulnerable areas of our community. Last year Habitat for Humanity of Omaha developed and implemented a demolition program funded by private donors and Community Development Block Grant funds. But this only touches the surface. Help us stop wasting energy on circumventing the problem with many solutions. I ask you to support and

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drive forth this legislation to solve the problem of blighted structures in Omaha once and for all. The removal of these condemned houses would reduce crime and spur investment in the areas of Omaha that need it the most, thereby revitalizing neighborhoods. It makes sense whether you are a Democrat or a Republican. In closing, let me say that, as the lead person in our demolition program, I am usually the first one inside a condemned house. I see firsthand the broken furniture, personal belongings thrown about, walls covered with gang graffiti. I see the mattresses on the floor or stuffed into closets, surrounded by discarded fast-food containers and liquor bottles. And I see the drug paraphernalia. I see the floors covered with animal and human waste and bathtubs used as latrines. However, I am fortunate; I'm on the street when we demolish them. I see the children peering out of their windows, watching from next door as the structures crumble. Neighbors come up to me and grasp my hand and thank me and tell me how happy they are to see it go and how difficult it was to keep their children from playing inside. It saddens me to say that these horrible conditions are common in the city of Omaha. And they occur within a mile or less of downtown. Imagine if we could get rid of all of them. This land bank legislation would allow that. Thank you. [LB1137]

SENATOR MCGILL: Any questions from the committee? No? Thank you very much and for all the work you do. [LB1137]

DAN BREWER: Um-hum. [LB1137]

SENATOR MCGILL: Any other proponents? Hello. [LB1137]

RICK CUNNINGHAM: I actually have notes today. [LB1137]

SENATOR MCGILL: Oh, wow. [LB1137]

RICK CUNNINGHAM: (Exhibits 8 and 9) Madam Chair and members, those still with us today (laughter), of the Urban Affairs Committee, I want to thank you for this opportunity...I keep wanting to get into the exciting stuff. I'm... [LB1137]

SENATOR MCGILL: Yes, who are you? [LB1137]

RICK CUNNINGHAM: ...Rick Cunningham, C-u-n-n-i-n-g-h-a-m; that's Rick, R-i-c-k, with a "Y." [LB1137]

SENATOR MCGILL: "Y." (Laugh) [LB1137]

SENATOR COOK: Thank you. [LB1137]

SENATOR LAMBERT: "Y"? [LB1137]

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RICK CUNNINGHAM: With a "Y." [LB1137]

SENATOR COOK: Because we... [LB1137]

RICK CUNNINGHAM: Why? Because that's what my mother named me. But anyway, I am the planning director at the city of Omaha. As such, we are involved in economic development, redevelopment, code enforcement in the city of Omaha; it all falls under the planning department. So thank you for this opportunity to appear before you today in strong support--and in my notes those are all capital letters--of LB1137. The city of Omaha does indeed, as prior testifiers have indicated, find ourselves in I won't say dire straits but we have some problems and challenges, issues caused by the existence of vacant, condemned, and abandoned properties within our borders, problems like safe harbors for crime. You've heard about safety, unfit and unsafe structures, for people getting in and hurting themselves, children being children, exploring and hurting themselves, fire hazards for our public safety staff and police responding, decreasing neighborhood values, both societal and monetary, and our own budgetary challenges in the city, as far as general funds and funds available to deal with these issues. And quite frankly these problems, while big in Omaha, are faced all across the state of Nebraska, so this bill is timely. I have passed around a couple of handouts. One is a study that I had done by our GIS department about vacant and condemned properties within the city of Omaha, particularly focused on the northeast and southeast quadrants, both east of 72nd Street first and then east of I-680. You can see that those properties east of 72nd Street in the northeast quadrant, total of...both privately owned and city owned, and there are only 639 city-owned properties. A lot of people assume we own a lot. So we are not a Detroit. But 6,112 vacant properties, and these are properties without building on them; they are just ground. Condemned properties, there's a lot: 1,237 in the northeast quadrant, only 441 of those with demo orders. We do not issue a demo order unless we want it torn down. I'll get to that later. But the subtotal there is 1,678, for 7,790, 7,790 in the northeast quadrant. And then in the southeast, we can add up another 5,500. So 13,000 vacant condemned properties east of 72nd Street. If you extend that western boundary to I-680--and people are usually surprised--that number actually goes to 15,000. And that kind of is in defense of the idea that 72nd Street is no longer the tipping point between the older part of town and the newer part of town. So I've talked about this before. It is something that we need to deal with, and this is an opportunity for us, especially as we look at other parts of our master plan and land use, transportation master plan, etcetera. But...and that, in fact, is one of the reasons why we put this together. I wanted to share with you a little bit about our history and what we do as far as demolition within the city. So I have the bigger one, it's 11 by 17. Basically this demonstrates our dilemma, in that over the years we have seen a very steep decline in general funds available for demolition. The first part of this table talks about federal demolition. And what we've done is we've made up for that by using block grants and any other funds that we can get our hands on to do demolition or do demolition in

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combination with other programs, such as the Habitat for Humanity program that we just kicked off in 2011. But you can see, you know, 20 a couple years, 13, for federal; 34 last year, that includes projects that were handled by Habitat for Humanity. If you look at, then, how many that we do with general funds: it only goes back to 2006, but 11 in 2006, only 2 in 2011. The reason there's only 2 there instead of maybe 5 is because we had an emergency demolition of a commercial building that cost us \$143,000. And we had to tear it down because it was falling down on the streets. So we had to actually identify where that money was coming from, and that shut down the demolition program. Right now under general funds we tear down the worst of the worst, and usually that is a house that's been gutted by fire and that is imminently falling in on itself, and it needs to be torn down. And then we will issue an emergency demolition order and tear it down. We have a couple of those, about three, right now that we're getting ready to demolish. And those are the worst of the worst. So you can see what we've been able to do with the funds we've had. If it wasn't for block grant money, Home monies, and other programs, we would not have been able to do in the 30s and 40s as it is. I'm not proud of that; that's just reality. Nice thing that goes into sleep mode here. Okay. The program--it's called Project Demolition with Habitat--is a bright star, if you will, a \$1 million program over two years; \$200,000 from block grant; \$300,000 from private and philanthropic sources; 100 targeted demolitions, hopefully. And over these two years, about 40 that were targeted for or done last year, about 11 actually with block grant monies. Highlight some of the problems with getting those properties and demolishing them: the title problems, taxation problems, foreclosures and so forth, getting clear title. That program is focused on voluntary donations, basically, of the land, to clear the title or at least get it in the right hands. So we are quite frankly falling short on what we consider our need for demolition. This translates also to a hollow threat when we issue a demo order. In the past when we issued a demo order, generally what happened in a lot of cases is some entrepreneur would get our demo list and then go and buy that property, fix it, and sell it or rent it. That's not occurring now in the city of Omaha. Not because of our demolition, we have plenty of demolition orders out. It's because of the economy. So...but, nonetheless, when we issue a demo order, people just look at us and thumb their nose at us because we're not going to tear it down, because we don't have the money to tear it down. As we see it, this bill would be another tool for all communities in Nebraska, dealing with the fact that most of our vacant properties, all those that are on the list there, tend to be disjointed. They are not, you know, 50...10, 50 lots all together, but they're all over the community. So if we can be able to acquire that property in the land bank or otherwise, put it together in chunks that are more reasonable and attractive to developers or redevelopers, that would be helpful. So the land bank bill, I think, would be a tool to allow us to be able to do that, to get those chunks of land together that would be attractive. This bill may also, hopefully, speed up the process in which the land reutilization authorities actually give their property to somebody to redevelop. We have a particular instance in Omaha right now where we had a industry that wanted to redevelop, and there was property immediately adjacent to it in foreclosure, and we still have not gotten that property. In fact, things

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have been done so that we would not get that property. The one problem there is the county, you know, they're hoping that they're going to get their money eventually, somehow or another. And so they're not, perhaps, as quick to give us the property so that we can redevelop it. One question that I think we need to look at is how this land banking might work with TIF. I could...we definitely need to have funds going into the land bank, but that's property tax. So if we have a TIF and that property tax is going to pay off the TIF and only 50 percent is available for the TIF, and...it's just something we need to look at and make sure that we've, you know, dotted the i's and crossed the t's. Especially now if the constitutional amendment goes through and expands TIF to 20 years, then that's no problem because the first 5 years, 50 percent can go to the land bank, and then the other...you know, that may help that. But that's one possibility there, okay? But we just need to look at that and see how we can work that together. In the city of Omaha, while this legislation would be helpful, it will not in itself deal with our code enforcement challenges. We have some challenges there. Rental properties constitute a large component of our code enforcement dilemma. We have 4,000 open cases. We are working to close those. In fact, last year was the first year in a decade that we closed more cases than we opened. We are proud of that. It is not enough yet. I am not satisfied; we will continue to work on that. The landlords constitute the majority of those violations, and specifically those individuals with multiple violations are in the majority. Nonresident owners of property is a difficulty because we can't reach out and touch them when they live in Bellevue or in Colorado or in California. And then the bottom line is, because of the pressures on our city budgets, our code enforcement is underfunded; there's no doubt about it. Every year we may lay off somebody; for the next year we can pick them back up again, etcetera. In closing, I'd like to say that...and what I've said before is we want a toolbox that's full of tools, quality tools for redevelopment and economic development. This year you folks and other committees and the Legislature has an awesome opportunity to populate our toolbox with some quality tools. You have the opportunity to maintain tools that are currently in there--in other words, don't take them out and throw them away, TIF, excuse me--and to sharpen those tools so that they're more effective. In this time of redevelopment and economic challenges, we need all the tools we can get and utilize. Thank you for your willingness to work with us to do that. We stand ready to help you. Thank you for this opportunity, and I'm here to answer any questions you might have. [LB1137]

SENATOR MCGILL: I'm wondering how big this toolbox is now...or like a utility belt like Batman or something. (Laugh) [LB1137]

RICK CUNNINGHAM: At this point it's the same size toolbox, it just doesn't...it may not rattle as much when we pick it up, if it has enough tools in it. But again, thank you for--Senator Mello and your colleagues, the committee--for looking...you're looking at a lot of awesome stuff, and keep up the good work. [LB1137]

SENATOR MCGILL: Any questions? Senator Cook. [LB1137]

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SENATOR COOK: I have a question, and maybe this is a legal question. Why... [LB1137]

RICK CUNNINGHAM: Illegal? [LB1137]

SENATOR COOK: A legal... [LB1137]

RICK CUNNINGHAM: Oh,... [LB1137]

SENATOR COOK: ...question. [LB1137]

RICK CUNNINGHAM: ...okay. [LB1137]

SENATOR COOK: I'm hoping that I'm not thinking of any illegal questions. Why can't you reach out and touch a person in the county of Sarpy? Or is it just more expensive? Does that go under code enforcement? Or how can...I can see how someone...we had a challenge many years ago where a gentleman lived in Israel, and we finally kind of caught up with him. But we can't reach out and touch somebody in Sarpy County? We can reach out and touch him for crimes. [LB1137]

RICK CUNNINGHAM: I mean, we can send letters to them and so forth, but, I mean, they're not in our jurisdiction, you know, to...it's... [LB1137]

SENATOR COOK: Please show up and pay us money? [LB1137]

RICK CUNNINGHAM: Yeah. [LB1137]

SENATOR COOK: Dear... [LB1137]

RICK CUNNINGHAM: Yeah. [LB1137]

SENATOR COOK: ...Love, Omaha. [LB1137]

RICK CUNNINGHAM: And if we can't tear down the facility... [LB1137]

SENATOR COOK: Yeah. [LB1137]

RICK CUNNINGHAM: Like there's a house right now that, you know, if we don't have the money to tear it down and then place an assessment on it, you know, it's a hollow threat. And in this particular instance also we're fighting the banks, because it's in foreclosure. [LB1137]

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SENATOR COOK: Okay. [LB1137]

RICK CUNNINGHAM: So, you know, not only do we have to deal with the landowner, if we can find him...that's the other thing, if you can find him. And then we have to deal with a bank that's got a lot of juice. [LB1137]

SENATOR COOK: Okay. Thank you. [LB1137]

SENATOR MCGILL: (Exhibit 10) All right. I don't see any more questions. Thanks, Rick, for coming down. I'll also read into the record support from the city of Lincoln in the form of a letter. Next proponent. [LB1137]

GARY KRUMLAND: Senator McGill, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB1137. I just wanted to emphasize that this is not just a problem in Omaha. We've talked about Omaha a lot. But it is a problem across the state. I think it was, like, six years ago, the Village of Hemingford from the Panhandle brought issues to some of our committees about the problems they were having with a couple vacant properties and how they can deal with them and improve them. And it's only gotten worse across the state since then. So it's not just Omaha; it is a problem across the state. And this is a major tool that can be used for that, especially in a small community, if they do not have enough activity to do it; it emphasizes the interlocal cooperation. And you can have a whole group of cities together to work on that and pool their resources to handle this. So I think that would be a good tool. This is a major component of, I think, a series of bills that are introduced this year to address the vacant, abandoned property. The bill that this committee just advanced that Senator Mello introduced, LB729, that included demolition under the Community Development Act, is one of them. Senator Lambert has a bill that's been referred to Judiciary, LB1029, which kind of goes to what you were talking about, Senator Cook. It basically requires that when a property is under foreclosure, the person bringing the action includes a contact, so that if the city has some maintenance or assessment problems, they'd know who to go to and talk about that. And I would even include the Urban Affairs Committee bill on, LB798, on special assessments, to clean that up; that could have a good effect on vacant property by clarifying the law on that, so that when a city is doing maintenance and mowing and bringing the property up to date, it clarifies that they do have the authority to collect on those special assessments. So I'd be happy to answer any questions. [LB1137]

SENATOR MCGILL: All right. Any questions? No? Thank you. [LB1137]

GARY KRUMLAND: Um-hum. [LB1137]

SENATOR MCGILL: Other proponents? [LB1137]

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JOE KOHOUT: Chairwoman McGill and members of the Urban Affairs Committee, Joe Kohout, K-o-h-o-u-t. One of these years I'd like somebody to count the number of times we hear the word "toolbox," between... [LB1137]

SENATOR MCGILL: I know. That's what I was... [LB1137]

JOE KOHOUT: ...Urban Affairs and Revenue every year. [LB1137]

SENATOR MCGILL: ...joking about, yeah. [LB1137]

JOE KOHOUT: In all seriousness, I appear before you today on behalf of the four mayors of the United Cities of Sarpy County--Gretna, Springfield, La Vista, and Papillion--in unanimous support of LB1137. And I think Mr. Krumland talked about the joint effort. And I think that that's one part that really intrigued the four mayors I represent, was the opportunity for them to work sort of cooperatively in this, and that, for them, this really is viewed as a...is proactive legislation. In other words, looking forward, this will be, you know, much like the issues Omaha is facing, we can start now and start putting things in place to do that. The other thing that was fascinating was sort of the conversation, as the mayors considered this, about what do we do. Because a lot of them, as Senator Lambert likely knows, is, you know, they were sitting around talking about, well, what do we do with these kinds of property? Well, we give them to the volunteer fire department so that they can burn them and train and that sort of thing. And then what do we do with it after that happens? And I think that's where they were going, was: Wouldn't this be a fantastic tool in those regards. So with that, I'll end my testimony. The hour is late, but I'll try to answer any questions that you might have. [LB1137]

SENATOR MCGILL: Yeah. There are only so many controlled burns you can do. [LB1137]

JOE KOHOUT: Exactly. Really well-trained fire departments. [LB1137]

SENATOR MCGILL: Any other...any questions? No. Thank you, Mr. Kohout. [LB1137]

JOE KOHOUT: Thank you. [LB1137]

SENATOR MCGILL: Other proponents? Any opposition to this legislation? Hello, welcome. [LB1137]

GARY PRYOR: (Exhibit 11) Chairperson, members of the committee, my name is Gary Pryor, G-a-r-y P-r-y-o-r. I am here representing the Lincoln Independent Business Association. This is my first time speaking in front of this committee, so there's a little bit

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of history I would like to give you about my background. I have been a planning director for over 30 years in regional government and local governments, and I think I can attest that there are...some of the governments here you many recognize. The old Central Iowa Regional Planning Association, which was a COG--8 counties, 103 cities--which I was the planning director serving. Local governments was Polk County, Iowa; Omaha, Nebraska; and San Diego County, California. We're here, basically, to oppose LB1137. It would likely lead to several unintended consequences which the business community is concerned with. First, the bill gives the city authority to establish a subdivision of the state that's not answerable directly to the people. It would be controlled by appointed people from the mayor and council. This allows the city, if it wishes, to circumvent the current process of public hearings on land acquisitions by going through a land bank. The second, the city would appoint the land...and the board of directors would have no further authority as a board to control that land bank. The law and language is very clear: they have all the rights of a private developer; they can buy, sell, lease; they carry out the functions of a real estate company. In essence, what this bill does is create a government-run, real-estate-type operation. It can, in fact could, compete with private-enterprise real estate companies. The bill provides that the real-property income and operations are exempt from taxation. Once that is removed from the tax base, it then is going to come against the taxpayers of the remaining portions of the city to subsidize essential public services: police and fire protection, roads, parks. Those then would be at risk because they've lost part of their revenue to support those activities. The bill prevents the city to create a hierarchy of uses, which is understandable. But if you read the language of that bill very carefully, it is extremely broad, and the elected officials could, in fact, expand that beyond what is intended to be for the public spaces and places. In summarizing, because I know you've had a long day, I've got a letter here from LIBA. There are a couple of things that I want to close on. The bill's only requirement is that the land bank and the board of directors are subject to the Open Meetings Act, they must provide a quarterly report to the city, and that they keep a land inventory for public review. In conclusion, the bill creates the establishment of a political subdivision which is not accountable to the people. And the political subdivision would have no means of collecting or having a financially stable base unless it comes from one of two sources: It comes from the taxes of the current city budget, or it has to become a self-generating entity which can support itself and be totally independent monetarily in terms of its survival. Thank you for your time. [LB1137]

SENATOR MCGILL: Yeah. [LB1137]

GARY PRYOR: I appreciate it. [LB1137]

SENATOR MCGILL: Thank you, Mr. Pryor. [LB1137]

GARY PRYOR: If there's any questions...thank you. [LB1137]

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SENATOR MCGILL: And I'm sure Senator Mello will have some comments on that. I know he...there's an amendment that you probably haven't seen yet that may address some of those concerns. I don't know. I'm sure we'll have a chance to hear from him again before he closes. And we'll get you a copy of that amendment, too, eventually. [LB1137]

GARY PRYOR: Thank you. I appreciate it. [LB1137]

SENATOR MCGILL: See what you think of it. [LB1137]

SENATOR LAMBERT: Thank you. [LB1137]

SENATOR MCGILL: Any other opposition? Any neutral testimony? All right, Senator Mello, would you like to close? [LB1137]

SENATOR MELLO: I'll be brief. I know it has been a long day, and I know you still have Senator Lambert's bill... [LB1137]

SENATOR LAMBERT: And it's long. (Laughter) [LB1137]

SENATOR MELLO: ...left to do today, so thank you, Chairwoman McGill and the committee. I'd like to get this to the page; I know that you should have received an e-mail--it was during the hearing, actually--from the Nebraska Housing Developers Association. They wanted me to give a copy to you to be able to read into the record. I guess a couple points to consider, so to speak. One, I think the concern that a land bank authority, which would be a...essentially is a creature of the municipality, is ultimately responsible to that municipality, which the taxpayers and/or public ultimately have ultimate say over that through their city council and mayor forms of government. So I think the argument that would be put out there that the taxpayers have no real say over what these authorities do is just not accurate. If that's the case, most city governments in the state would not be able to do any of the powers they have now to create such things as a MECA board in the city of Omaha or housing authority boards, so to speak, that currently exist as well. So with all due respect to the opposition, I think that argument is flimsy at best and is partially addressed, I think, in the original green copy of the bill. But I think the opposition should reread, possibly, portions of the bill to fully understand the public's involvement in this process. I guess the second underlying component, so to speak, that the opposition raised is...you would have heard in today's testimony from the bankers association or the Realtors association if this was a government-run real estate venture. With all due respect to the opposition, I think that's an unfortunate scare tactic that that organization used today to try to muddy the waters, so to speak. This book that the committee was provided, as well as, I think, the expert testimony from Dr. Alexander, I think shows that this is a venture, so to speak, on behalf of the public to bring properties right now that are currently not on the tax rolls back onto

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the tax rolls. And if the market was able to do this, the market would be doing it. And that's exactly, I think, the point that Dr. Alexander had mentioned not only in his book but in his testimony today, that these are properties that otherwise are sitting dormant, are not being utilized, and ultimately are not paying property taxes to both local governments and local political subdivisions. And the underlying aspect of this legislation provides that opportunity not only for redevelopment purposes for municipalities, but more importantly it also provides that ability to bring more property taxes back into city and local government coffers. And the reality is, it is laid out in the book here, and Dr. Alexander mentioned a little bit in his testimony, too, is that this is an area that the private market will assist when the time comes. This is seen as a gap, so to speak, or bridging that gap that currently exists right now within our current tax foreclosure system in the ability to get these properties back into usable hands, whether it's for affordable housing and/or for commercial or industrial redevelopment. So with all due respect to the opposition, I'm more than willing to send them a...or share with them a copy of the amendment. I think their underlying arguments or concerns are a little off base with the underlying premise of the legislation. I'd be more than willing to share with them a copy of the book, as well, that I think gives a little bit more clarification in regard to what the intended purpose of LB1137 is, as well as the...as I mentioned before, is that this...the issue of trying to have government provide that needed assistance in that gap, so to speak, between trying to get these tax-foreclosed properties back into the market for real estate purposes and for development purposes is needed right now, as you heard, not just for the city of Omaha or Lincoln but cities across the state. Lastly, as always, was, I mentioned in this committee, I'd be more than willing to work with the committee, committee counsel to clarify any aspects of the bill that may need to be clarified further than what was presented in the amendment, AM1750. [LB1137]

SENATOR MCGILL: Thank you, Senator Mello. And so the committee knows, we did e-mail that amendment out to everyone today. So if you haven't had a chance to read it, it'll be in your in-box. With that, any questions from the two remaining members here? No? Thank you, Senator Mello. [LB1137]

SENATOR MELLO: Thank you. [LB1137]

SENATOR MCGILL: (Exhibit 12) And I will read into the record the letter of support from Danielle Hill, the executive director, Nebraska Housing Developers Association. So that ends the hearing on LB1137. And we get to move on to Senator Lambert's bill, LB1121. Whenever you're ready, Senator Lambert. [LB1137]

SENATOR LAMBERT: (Exhibits 13 and 14) Okay, good. Good afternoon, Chairman McGill and committee. I'm Paul Lambert, L-a-m-b-e-r-t, I represent the 2nd Legislative District. I'm here today to introduce LB1121. This bill would make it clear that the rights of a particular category of sanitary improvement district property owners are the same when they sign petitions to request a recall of a member of the governing board of

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trustees as when the owners vote to elect a member of that board. As illustrated in handout number one, we are all familiar with the one person, one vote or one person, one signature principles that serve as the basis for most of our election and recall petition laws. Elections in sanitary improvement districts or SIDs, the term which they're commonly known as, are different. As described in handout number two, SIDs are governed by a five member board of trustees. The trustees are elected by a vote of the property owners of the SID. The trustee's positions are divided into two categories. For one of the categories property owners are allowed one vote for each piece of property they own. This means that a person who owns more than one piece of property is allowed more than one vote. If I own five pieces of property, I would have five votes. LB1121 would replace the word "represent" on page two, line 9, with language to make it clear that the voter would be allowed more than one vote, excuse me, with his or her signature on a recall petition assigned an equal value to his or her vote count on the election ballot. This bill would provide this clarification based on the way the election commissioner or county clerk counts signatures on recall petitions. That's a very puzzled look. (Laugh) [LB1121]

SENATOR COOK: Um-hum. [LB1121]

SENATOR MCGILL: This is complicated. It's complicated. [LB1121]

SENATOR LAMBERT: It is, it's very complicated. [LB1121]

SENATOR COOK: But I have a handout and you're going to help me, yes. [LB1121]

SENATOR MCGILL: Yes. [LB1121]

SENATOR LAMBERT: It's a very complicated thing. This bill would provide for clarification based on the way the election commissioner or county clerk counts the signatures on a recall petition. The proposed changes to Section 31-787 would eliminate any uncertainty about the way a voter's signature would be counted on a recall petition. LB1121 would ensure that there is no difference between the property owner's voting rights and the rights to seek a recall election. LB1121 was prompted by elected officials in my legislative district who foresee problems applying to the present law when they are required to validate signatures on a recall petition that is aimed at one of the trustee's positions for the multiple...where multiple voting is allowed. As you see in handout number three, Legislative Research found that there are currently 346 SIDs in the state in 21 counties and in 40 legislative districts in Nebraska. If there is concern about this issue in my district, it seemed safe to assume that the same concern may exist throughout the state. There is ample evidence that citizens are not reluctant to exercise their right to recall elected officials. LB1121 would offer a proactive effect to clarify SID recall procedures before there is a need for election officials to manage an SID recall effort. After LB1121 was introduced, it was sent to elected officials in all the

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counties where SIDs are located. My office received a recommendation to change the original language in the bill, so I am offering AM1872 in response to this recommendation. The focus of LB1121 is clarification. AM1872 would offer an additional point of clarification by specifying a more precise way to determine a property owner's right to sign a recall petition. I am happy to answer questions if I can. However, there are individuals, some ladies that have been waiting here very patiently, who brought this issue to my attention and are here today to explain more fully the needs for the change proposed in LB1121. Thank you. [LB1121]

SENATOR MCGILL: Thank you, Senator Lambert. And thank you for sitting down with me earlier this session to explain this kind of complicated election process to me... [LB1121]

SENATOR LAMBERT: Yes, it's still as clear as mud, though, isn't it. (Laugh) It is... [LB1121]

SENATOR MCGILL: ...and what...yes. I'm sure we can get to Senator Cook as well and help her as well. [LB1121]

SENATOR COOK: Please. [LB1121]

SENATOR LAMBERT: It's so unusual. I mean, we think one person, one vote, which is true in everything except SIDs. It is just... [LB1121]

SENATOR MCGILL: Um-hum, it's by land, how much land you own as well. [LB1121]

SENATOR COOK: Right, and then if I owned, I'll use an example, and perhaps the women who come behind you, let's say I owned several properties. Do you have Lake Waconda in your district? So there is a recall for that governing body. So I, Tanya Cook, can sign the recall petition once for each piece of property that I own at Lake Waconda. Is that cozy, cozy? [LB1121]

SENATOR LAMBERT: There you go. [LB1121]

SENATOR MCGILL: That's what is in the bill. [LB1121]

SENATOR LAMBERT: There you go. That's what... [LB1121]

SENATOR COOK: Cozy, cozy? (Laugh) Okay, well, good. [LB1121]

SENATOR MCGILL: Yeah, that's what we're trying to clarify. [LB1121]

SENATOR LAMBERT: It depends, you're at Lake Waconda? [LB1121]

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SENATOR COOK: Yes, as a guest right now. [LB1121]

SENATOR LAMBERT: You happen to have the election commissioner of Cass County here, and it's going to be her decision how it's counted without the bill that we've proposed. [LB1121]

SENATOR COOK: Okay, thank you. [LB1121]

SENATOR LAMBERT: Okay. [LB1121]

SENATOR COOK: Thank goodness she's here. [LB1121]

SENATOR MCGILL: Wonderful. All right. Well, thank you. And we'll take our first proponent, first people in favor. Welcome. [LB1121]

JANET McCARTNEY: Welcome. Good afternoon. Thank you for allowing us to come here and testify. I am Janet McCartney. I am currently a Cass County Commissioner for District 2. So I'm here representing our commissioners as well as the fact that I have served as the trustee of an SID for eight years in Cass County, as well as I served six years as a trustee on a SID board in Sarpy County, two different SIDs. This bill will correct the inequality of the petition signatures needed for an election recall for what's called the all property owners ballot. In an SID there are, as Senator Lambert was explaining, two ballots, one for the people who actually live there, called the residents ballot, and one for the all property owners ballot, and that's for everybody who owns a piece of property. They may live there, they may not. They may own multiple pieces of property. The SID elections are held every two years. And both sides, both all property owners and resident balances are reelected every two years. There's no staggering like there is in some other elections. So during the election on the property owners ballot, because they reside there, even if they owned other property, they get one vote on the resident ballot. So you have to live there to vote on that ballot. And normally, once a SID has been established for awhile, there are three trustees that are elected on that ballot. Then they also get to vote on the all property owners ballot, those who live within the SID, and all of the other property owners who may not live there, that own property and they may own one or multiple properties. And this is where on that ballot normally two trustees are elected, and they get a vote for every piece of property or parcel that they own in the district. So during an election recall, which in our SID we did go through some recalls, and fortunately it was on the resident ballot, so there was not a question come up. But during a recall of say a resident trustee the...only the residents who live in the SID get to vote on that recall. And they get one vote. But if it's a recall of a trustee on the all property owners ballot, if a resident owns multiple pieces of property, whether a resident or just a property owner, they get a vote for every piece and parcel they own. So I have an example of if...say there was to be an election call on the all property

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owners ballot and there had been 300 votes for that...that was the largest number of votes on that ballot, then the number of signatures needed would be 35 percent of that or 105 signatures. But if during that election say voter one had 25 pieces of property, they got 25 votes during the election of those trustees. Voter two had 15 votes, voter three had 10, and voter four had 5 votes, that's a total of 55 votes spread amongst four property owners. The rest of that 300 votes came from 245 single property owners, making the 300. So when they go to do the signature on the petitions, if they don't get to count their 25 votes, say if they own 25 pieces of property on their signature, then whoever is running that petition around has to gather more signatures, therefore, their vote is not as fair in the recall as it was in the election process. And so this signature...this change, LB1121 will correct that problem for those who have...who are elected or who own property and can vote on the all property owners ballot. So I'm very much in favor of getting this corrected. Any...? [LB1121]

SENATOR MCGILL: All right. Any questions? No, well, thank you for coming to Lincoln. Next proponent. Yes, it's the end of the day, we like that. [LB1121]

NANCY JOSOFF: (Exhibit 15) Chairwoman McGill, my name is Nancy Josoff, that's N-a-n-c-y J-o-s-o-f-f. I am the election commissioner in Cass County. And the reason that we're kind of bringing this forward is because SID elections are an orphan child because they are based on property ownership. The Secretary of State's Office does not deal with these because it has nothing to do with registered voters. So unless we bring something like this to you, you know, it's just kind of floating out there. But a couple of...just real briefly to just mention some things to you here. Right now, our SID elections would be based on the interpretation of our county attorneys. And we have 93 counties in the state, so you know what could happen with that. But this bill, just in a nutshell, make things really simple. You want to make sure you're comparing apples to apples, not apples to oranges, and that's exactly what this will do. It will allow us to be able to allow the voter whose vote can count as five, when he signs that petition, his signature will count as five, same thing. That's the short nuts and bolts of the whole thing. The amendment that Senator Lambert mentioned that he was bringing forward, what that is, it's just...right now our SID elections, we receive our list of names of property owners. It cannot be more than 75 days old. And so if we're going to be looking at a list of names that are going to be on a petition, we want to make sure that that list, we're all looking at the same list. And what...I think what the proposal has brought forward is that the list would be generated at the time that the petitions are picked up. So the day that the petitioner would come in with those petitions, that's the day of record that we would go by for property ownership. That's what they'll use, that's what the election office would use to determine those signatures, which is actually a pretty good deal because that list would only be 30 days old. So, I mean, we'd be looking at a pretty accurate list with that. But that's what I have. If you have any questions. [LB1121]

SENATOR MCGILL: All right. Thank you, Nancy. Any questions? No, sounds good.

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[LB1121]

NANCY JOSOFF: Okay, thank you. [LB1121]

SENATOR MCGILL: (Exhibit 16) Any other proponents? We do have a letter of support from the Nebraska Association of County Officials for this legislation. Anyone opposed? Anyone neutral? Senator Lambert, would you like to close? [LB1121]

SENATOR LAMBERT: Yes, I would, please. Committee members, I don't know if you've had a chance to look at that list, but I think your name appears on all of it. [LB1121]

SENATOR MCGILL: (Laugh) I noticed, in bold. [LB1121]

SENATOR LAMBERT: (Laugh) Wonder how that happened? It's a very complex problem, as you see. It's not, you know, we're trained to the one person, one vote, and that's not the way this works. And it's very cloudy how it works. And that's why this bill was brought forward to clarify it, give the county officials some guidance how to handle things. And, you know, it's hard...I had a tremendous time trying to understand it and getting around it. And it would be easy to just dismiss it and say, we don't want to mess with it. But it's very important that we look at this. It's going to affect all of our constituents. And we need to study it. If we need to sit down and go over it where everybody understands it, we need to do that because it's something we need to change. It's a problem that our constituents have. And it's something we need to work on. We owe it to them I believe. [LB1121]

SENATOR MCGILL: Well, thank you for bringing it to us. And we'll catch up with the members... [LB1121]

SENATOR LAMBERT: Yeah, thank you. [LB1121]

SENATOR MCGILL: ...who weren't here and hopefully get some action on this. [LB1121]

SENATOR LAMBERT: You can explain it to them. (Laugh) [LB1121]

SENATOR MCGILL: Oh, Lord. (Laugh) Well, thank you very much. And that closes the hearings for today. Doesn't look like we'll Exec, we don't have many people here anyway. [LB1121]