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Urban Affairs Committee
February 24, 2015

[LB238 LB445 LB596]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 24, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB596, LB238, and LB445. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Colby Coash; Matt Hansen; Dan Hughes; and Bob Krist. Senators absent: Laura Ebke.

SENATOR CRAWFORD: Welcome to the Urban Affairs Committee. My name is Senator Sue Crawford and I represent the 45th Legislative District in Bellevue and eastern Sarpy County and I serve as Chair of the Urban Affairs Committee. We have some members who will be coming and going because when we introduce bills in other committees, we have to be in those committees. That's where Senator Krist is right now, introducing a bill across the way and as soon as he gets back then Senator Hansen has to go in and introduce his bill in Banking. So when we are coming and going, please know we're off having to present a bill in another committee and we'll be right back to hear your concerns and suggestions on the bills that we're hearing today. We'll start with having members of the committee and the committee staff do self introductions, starting on my right with Senator Hughes.

SENATOR HUGHES: Thank you, Chairman. Dan Hughes, District 44, ten counties in southwest Nebraska.

SENATOR McCOLLISTER: John McCollister, District 20, central Omaha.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR HANSEN: Matt Hansen, District 26, northeast Lincoln.

COURTNEY BREITKREUTZ: I'm Courtney Breitzkreutz, I'm the committee clerk.

SENATOR CRAWFORD: Also assisting the committee today are committee pages, Donnie Earl from Lincoln, who is a political science major at UNL and Colin Loberg from Wayne, who is an economics major at UNL. This afternoon we will be hearing three bills. We will be taking them in the order that's listed outside of the room. On each of the tables in the back of the room you will find green testifier sheets. If you are planning to testify today, please fill one out and hand it to Courtney when you come up. This will help us keep an accurate record of the hearing. If you do not wish to testify but would like to record your position on a bill, please fill out the white sheets in the back of the room. We would ask that if you have any handouts you would please

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bring at least ten copies and give them to one of the pages. And if you need additional copies, the pages will help you make more. The testimony for each bill will begin with the introducer's opening statement. After the opening statement we will hear from the supporters of the bill and then those in opposition, followed by those speaking in a neutral capacity. The introducer will then be given the opportunity to make closing statements if they wish to do so. We ask that you begin your testimony by giving your first and last name and please spell both of those for the record. We will be using a five-minute light system today. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we'll ask you to wrap up your final thoughts. After you testify though, we still will have a chance to ask you some questions so we may...you may have time to answer...address other issues in the question and answer period. I would remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB596. Welcome, Senator Davis. [LB596]

SENATOR DAVIS: (Exhibit 1) Good afternoon, Senator Crawford and members of the Urban Affairs Committee. I'm Senator Al Davis, D-a-v-i-s, and I represent Legislative District 43. I'm appearing here before you today to introduce LB596 and I would say this is the second time I've introduced a TIF bill before this committee. And I also introduced a legislative resolution last summer to look into TIF financing. The first thing I'm going to say, which is not in my script, is that I'm not opposed to TIF financing as a funding structure. It's, many times, the way it's been implemented, how it's been used, and the fact that the oversight system is just not adequate, in my opinion. LB596 would strengthen the community development laws in two ways: First, it would allow for involvement of other local taxing bodies on the community development authorities and provide much needed input on potential TIF projects. Second, it would set up a mechanism for consistent state oversight and transparency for TIF projects and would make uniform statewide standards and procedures easily accessible. The use of tax increment financing as a means of economic development has exploded since 1996. That year 149 TIF projects were approved. By 2012, that number had increased to 636 projects. Unfortunately, this valuable tool seems to be no longer focused solely on renovation of blighted areas within cities, but it is increasingly being used as a tool for economic development which was not the original intent of the legislation. It is only appropriate that the state monitor the use of TIF financing because property owners in the areas where TIF financing is offered are asked to shoulder higher costs for police, emergency, public utilities, fire, and other urban obligations, which the new TIF property requires but is not paying for. The current community redevelopment law lays out standards for what kind of projects are eligible for TIF financing and provides definitions of blighted and substandard areas. However, these standards are not uniformly interpreted or applied. And with no state oversight in place, this practice is likely to continue. For the past two years I have been concerned with the lack of oversight on TIF projects, especially in light of the potentially significant loss to our school funding formula since the property valuation for a project is diverted from the tax base of all local governments, including schools. At the end of

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the 2013 session, I introduced LR340 which proposed that the Revenue Committee study the impact of tax increment financing projects and other business incentive programs upon the state aid to schools. The committee's study report, which I have handed out to you, showed that state school aid funding increased by just over \$22 million in 2013 as a result of tax increment financing projects, with two-thirds of that revenue being funneled to school districts located within the Learning Community. Consequently, the incentives for TIF projects are taking increases in property value out of the tax base that local school districts and other entities depend on to fund their general operating costs. As a result, state school aid under TEEOSA has become a substantial indirect subsidy of community redevelopment projects. This leads to an inequity in state aid calculation, as the lower valuation on TIF projects reduces the resource side of the aid formula for those school districts, leading to the perception of higher need and so increases aid for school districts with TIF projects located in them. The correlating loss in school aid elsewhere means the secondary effects of TIF projects are felt by communities far from the projects themselves. With such a potentially unequal effect on school funding, we need to make sure that these TIF projects are in compliance and are delivering on their promises. LB596 would help make this happen, both at the local and the state level. LB596 creates a Tax Increment Financing Division of the Auditor of Public Accounts who would provide state level direction and oversight for TIF projects. The division would create a TIF manual and make it available to the public on its Web site along with reports submitted by the cities regarding their TIF projects. Currently, cities are only required to provide the Property Tax Administrator with a copy of their redevelopment plan for each TIF project as well as a short description of the type of development they are seeking to accomplish. Under LB596, cities would also be required to report to the Property Tax Administrator and to the division each year on strategies and priorities for the following year for the use of TIF funds, as well as a summary of how their use of TIF is contributing to the community. These reports will be displayed on a public Web site created by the division. Under LB596, cities would also be required to conduct an annual review of each of the redevelopment projects to determine whether they have met their stated goals and objectives. If a project fails to meet its stated goals or if it is out of compliance with the statutory requirements for receiving these incentives, TIF funding may be recaptured by the city. And this type of evaluation process will certainly help to weed out projects that would probably be built anyway without funding from the state. The division would have the authority to audit redevelopment projects and proposals to ensure compliance and it would report any noncompliance to the Legislature. Finally, LB596 would require that each community redevelopment authority include a member approved by the school board of the local school district, a member approved by the county board, and a member approved by the local community college board of directors. This would allow more input from other local taxing bodies that would be affected by a TIF project. As a member of the Revenue Committee, I am deeply concerned that the state continues to give its resources away without any significant ability to monitor whether the tax credit exemptions, grants, or refunds are actually achieving measurable goals. Over the summer, a Tax Evaluation Committee worked to develop methods to

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assess many of our exemption programs which are in the billions of dollars. And we can hope that the committee's work will generate good objective studies which will demonstrate once and for all whether the incentive has worked. Now let me give you another example of potential abuse. We recently heard a bill in Revenue which dealt with turn back taxes. The turn back taxes generated around urban redevelopment projects like the Pinnacle sports arena, CenturyLink facility, and other complexes. An assessment is made of the sales tax generated within a designated area prior to the establishment of the zone around that facility and the state accepts that frozen amount of sales tax for a set number of years. Any sales tax generated above that amount helps pay the bonds off on the structure. At our hearing a request was made to widen the area of the turn back tax and extend the period it would be available. When I questioned the proponent about the successes of the endeavor he proudly spoke of the construction of a new hotel and a new Menards within the turn back area. As it turned out, these two projects were the beneficiaries of TIF financing. So the city essentially recovered all the taxes which would have gone to other taxing entities plus all the sales tax generated by these two structures. At both the local and state level these types of activities are removing needed dollars from our school aid formula which drives up property taxes in other parts of the state. Let me make myself clear. I do not oppose tax increment financing. But I do not condone the blanket adoption of TIF financing for each and every project a developer wants to undertake. Let's support the legitimate use of this great tool and elevate it to become an efficient and dependable instrument for necessary redevelopment rather than a sloppily applied whitewash to any developer wanting something for nothing. I'd be happy to answer any questions. [LB596]

SENATOR CRAWFORD: Thank you, Senator Davis. Questions? So, one of the parts of the bill that I thought was interesting is putting someone from the school board and someone from the county on that body. I did notice in the statute that sometimes a city may actually use their city council for that purpose; I don't know if you've thought of that challenge or how that might happen. And maybe speak to why you think that is important when already the notice goes to the county and the school board. [LB596]

SENATOR DAVIS: Well, I think since the school and the county have such a huge stake in what happens with the TIF project they ought to have a say in it. You know, when the city comes in and seizes their, essentially, their tax revenue for its own purposes, whether to pay off the bonds or redevelop the project. And with the city having no advice from the school district or the county, I think it creates a conflict of interest and a potential problem of disagreement down the line. So I think it just is good sense to bring a bunch of people to the table. You know, the more people at the table you're going to have, the more accountability you're going to have, the more ability that city is going to have to look at a project and really say, maybe this doesn't qualify. [LB596]

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SENATOR CRAWFORD: And so the current notification that goes to the school district and county to say...currently they have to notify them, the president. You don't feel that's sufficient protection for them to get their concerns heard? [LB596]

SENATOR DAVIS: I don't. [LB596]

SENATOR CRAWFORD: Okay. Appreciate that. Other questions? Yes, Senator McCollister. [LB596]

SENATOR McCOLLISTER: Thank you, Chairperson Crawford. Senator Davis, thanks for appearing with a thoughtful bill. I served three school districts. How would we reconcile your bill or how would we deal with the fact that I've got three districts rather than just one in your bill? [LB596]

SENATOR DAVIS: Well, the district that would be affected by the TIF project would be the one that you're dealing with. So if the project is on 72nd and Pacific and that's the Omaha school district, it would be the Omaha school district that would have a say in it. If it was at 72nd and L--I believe that's Ralston, isn't it?--it would be the Ralston school district. [LB596]

SENATOR McCOLLISTER: So I don't know, would there be a case where you'd have multischool districts within the same TIF area? [LB596]

SENATOR DAVIS: You certainly could. And then I would say that probably both school districts should have a say in that. It depends on how large the TIF area is going to be. [LB596]

SENATOR McCOLLISTER: Okay. Thank you, Senator. Thank you. [LB596]

SENATOR DAVIS: Thank you. [LB596]

SENATOR CRAWFORD: Thank you. Other questions? And we have been joined by Senator Coash. Thank you. So I also have a couple of questions too. So I wonder if you would talk about how you see the claw back helping to weed out projects that might already happen. So I can just imagine, if you...it's supposed to meet its stated objectives and if you've already done the cost benefit analysis, how do you see that provision helping in that specific case where a project might have happened without it? [LB596]

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SENATOR DAVIS: I think that by putting some teeth into the bill a developer is going to really assess whether or not he wants to go to the city and ask for TIF financing. You know, if it's a somewhat dubious project, I think the developer's going to say, I'll just build that myself because I don't want to take the risk of having the embarrassment of having the city find out that this really isn't a good project. But when there's not a very good evaluation process that goes on...and so a developer comes to the city and asks for TIF financing. And I think in large part...now some...there are some turndowns, certainly, but the city has nothing to lose, the developer has nothing to lose by going forward with it. So this way, if there's a little bit to lose, people are going to be more cautious about the use of it. [LB596]

SENATOR McCOLLISTER: Okay. [LB596]

SENATOR CRAWFORD: Thank you. Another question, sorry. So you brought to our attention the study by Bill Lock. Have you...did you have a chance to talk to him about this study and how it was done and what some of the assumptions were? [LB596]

SENATOR DAVIS: You know, I did talk to him but I honestly don't remember the discussion. [LB596]

SENATOR CRAWFORD: Okay. Okay. [LB596]

SENATOR DAVIS: You know, he did a pretty extensive study and I think he said about 3.7 percent of the TEEOSA funding is affected. So here we are in a time when we hear from people that we have a property tax problem but the state is ending up subsidizing an urban area in a manner that takes funding away from somebody else. So I think that's a problem. [LB596]

SENATOR CRAWFORD: One of the questions I have, and perhaps you can get back to us on that, if you have a chance to ask him or talk to someone else who has talked to him about that. I think one of my questions about that assumption on the \$22 million is, if that's...we were trying to read this language about how they tried to adjust that property value when they put it back in. It talks about adjusting it to a median level. So my concern is that the \$22 million may be under an assumption that this development would have happened without TIF, like some of the other analyses. It shows, okay, what if it was a 70 percent chance or a 60 percent chance or a 50...you know, like it assumes...well, maybe there is a chance. And my concern is, to what extent this number assumes 100 percent chance that that development would have happened? [LB596]

SENATOR DAVIS: So my gut feeling is to say that when Bill did this study he didn't take that into consideration. It was just what is the lost revenue. [LB596]

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SENATOR CRAWFORD: That's what...I was wondering if that was the case, in which case, I think that that would be a fair challenge of that number is, you have to think, well, what percent of that \$22 million would not have happened. And so if you have a chance to find out or talk to someone... [LB596]

SENATOR DAVIS: I can do that. [LB596]

SENATOR CRAWFORD: ...and get a feel of how that was considered, that would be helpful. Thank you. [LB596]

SENATOR DAVIS: I will do that. And I think, Senator Crawford, you were here but with a lot of new people on the committee, when we did our interim study...and I will just talk about one specific project that took place in Valentine, Nebraska, which is in my district and is my home county. So it was the construction of a grocery store there and it was TIF financed. Well, there's another grocery store down the street. So you have...you're developing competition. Is the city of Valentine going to pick up additional revenue by having a newer grocery store there when it's miles away from any other community? Probably not. Is somebody who lives 100 miles away from there in an unequalized school district--which is where I live--should I have to pay an increased amount of tax revenue in order for that grocery store in Valentine to have TIF financing? Since we're unequalized and you drive down the resources, you have to drive the levy up for everybody, so. [LB596]

SENATOR CRAWFORD: Thank you. I appreciate that. Yeah, thank you. [LB596]

SENATOR DAVIS: I just want to put that on the table. I do have another bill I'm introducing in Transportation so I may have to leave. [LB596]

SENATOR CRAWFORD: Oh, okay. Okay. We'll be happy to have you close if you're here. [LB596]

SENATOR DAVIS: Okay, thank you. [LB596]

SENATOR CRAWFORD: So we'll watch for you. Thank you. So we will now turn to proponents of LB596, please. Welcome. [LB596]

RENEE FRY: (Exhibits 2 and 3) Thank you. Good afternoon, Senator Crawford and members of the Urban Affairs Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute. We are a data-driven, statewide, nonpartisan Nebraska

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organization focused on budget and tax policy. I am here in support of LB596 and LB445. We support these bills for three main reasons. First, many local governments are impacted by the loss of TIF dollars but do not have a seat at the table when these decisions are made. In fact, both school districts and counties are more reliant on property tax dollars as a share of their total budgets than are cities, yet they don't have a say in the process. Second, we believe that TIF should be as transparent as possible and that there should be regular review of the impact of such projects. Finally, researchers have found that many applications of TIF are not meeting current statutory requirements, much less best practices. Furthermore, communities vary drastically in their application of TIF despite the statewide implications. State assistance can help to ensure that TIF projects are providing that promised benefit. TIF reduced taxable property in Nebraska by \$2.6 billion and reduced property tax revenues by more than \$55 million in 2013. About \$21.6 million of that lost revenue was ultimately paid by state income and sales taxpayers because the reduced local resources triggered increases in state aid to schools. The reason for this is that TIF decreases a district's resources in the TEEOSA equation, resulting in more state aid for equalized districts with TIF projects. For fiscal year '15, K-12 property tax revenues will be reduced by about \$30 million due to TIF, about \$21.6 million of which will be offset through increased state aid, reducing overall funding for K-12 by about \$8 million. For other local subdivisions such as counties, municipalities, community colleges, and NRDs, property tax revenues are reduced with no offsetting compensation from the state. We estimate the losses for these subdivisions to total nearly \$25 million, including \$7.6 million for counties in 2013. Given the loss of revenue to these localities, we believe they should have a great role in the TIF approval and review process. Senator Crawford alluded that some of these projects would not have occurred but for TIF so that it may not really be a loss of revenue. However, according to studies done for the Lincoln Land Institute, growth in TIF districts are offset by declines elsewhere within a municipality. In other words what they find is, if you subsidize a store in one location, there will be less demand to have a similar store in a nearby location. Researchers Dye and Merriman conclude that policymakers should use TIF with caution. It is, after all, merely a way of financing economic development and does not change the opportunities for development or the skills of those doing the development planning. And while TIF can be a very valuable economic development tool, national studies as well as some local researchers have found that TIF has subsidized projects that would have happened regardless of the TIF incentives. In fact, this issue was raised by developer Arun Agarwal, who was the chief executive for developer White Lotus Group, in an Omaha World-Herald article last year. Agarwal said, "Developers must show that their projects wouldn't have happened if they didn't receive public help and noted that those requests are not all created equal. There are projects in which I might question whether or not (public support) was required to get it to happen. Did we, as a city, leave money on the table?" he asked. As for consistent application of TIF, again from the same Omaha World-Herald article, developer Chip James, owner of Lockwood Development, said, "It should be a level playing field for anybody in Grand Island or Omaha," he said. "We need to come up with better use of tools and they need to be applied evenly." TIF is typically administered at the local level

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with little or no oversight by other levels of government. This is beneficial because it allows local authorities to shape the city's physical and economic development. But this is also detrimental as there is a lack of accountability required by the local governing bodies without oversight and standardization in the way TIF is implemented and monitored. We support the audit authority in both bills because we believe it will improve the transparency and accountability regarding TIF. Additionally, we support LB596 because it gives other local governments a role in these projects and because a new TIF division can help ensure that TIF projects are meeting statutory requirements and being applied consistently across the state. Thank you for your time and I'd be happy to answer questions. [LB596]

SENATOR CRAWFORD: Thank you. Senator Coash. [LB596]

SENATOR COASH: Thank you, Chairman Crawford. Ms. Fry, I want to ask you about a particular statement you made in your remarks here with regard to, "researchers have found that many applications of TIF are not meeting current statutory requirements". Whatever researchers you're referencing there, was that...is that statement confined to Nebraska? [LB596]

RENEE FRY: So the Platte Institute had Dr. Ken Kriz do a study on TIF and I assume that they will talk about that study later, but it was specific to Nebraska. And they did an analysis of several different TIF projects in the state. [LB596]

SENATOR COASH: Okay, because my follow-up is that you made the statement that they're not meeting current statutory requirements, which would mean it's against the law. And I'm wondering if there's any evidence of a city being challenged under the law if, in fact, this is true that there have been projects that ran afoul of the law. [LB596]

RENEE FRY: So Dr. Ken Kriz, the analysis that he did, looked at specific projects and found that either they were missing the "but for" requirement or they may not have done the cost benefit analysis and found that it was very inconsistent across districts that were doing this. Jack Dunn of PRI--I don't know if he's here today--but he has done...he has looked at specific projects as well and has found that the law is not always being followed. So that's not an analysis that OpenSky has done specifically, but we've read analyses from other researchers who have done specific analysis looking at TIF application in Nebraska. [LB596]

SENATOR COASH: Well, I believe that those analyses have been done. My question, if you know and if somebody behind you...I'll just tee this up for them. If there have been some projects that didn't meet the statutory requirements, if there's ever been a remedy. In other words, someone has challenged on behalf of the taxpayer that we see that the "but for" clause was not correct and so we think that the developer and the city violated statutory authority in this project.

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If there was any action that was taken, you know, sending it back to the city council, talking to the Attorney General, someone's raising their hand and saying, there's a law being violated here and we want to rectify the challenge here. Are you aware of anything of that nature? [LB596]

RENEE FRY: Not that I'm aware of. You know, part of the challenge I think is that it's very difficult to get copies of the documents. And so the idea behind LB596 or part of it would be that cities would take those "but for" requirements and the cost benefit analysis that they already are supposed to be doing under statute and they would send it to the auditor so the information would be much more accessible than it is now. So I don't know the answer to that. But I think part of the challenge is the transparency and access to that information that exists right now. [LB596]

SENATOR COASH: Okay. Thank you. [LB596]

SENATOR CRAWFORD: Other questions? So just to follow up, that statement is...you would say that statement is supported by the Platte Institute study and the study by Jack Dunn? You were thinking of both of those studies when you made that statement? [LB596]

RENEE FRY: Yes. Correct. Those were both specific to Nebraska, yes. [LB596]

SENATOR CRAWFORD: Okay. Okay. The Platte Institute study I think really talked about three cases and I don't know...do you remember how many of those three cases it discussed where there would be something you would say they're not meeting statutory requirements? [LB596]

RENEE FRY: I don't recall. [LB596]

SENATOR CRAWFORD: Maybe somebody behind you will be able to answer that question. Thank you. Other questions? [LB596]

SENATOR McCOLLISTER: I have to do this. [LB596]

SENATOR CRAWFORD: Oh, Senator McCollister. [LB596]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. How often do use a Platte study to justify your arguments? (Laughter) [LB596]

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SENATOR CRAWFORD: I do have one other question. In your research, did you look at some other states that had the vision in some state agency to try to provide that guidance on TIF projects? Is that something that was modeled off of other states? [LB596]

RENEE FRY: Yeah, Minnesota, actually. The auditor has the ability to audit TIF projects in Minnesota. I would say that we spent a lot of time looking at other states. A lot of what exists is usually city by city where there's been some big issue and the city decides to really crack down on it. But Minnesota does have audit authority. They do have a manual for the folks who use TIF and it seems to be...you know, something that I've heard the last couple years of these hearings have taken place is that for those smaller cities that don't utilize TIF a lot, they're not using it enough. Like, for example, Lincoln uses it quite a bit and is a good model for how to use TIF. But there are other cities that aren't using it to the same extent and aren't familiar with the statutory rules and best practices. And so the intent, as I understand it, of the manual is really to be a resource for those cities so that they can improve processes and know what the statutory requirements are and can follow best practices and that sort of thing. And I know in previous legislation, the auditor...the cities were bound to follow...were mandated to follow the manual. And in this bill it's no longer mandatory so that was taken off. It's just a resource. And so a lot of the changes in this bill were really...I know Senator Davis and I had conversations, but in response to concerns from cities in past years. So this really makes it much less restrictive. [LB596]

SENATOR CRAWFORD: Do you happen to know if, in Minnesota, if it's an annual audit or if they have some other process? [LB596]

RENEE FRY: I don't know. I can try to look real quick and when I come back up I'll see if I can get an answer to you on that. [LB596]

SENATOR CRAWFORD: Okay. All right. Thank you. Senator McCollister. [LB596]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. The original intent of the bill was for redevelopment. And...but a lot of rural communities now have used it for raw ground. And...but they would claim that the "but for" argument works for them as well. Would you care to comment on whether or not they've expanded the scope of the original legislation to a damaging point? [LB596]

RENEE FRY: It does seem to have expanded beyond the original scope. And I think that's something that's a legitimate concern for the Legislature to take a look. It doesn't necessarily mean though that it's a bad thing, but I do think that it's being used beyond the intention of the statute that currently exists today. [LB596]

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SENATOR McCOLLISTER: Thank you. Thank you. [LB596]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, Ms. Fry. [LB596]

RENEE FRY: Thank you. [LB596]

SENATOR CRAWFORD: Other proponents of LB596? [LB596]

JACK DUNN: (Exhibit 3) And that was my cue. My name is Jack Dunn, J-a-c-k D-u-n-n. And I will read from my presentation as soon as I put my glasses on. Good afternoon, Senator Crawford and members of the Urban Affairs Committee. My name is Jack Dunn and I'm the executive director of Policy Research and Innovation, which incidentally, is www.prineb.com. Our focus areas are: justice, educational achievement, child welfare, land use planning, and economic development. And we have one critically important, cross-cutting focus area that applies to all others, across all others, which is diversity and community engagement. As you...many of you know, we have a history of working in the area of tax increment financing or TIF since 2010. We have completed two studies so far of TIF plans in the city of Omaha covering the years 2008 through 2011. Looking at these three bills, LB238, LB445, and LB596 through the lens of these studies we can say, LB238 supports the principal of public dollars for public purposes; therefore, we favor it. LB445 acknowledges one of the principal failings of the current Community Redevelopment Act, an utter lack of accountability to the public for TIF-funded projects. It would help if there were accountability on the local level and this is one of the things we are working on. But failing that, accountability to a state body would be a good stopgap. We support it. LB596 also deals with accountability but from a different angle, setting up a process of local review by affected groups such as school boards as well as establishing performance reviews by a state-level body. This we can also support. Omaha is a good example of tax increment financing run amok. The absurdities that have been foisted on the citizens in the name of TIF-led economic development are legion. The redevelopment authority attempted to designate as blighted the richest neighborhood in the city. Even if the redevelopment authority had been legally able to use the term "economic development area"--which they prefer to the term "blighted"--it is unclear why they thought they could ride roughshod over the wishes of the neighborhood. It was only when the neighbors banded together to oppose the designation that the city backed down. The Old Mill area in Omaha was not quite so lucky nor so well-to-do. In that instance, having to do with the TD Ameritrade Building, the city decided to retroactively designate the area as blighted because they had placed a huge office building in the middle of a residential area and now had to deal with traffic flow problems that they had not budgeted for. The solution? Simple: Declare the area blighted, TIF it, and take the money out of the taxes that the office building would have paid. The city recognized the egregiousness of the ploy and revoked the blighted area designation a year or so ago. But it was a convenient way to deal with

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an annoying budget problem and had nothing to do with improving a blighted area. As of 2011, a total of \$179,505,247.29 in tax revenues had been foregone during the previous 15 years. Of that amount, \$144,893,914.88 represented commercial businesses and market rate housing. As of that date, very little of that money has found its way into north Omaha. Most ended up in the downtown, the so-called NoDo or north downtown--a few blocks north of downtown--Midtown, Aksarben, and now Cross Roads. Other than during the construction period, commercial businesses--that is, retail--and market rate housing generate few well-paying jobs. I could go on and on, but the fact is that these bills before you are a good start. Additional points I would like to see emphasized are that TIFs are to be used to benefit the people who live in low-income areas rather than simply relocating them through gentrification. It is not economic development to relocate poverty. We at PRI would like to see economic development be for people and not just for the powerful. Thank you for your time and attention. I would be happy to answer any questions. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Dunn. Questions? Thank you. [LB596]

JACK DUNN: What? But, but. Okay, thank you. [LB596]

SENATOR CRAWFORD: Thank you. Welcome. [LB596]

SEAN KELLEY: Good afternoon, Madam Chair Crawford and members of the Urban Affairs Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today on behalf of the Westside Community Schools as their registered lobbyist in support of LB596. More specifically, Westside Community Schools support the provisions on page 3 of the green copy. Further, Westside does support tax increment financing, recognize it as an important economic development tool for cities across the state. We would just urge the committee to consider the school districts' position throughout the TIF application process. With that, I'd be happy to answer any questions. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Kelley. Questions? So...oh, go ahead. Senator McCollister. [LB596]

SENATOR MCCOLLISTER: Yeah, thank you, Chairwoman Crawford. Westside recently had a TIF area. And do you want to relate what happened to that...the negotiations and what transpired with regard to that one TIF area that Westside opposed? [LB596]

SEAN KELLEY: You know, I do know the Westside legal counsel was negotiating what areas would be blighted and substandard. I don't know exactly what the boundaries are. I think it runs

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with the...along the creek there. But I think somebody with the city may be able to answer that in more detail. [LB596]

SENATOR McCOLLISTER: So you particularly would favor the improved accountability or at least of some...having the school boards participate in the process? [LB596]

SEAN KELLEY: Right. I think involvement...considering the fragile property tax base that they may have and having some commercial properties that go to nonprofit status, which has happened to Westside in the past couple of years near Bergan Mercy. So they're sensitive to the fact that other properties may get the same...be put in the same position. [LB596]

SENATOR McCOLLISTER: Thank you. [LB596]

SENATOR CRAWFORD: Thank you. Other questions? Thank you, Mr. Kelley. [LB596]

SEAN KELLEY: Thank you. [LB596]

SENATOR CRAWFORD: Other proponents of LB596? Welcome. [LB596]

RUSS KARPSEK: Senator Crawford. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am legislative liaison for the Auditor. Auditor Janssen had to be in a meeting at this time, but he asked me to come up in a positive light of this bill saying that the Auditor would be very willing to take on this responsibility with the caveat that we would need more funding to do this. I don't know that...I guess, didn't want to be in a neutral stance, but just saying that we would be willing to take it on. [LB596]

SENATOR CRAWFORD: Thank you. Senator Coash. [LB596]

SENATOR COASH: Thank you. Senator Karpisek, can't the Auditor's Office already provide audits on these projects? [LB596]

RUSS KARPSEK: I would say that we can on some, but I think some of our auditing...Auditor's bills that we have in now that deal with subrecipients and those sort of issues would get us closer to doing this. But as I understand that this would be housed in the Auditor's Office and given the Auditor to follow this. [LB596]

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SENATOR COASH: But when you say other bills and the subrecipients, are you...I don't want to put words in the Auditor's mouth, but I've been made to understand that sometimes the information that the Auditor would need in order to successfully audit these projects is kind of difficult because all the Auditor can do...you know, can open up a city's books, they can't necessarily open up a developer's books. Is that what you're talking about? [LB596]

RUSS KARPISEK: Well, we...and I don't think that we would want to get into the private books so much, only as far as this would take it, mainly like a JPA. But the subrecipients and interlocal agreements right now, especially the interlocal agreements, cannot be audited. So along with the bills that the Auditor has introduced, I think would get us closer to being able to do that. I think my role here today is just to say that we would house it in our office and take this on, but we would need more staff. [LB596]

SENATOR COASH: Okay. I guess I...maybe I could get a follow-up from the Auditor's Office on what exactly, with regard to TIF projects, you are unable to do under the current law and what you might need to be able to do that without having to house it in the Auditor's Office, if that makes sense. [LB596]

RUSS KARPISEK: It does, Senator Coash. And not every municipality and every subdivision has gone through a full audit every year, every state agency. So as you go through those--and others behind me probably will tell you more how that works--but as you go through them you might not hit into it every year. You might not get into that part of the city or the county in a regular audit. [LB596]

SENATOR COASH: Does the Auditor have the ability to audit a project separate from the full city's audit? So you've got, you know, McCook, Nebraska, out there and the Auditor wants to do an audit on the city. But can the Auditor just come out and say, you know, we think we're going to leave the city, in general, aside. We just want to take a look at this particular project and make sure that it fits the letter and the spirit of the TIF laws. Does the Auditor have that ability now? [LB596]

RUSS KARPISEK: As you know, I'm fairly new at this job, Senator. Right now I would say, no. I could stand corrected on that. But I think again that might get into interlocals and subrecipients that right now is not part of what the Auditor can look at. [LB596]

SENATOR COASH: And is that...is looking at interlocals and subrecipients part of a different bill that's being considered? [LB596]

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RUSS KARPISEK: It is. [LB596]

SENATOR COASH: Okay. That's what I wanted to get on record. Thank you. [LB596]

RUSS KARPISEK: Thank you. [LB596]

SENATOR CRAWFORD: Thank you. And I would appreciate if you would check and get back to us on the Auditor's current ability to check and audit a TIF project. I'd appreciate knowing that. [LB596]

RUSS KARPISEK: I will hopefully have it before you're done. [LB596]

SENATOR CRAWFORD: Sure. All right. So when you say the other part of the bill talks about an annual audit, I wonder if you'd just speak to your experience...your vast experience in this Auditor's position, if there are sort of regular time intervals or types of ways of picking a sample to audit that you've seen in other instances that are...well, is it usually every year or are there other methods that you more often see in terms of identifying...targeting something for an audit? [LB596]

RUSS KARPISEK: Well, it is every year. Most cities, counties have a CPA and then it's sent to the Auditor's Office. What I've seen so far is a few of those are sampled. And especially if you see that it's the same CPA doing a number of towns, make sure that they're doing things right. The other ones probably won't get the fine-tooth comb. [LB596]

SENATOR CRAWFORD: So they're all submitted to your office. [LB596]

RUSS KARPISEK: Correct. [LB596]

SENATOR CRAWFORD: And then some of them are looked at more carefully than others, basically. [LB596]

RUSS KARPISEK: Correct, because there's just too many for the staff. And to really dive into the...when they go out and dig through everything. [LB596]

SENATOR CRAWFORD: All right. Okay, thank you. [LB596]

RUSS KARPISEK: Thank you. [LB596]

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SENATOR CRAWFORD: Other questions? Thank you. Oh, Senator McCollister. [LB596]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. So would you be using the information that's submitted from the cities and taking an array of that information and trying to pull out the outlier kinds of information or do you depend on people...whistle-blowers to initiate a study, because I know...I think you do both now or... [LB596]

RUSS KARPISEK: We do. And it would probably be a mix of both, especially with our pending legislation. I think it would open up what the Auditor can and will look at into the subordinates and all of those different sort of contracts. So I would say it would be a different...done a different way. I would say, if the Auditor is told by the Legislature that they will look at these, then that would be a separate thing that they would look at. But I would say whistle-blower--again, I've been there since the beginning of session--and we've seen...I've seen a handful of whistle-blower things already that are being looked into. [LB596]

SENATOR McCOLLISTER: In my discussions with the previous Auditor, last year in fact, he said sometimes they lack authority. And they don't have subpoena power, do they? [LB596]

RUSS KARPISEK: No, but that is also in our proposed bills. [LB596]

SENATOR McCOLLISTER: Okay. Thank you. [LB596]

SENATOR CRAWFORD: Other questions? Thank you. [LB596]

RUSS KARPISEK: Thank you, Senator Crawford. [LB596]

SENATOR CRAWFORD: Other proponents of LB596? Anyone wishing to speak in opposition to LB596? Welcome. [LB596]

CHRIS BEUTLER: (Exhibit 4) Good afternoon, Madam Chair, members of the committee. My name is Chris Beutler, C-h-r-i-s B-e-u-t-l-e-r, and I'm here on behalf of the city of Lincoln and I'm here on behalf of the League of (Nebraska) Municipalities. And we thank the committee for the opportunity to come in and discuss this issue with you. As many of you know, tax increment financing or TIF, as it's referred to, has been an extremely valuable tool in revitalizing some of the more challenging sectors of the Lincoln community. And, in fact, it has literally reshaped the city. In the past eight years, TIF has enabled over \$500 million of private development to occur in the heart of our community...\$500 million. That's more private growth that's happened in the last eight years than has happened in many, many decades before that. These public-private

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projects utilizing TIF range from very small to large, from residential properties to commercial properties, to industrial properties, and office properties. Individual buildings have been revitalized and whole new neighborhoods have been created in the West Haymarket and in the Union Plaza areas. TIF has led to the development of thousands of residential units, hundreds of hotel rooms, and tens of thousands of square feet of office space, primarily in the older core of our community. I think it's fair to say that without TIF and the public-private partnerships that result from it, the city of Lincoln would not be nearly as healthy and vibrant as it is today. Again, these TIF-funded projects have generated significant development, both in our downtown and in many older established neighborhoods, the type of development that would not have occurred, was not occurring in our city until the use of TIF came into play. Many of you have witnessed the transformation of the West Haymarket area over the last several years. That was an industrial, polluted, oil-soaked railroad yard with multiple unused rail lines. It is now one of our community's actual primary entertainment district. I could go on talking about a whole number of projects that have been done in Lincoln in the last few years, but I do want to speak specifically about some of the provisions of LB596. First of all, I would respectfully submit that we do not need a new state office to oversee the use of TIF. Page 12 of the bill creates a tax increment financing division within the office of the State Auditor. This division is tasked with a number of duties, most notably the authority to audit redevelopment projects and proposals to ensure compliance with the community development law and all other laws of Nebraska. To the extent the bill suggests that the State Auditor play an active role in proposed TIF projects, we respectfully but strongly disagree with this premise. And by the way, Senator, I can't be sure that the law hasn't changed since I was here, but the State Auditor has authority over financial matters, over performance audits, and attestations. And under the category of performance audits, they do those with the municipalities. They have the authority to deal with the municipalities. Looking at a redevelopment law or redevelopment agreement passed by a city council to determine whether it's in accordance with law is exactly the performance audit kind of function that the State Auditor is presently authorized to do, in my opinion. Historically, TIF law has been a local tool utilized by local decisionmakers. Local decisionmakers who, we submit, are in the best position to analyze the benefits of potential redevelopment projects. Under the community development law the Legislature has declared that a city, to the greatest extent feasible, is to afford maximum opportunity consistent with the needs of the city as a whole to the rehabilitation and redevelopment of the community development area by private enterprise. The laws...the words of the statute encourage aggressive city attention to this area of run-down areas of the city. In other words, municipalities are empowered by and directed by the community development law to formulate a workable program to utilize both private and public resources to eliminate blight and urban rehabilitation. I didn't get very far, Senator, but I will pass out copies of my testimony. There's so much to say. [LB596]

SENATOR CRAWFORD: Thank you. No, that's fine. That would be great. Thank you, Mayor.
[LB596]

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CHRIS BEUTLER: Yeah. [LB596]

SENATOR CRAWFORD: Questions? Senator Coash. [LB596]

SENATOR COASH: Thank you, Senator Crawford. Mayor, are you aware of any projects, at least in your time as mayor, to any TIF projects that have been challenged as to not meeting the intent or spirit of the TIF law? [LB596]

CHRIS BEUTLER: No TIF project, in my time in the last eight years, nor do I know of any before that, although I'm not as familiar with that, has been challenged on the basis that it was contrary to the law. [LB596]

SENATOR COASH: Okay, thank you. [LB596]

CHRIS BEUTLER: And, in fact, I honestly believe the city of Lincoln has never done anything contrary to law despite using the law to its maximum. [LB596]

SENATOR COASH: Thank you, Mr. Mayor. [LB596]

SENATOR CRAWFORD: Thank you. Other questions? So in your testimony you did...I don't recall that you spoke to the part of the bill that addresses bringing a school representative and a county representative on board on the committee that's looking at these proposals. Would you care to comment on that part of the proposal? [LB596]

CHRIS BEUTLER: Yeah. We don't do things under that section of the law in Lincoln. But we already incorporate the school district. We go hand in hand with the school district on everything having to do with TIF. They know about all of our projects. We have public forums on our projects. We're very wide open and transparent. Everything appears on our Web site. We have agreements with the school district that we're not going to do family housing as opposed to student housing, for example. But they do have an interest in building up some of the areas of the city where there's not...there are not enough students to go to the schools in those areas. And sometimes the peripheral building that goes on when you've done a couple of TIF projects in these areas is quite amazing and can be very helpful to a school district in that regard. [LB596]

SENATOR CRAWFORD: What about the county? [LB596]

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CHRIS BEUTLER: The county is certainly aware of and we deal with, in an informal way, with the county. The county has never objected to any of our TIF projects, to my knowledge. And I think we've had a good relationship there. [LB596]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, Mayor. Any other opponents of LB596? Welcome. [LB596]

DANA BRADFORD: Thank you. Good afternoon, Chairwoman Crawford, members of the committee. My name is Dana Bradford, that's spelled D-a-n-a B-r-a-d-f-o-r-d. I'm executive chairman of Waitt Brands and I'm here today as a member of the board of directors of the Greater Omaha Chamber of Commerce, testifying in opposition to LB596. I am also representing the Nebraska Chamber of Commerce and Industry as well as the Nebraska Bankers Association in this opposition. My testimony and our opposition applies to LB238 and LB445 as well. Despite the concerns some are expressing today about the use of tax increment financing, I can assure you that TIF plays an invaluable role in the redevelopment projects in the state of Nebraska and, in particular, in Omaha. What I thought I'd cover today, quickly, so we can move it over to questions that are important to you, I'm familiar with two projects. I've been around a number of TIF projects in Omaha, but the two that I'm most familiar with are Aksarben and Innovation Campus here in Lincoln. Aksarben is in the midst of its development. It'll total about \$600 million in development. Two hundred of it will be university related, arena, those kinds of projects that do not fall on the tax rolls. There is \$400 million of assessed value that will show up on the tax rolls. Right now that's supporting \$53 million in TIF. The TIF dollars were predominantly used for infrastructure and so forth and I'll come back to the importance of that. I'll talk a little bit about the indirect benefit. The indirect benefit is, the neighborhood is benefitting from all of these amenities, tax values are going up across the board. The University of Nebraska at Omaha, as many know, are trying to grow their campus. The only way you can do that mathematically in this state is by bringing in out-of-state students. This environment is essential to that. If we're able to bring students in, keep them, and put them in employment here in the state of Nebraska, they become homebuyers. And as you can see, it really fuels an engine. Innovation Campus is very much the same thing. In fact, that's probably the most impressive project we have in the state. I don't know that Innovation Campus would be possible without the use of tax increment financing. It's not as far along as Aksarben but, again, that is what's allowing the private sector to come into that project. With that, I guess I'd just throw it over to you guys for questions on these projects. I would say one thing and that is...I'll describe it this way. I hear a lot about review and I can't speak to the issues that some are trying to address with review. I can tell you that our process in both Innovation Campus and at Aksarben, you go through an exhaustive assessment of the project and you identify the capital sources. TIF is a critical one in these kind of projects. Once you set up to launch a project and you press "go," the project is gone. If there's a review process that could threaten the cash flows in tax increment financing, it will not have the support of the financing community from, principally, banks. So

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that cash stream, the predictability of it, the reliability of it is essential to TIF. And if that's impaired in any way through this process, my personal opinion--I don't speak for everyone that I represent here today--is that it will damage TIF to the point of making the kind of impact that we've enjoyed for the last 15 years. And with that, I'll turn it over to questions. [LB596]

SENATOR CRAWFORD: All right. Thank you, Mr. Bradford. Questions? So could you just speak to...you talked about the extensive evaluation, could you just speak to your experience in one of those cases on the cost benefit analysis component? [LB596]

DANA BRADFORD: Yeah. I'd say that in this case you're going to have \$50 million of TIF turn into \$400 million of assessed value, present value that will appreciate over time. Ultimately, that \$400 million of assessed value will make its way to the tax rolls and to benefit, among other things, public education. And that's \$400 million that wouldn't be there if not for TIF. [LB596]

SENATOR CRAWFORD: Other questions? Thank you, Mr. Bradford. [LB596]

DANA BRADFORD: Thanks. [LB596]

SENATOR CRAWFORD: Other opponents of LB596? Welcome. [LB596]

RICK SANDERS: Madam Chairman, members of the Urban Affairs Committee, my name is Rick Sanders, R-i-c-k S-a-n-d-e-r-s, and I'm a developer in Bellevue. I bought 13 acres of ground there when I was much younger and decided to build a senior living community. And I used tax increment financing for that project. The amount of TIF that we requested and received in that project, now when this is completely finished, will be...we will have repaid that in about two years. What I mean is that every two years we will put in as much tax revenue into the system as we took out with the TIF. And I'd just like to...you know, my observations on the TIF as a mechanism is that in Nebraska there is very little that the city has to work with as far as economic development incentives. I think some of the battle here is whether economic incentives are a good thing or not a good thing. And it would be nice if we could draw a sharp line between the projects that would happen anyway and those that would not happen without it, but it's hard to do that. And the bill that is presented today, it has good intentions, I think, but it throws a huge blanket over an area of financing that would have a chilling effect. In my project, for example, if TIF weren't available I could not have afforded to do the things that needed to be done on that property. Redevelopment is a very important thing for cities. I think TIF has expanded to include redevelopment and economic development but the redevelopment is very critical and that's what we did. The reason is, that generally involves infill and using passed over pieces of ground which ours happened to be. The Kennedy Freeway moved the business district west and we had a blighted and substandard corridor there on Fort Crook Road. Also there was problems with a

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good deal of fill, uncompacted fill on this property. And it's very possible that with TIF that property was probably developed at least ten years prior to when it would have been developed otherwise. So...and as far as other redevelopment options, when you're tearing something down that's very expensive. We complain all the time in the urban areas about our blighted buildings that are falling down. And TIF is a tremendous tool. It appears, from my standpoint, that the cost of losing some large projects, particularly, may very well exceed the value that you pick up by eliminating those that may have happened anyway. And also, there's a time value of money. If TIF accelerates the development of an area, it will get those properties back on the tax rolls sooner. And so the school district, the city, the county, they are receiving those cash flows earlier. I also worry about the additional bureaucracy and difficulty, the teeth so to speak in this legislation, because a developer may say, well, because of the teeth I'm not going to...I'm going to build my project anyway. That developer could also say, I'm going to go to Council Bluffs or Glenwood or somewhere else in the area where there's not as much risk. So the effect of the tool of TIF for cities is very strong and very important. And to keep that ability at the local level is very important to the advancement of communities. When we add that layer of bureaucracy, I think which we see with the federal government, we lose something. We lose that local vision, that local eye, and that local control over those projects. Any questions? [LB596]

SENATOR CRAWFORD: Thank you, Mr. Sanders. Questions? We welcome having you here. Thank you very much. [LB596]

RICK SANDERS: Thank you. Thank you. [LB596]

SENATOR CRAWFORD: We've been joined by Senator Krist. [LB596]

BO JONES: (Exhibit 5) Good afternoon, Senators. My name is Bo Jones, I'm with Tru-Built Construction here in Lincoln, Nebraska. It's Bo, B-o, Jones, J-o-n-e-s. I'm a contractor and small time developer. I would like to share my experience with a recent TIF project that we did in downtown Lincoln. We purchased, in fall of 2013, the building located at 1421 P Street, which for those of you not familiar is the building directly across the street from the Lincoln Children's Museum. The building had not been through much of any renovation since it was built new in the late teens. The purpose of the building at the time that we purchased it was basically a flophouse. It was housing mostly criminals and sex offenders and was very high in crime rate. Prior to purchasing the building we contacted Urban Development to see if this was a possibility of being a TIF project. And it was identified as something that fit absolutely within the guidelines of what TIF is, so we moved forward. And in doing so, we created some up-to-date, modern apartments that are market housing and primarily university housing for students. And we were able to clean up the property a lot. The property...going back to not much updates had been done, it was in total disrepair. There was not a single component of the building that we did

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not have to renovate, repair, upgrade. And I sit here today and I can assure you that if it were not for TIF, this project would not have happened. We were seemingly the last developer in town to look at this project. And if it were not for our ability as a contractor and the use of TIF, in that combination to do this project, I don't think it happens. The building had been for sale since the 1990s and nobody had stepped up to the plate to take on the project. If you have any questions, I'd certainly entertain. [LB596]

SENATOR CRAWFORD: Great. Thank you, Mr. Jones. Questions? So if you had not done this project, what else would you have been doing? [LB596]

BO JONES: Probably building houses. [LB596]

SENATOR CRAWFORD: All right. Somewhere else? [LB596]

BO JONES: Yep. Yeah, new home construction, correct. [LB596]

SENATOR CRAWFORD: All right. Any other questions? Thank you, Mr. Jones, appreciate it. [LB596]

BO JONES: Thank you for your time. [LB596]

SENATOR CRAWFORD: Welcome. [LB596]

ERVIN PORTIS: (Exhibit 6) Good afternoon. Senator Crawford, committee members, I'm Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s, I am the city administrator in Plattsmouth. In many ways I'm probably very typical of many of the small communities, particularly the first-class cities in Nebraska. What I've handed out for you is a little bit of a summary of Plattsmouth and some of the facts relevant to our use of TIF. But also at the end of that--I made it as big as I could--is a bulleted process for fulfilling the statutory requirements with designating property blighted and substandard. And then the preparation and the adoption of the redevelopment plan. And in the highlighted, I tried to illustrate all the times in which notice must be given. I'm going to come back to that point in a minute. This doesn't even include the process necessary for the adoption of the redevelopment contract and if we need to make any zoning changes, and then finally the issuance of a bond resolution with their additional steps. But a little bit about Plattsmouth here. First, in 2010 census we had a population loss. Our aging demographics, not sustainable. Seventy percent retail leakage to the Omaha metropolitan area. It's really easy to get on the freeway and drive north and spend your dollars. Most jobs are located outside the community. Gaining new investment, in Plattsmouth I think, like many, many small towns in Nebraska, is

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really hard. So we made a conscious decision several years ago to take advantage of tax increment financing to grow and to sustain our community. I'll add to it that we are at or near levy and lid limits. We don't have additional property tax authority. And, frankly, even if we did, who wants to impose additional property taxes? Nobody I know. Pre-2013, when we made that decision, the last significant commercial or housing investment in Plattsmouth occurred in 1992. We went 20 years without any major commercial or housing investment. Then you can look through the following...on my document there. But in the three projects that we approved since 2013, the base valuation on those three projects was \$555,700. Today we're not even very deep into the implementation period, we're at \$7.3 million. By the end of this year, that assessed valuation is going to be \$10.2 million, almost \$10.3 million. And we've created jobs, jobs that we were losing to Bellevue, to Omaha, to Ralston, to Papillion, La Vista, and elsewhere. The other thing we've done is, we've captured some of the retail sales from communities around us, Glenwood, Nebraska City, Louisville, Weeping Water, maybe a little of Bellevue, and others. So TIF has been an important tool for us. Now my point on the process, it's a cumbersome process. In adopting a blight and substandard designation and then adopting...preparing and adopting a redevelopment plan, you've got to go to planning commission, you've got to public notice of public hearings, and you've got to publish meeting notices, and you have to send notices. Send a notice to the other taxing entities that says here's a copy of the plan and here's where it's going to happen and so on and so forth. I went back and counted and in the three projects we've approved, we sent or published notice 64 times. I had one phone call in all of those 64 times. That was from Glen Johnson, the general manager of Lower Platte South NRD. And after explaining the project to him, Glen said, that sounds like a good idea, Erv. In the three projects we've approved, we visited with, routinely, the chairman of the county board, with the superintendent of schools. The project we've approved we have letters of support from the superintendent of schools. So we make effort. Not only that, but the statute says you have to send notice by mail to the other taxing entities. We sent it by certified mail, return receipt requested to assure that they get it and encourage them to contact us and invite input. And then finally, on a couple of the questions regarding the State Auditor's Office, we prepare and do everything we can under the belief that they are subject to audit. [LB596]

SENATOR CRAWFORD: Thank you. [LB596]

ERVIN PORTIS: Thank you. [LB596]

SENATOR CRAWFORD: Thank you. Questions? Senator Krist. [LB596]

SENATOR KRIST: Not a question, just say hi to the mayor for us. [LB596]

ERVIN PORTIS: I will do that. [LB596]

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SENATOR KRIST: We miss him. [LB596]

ERVIN PORTIS: I will say he misses you, but I'm glad I've got him. [LB596]

SENATOR KRIST: Mr. Mayor-Senator. [LB596]

SENATOR CRAWFORD: Welcome. [LB596]

DAVID LEVY: (Exhibit 7) Thank you. Good afternoon, Senator Crawford, members of the committee. David Levy, D-a-v-i-d L-e-v-y, of Baird Holm law firm, here on behalf today of East Campus Realty and Turner Park North. East Campus Realty is the entity that developed and operates Midtown Crossing in Omaha. And Turner Park North is evaluating redevelopment of a 19-square block area generally to the east of Midtown Crossing between Midtown Crossing and downtown Omaha. East Campus commissioned Professor Ernie Goss of Creighton University to conduct an economic impact analysis of Midtown Crossing. That analysis confirmed that without TIF, Midtown Crossing, a \$375 million project, would not have been economically feasible. And what you're receiving from the page there is a summary, if you will, of Senator (sic) Goss's analysis. That analysis confirmed that even with TIF, feasibility...economic feasibility was challenging. But clearly, without TIF there would be no Midtown Crossing and there would be no redevelopment of ten (sic) city blocks in the middle of Omaha. The numbers you have on there include significant increases in the assessed valuation, not just, of course, of Midtown Crossing but of the blocks around it. And the city of Omaha will follow me later and they have some updated numbers, so I will not talk on those. But I will say that Senator (sic) Goss's analysis concluded that between 2006 and 2016 Midtown Crossing would result in \$60.6 million in new state and local tax revenues, far, far more than the tax revenues that were delayed--not foregone forever, but delayed through TIF--or in terms of sales tax revenue, likely would not have ever come along without Midtown Crossing. So that gives you an example of the significant, not only redevelopment benefit, but an example where clearly TIF has paid for itself many, many times over even far before the end of the 15-year period of the TIF award. So with that, I would respectfully, on behalf of those entities, urge the committee not to advance LB596 and take any questions you might have. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Levy. Questions? Thank you. Senator McCollister, I'm sorry. [LB596]

SENATOR MCCOLLISTER: I'm sorry. Thank you, Chairwoman Crawford. A lot of people have talked about improved transparency with TIF. What kinds of improved transparency would you not object to? [LB596]

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DAVID LEVY: Going to give me that question? [LB596]

SENATOR McCOLLISTER: That double negative. [LB596]

DAVID LEVY: You know, I will start--and I don't mean this as a nonanswer, I will try and answer your question--I really am not sure that transparency is the issue. I mean, there have been some cases that you've heard about and read about where somebody says, we didn't know about this. There have been--and I believe somebody following me has the exact numbers--but four or five bills that the Legislature has passed in the last decade or so already to try and improve and to improve transparency of the TIF process. So there's been a lot already directed at that. One of the things in this bill, if I had to pick one, the idea of kind of a TIF manual that would somehow be promulgated at the state level. I think it was Ms. Fry who said, and I agree with her, that there are some communities that don't use TIF a lot. And it is a complicated process. You heard Mr. Portis talk about how many public hearings there are in all of the process. And so something...if there's not already something like that out there that really went through in detail and provided kind of almost a cookbook, if you will, or a recipe for how to do a TIF project from the city standpoint from beginning to end is something that I don't even know if it would take legislation necessarily to make that happen. But I think if that doesn't exist, that's a good idea. [LB596]

SENATOR McCOLLISTER: Thank you. [LB596]

DAVID LEVY: Okay. [LB596]

SENATOR CRAWFORD: Thank you. [LB596]

DAVID LEVY: All right, thank you. [LB596]

SENATOR CRAWFORD: Welcome. [LB596]

LARRY BURKS: Good afternoon, Senator Crawford, members of the committee. My name is Larry Burks, that's L-a-r-r-y B-u-r-k-s, I am the assistant city administrator for the city of Bellevue. I'm here to talk about the Revised State Statute 18-2102. On behalf of the city of Bellevue, I'm here to speak in strong opposition to any amendments, including LB238 and LB445, because the bill as written has ample levels of control and transparency. Starting in subsection (2) of the bill, the mayor and the governing body are repeatedly mentioned. The intent of the legislation is for the local governments to have control over development in their community. Any amendments infringing on this local control should be opposed. Previously, I heard...not only this year but in previous years I've heard testimony regarding the number of

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notices sent to other taxing authorities and the number of public meetings held regarding redevelopment authority actions and TIF projects. In spite of the multiple notices and multiple public hearings, which provide an inordinate amount of time for taxpayers and taxing authority feedback resulting in a completely open and transparent process, subsections (2)(a) and (2)(c) proposes to force the local school board, county board, and community college to approve a redevelopment authority member. These appointments will increase the potential for conflicts outlined in subsection (4) regarding direct or indirect conflicts of interest, not to mention jeopardize local control unless the legislation can guarantee all members reside within the corporate boundaries of the redevelopment authority community. Would it not be more reasonable and more efficient to have the aforementioned units of government exercise their redevelopment authority rights outlined in subsection (7) which states: The book of any authority shall from time to time be audited upon the order of the governing body of the municipality in such a manner as it may direct? And all books and records of the authority shall at all times be open to public inspection. Now speaking of books, you're being asked to pass legislation on a guidebook table of contents or outline. It's just an outline. It would be more reasonable to see the entire book before anything was passed. Why do we need a whole division of state government created to accomplish what can be done already? School districts, community colleges, counties all need to exercise their powers if they have issues with a redevelopment project, preferably before a project is started, but also after the project is completed if there is any suspicion of wrongdoing. Perhaps--and perhaps, I'm not saying--but some of the communities are simply not doing TIF projects correctly. If so, citizens, school districts, colleges, and counties all need to go to their public meetings and voice their concerns and perhaps insist that the community or the redevelopment plan execute its option to contract for expert help as outlined under subsection (3) which states: Community redevelopment authorities of cities of the first and second class and villages may secure the services of a director, community redevelopment administrator, or coordinator and other officers and employees as may be desired through contract with the Department of Economic Development on terms which are mutually agreeable. The creation of an entire division of state government to monitor redevelopment activities is not only state government overreach but extremely irrational. The current legislation is written to empower citizens, schools, colleges, and counties to participate openly before planning commissions' multiple meetings and city councils' multiple meetings to express their wants and needs as related to TIF projects. Furthermore, the current legislation is written to empower citizens, schools, colleges, and counties to monitor redevelopment funds regularly on a day to day basis if desired. And finally, the current legislation is written to empower municipal governments to determine what projects fit their community and what projects to invest in for the community's long-term economic sustainability, as it should be. If there is a problem with a TIF project in a community, then the problem is at the local level, not the state level. Instead of trying to create more bureaucracy at the state level, elected leaders should be trying to increase participation by citizens, school districts, community colleges, and county boards in the existing redevelopment process--because it works--and empower communities that do use the existing written

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legislation. Current legislation is participatory development and participatory development is at its best with local control. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Burks. Thank you very much. Could you...and we welcome you here from Bellevue. Thanks. And I appreciate your discussion about some of the other aspects that are in statute. Many of us on this committee are fairly new, so we're learning about the statute at this time too. So it was helpful. [LB596]

LARRY BURKS: It was a long day of reading yesterday. [LB596]

SENATOR CRAWFORD: Right. Thank you. Any questions? Senator Krist. [LB596]

SENATOR KRIST: I've been in and out. I was presenting and introducing in another committee. This is a subject matter that I'm relatively familiar with, having been on this committee for six years. I'm going to use your testimony to make some common points. Mayor Beutler, who the committee heard from--and I missed your testimony, sir--but a former state senator who understands TIF, who understands the system has been very successful in Lincoln doing what they need to do. And if he's not good at it, Dave Landis is going to hold him in check because he knows the process and the system. City of Omaha has developed the process involved. Mayor Black has developed the process involved. All these people, I'm sure they're all going to come up and we're going to be here till 5:00 and that's fine because that's what needs to happen. But here's what I want to say for the record. If your TIF is broken in your local area, fix your TIF in your local area. Quit bringing bills here and telling us to restrict community development, economic development. If you don't understand it, go to Omaha, go to Lincoln, go to Papillion, go to Millard, go to someplace that has... [LB596]

LARRY BURKS: Bellevue. [LB596]

SENATOR KRIST: I'm sorry, I forgot Bellevue. It should have been like the second one on the list in alphabetical order, shouldn't it? Sorry. Go talk to the people who have done it. I mean, the process is in place. And if you don't understand it, don't do it, because you're going to get yourself into trouble. So I won't say anything else for the rest of the day. I've said what I need to say. Thank you. [LB596]

LARRY BURKS: Thank you. [LB596]

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SENATOR CRAWFORD: So could I ask a question? If somebody wants to see the proposal or somebody wants to see the cost benefit analysis that you've done for a project, how would a citizen access that? [LB596]

LARRY BURKS: They would likely come to city hall and ask for a copy of it or there may be a public information request for it. Unless it's under negotiations, which may be under executive contract or executive discussion, but once it's settled on and agreed upon then they can receive it. [LB596]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, Mr. Burks. Appreciate you being here today. Welcome. [LB596]

LOWELL JOHNSON: (Exhibits 8, 9) Senator Crawford and committee members, my name is Lowell Johnson, L-o-w-e-l-l J-o-h-n-s-o-n. I'm the city administrator for the city of Wayne and I'm testifying here on behalf of Ken Chamberlain, he's the mayor of Wayne. Wayne is the home of Wayne State College. We're in a rural area with declining population. Wayne, like all rural school communities, struggles to maintain population mass, school enrollment, and business activity. Wayne has a vibrant college but no railroad or four-lane to attract any business expansions. We see that our future is our own to create and we are growing our own opportunities. Our elected officials are young, energized, and competent. Mayor Chamberlain, who is 40, was first elected mayor at 36. Our men and women councilmembers are aged 67, 44, 40, 40, 36, 34, 32, and 26. During the economic slump after 2001, Wayne spent a lot of time planning long-term strategies to restart our economy and development business and residential opportunities and to create new wealth for long-term community stability. We found that most of our residential demand and business development is coming from low- to moderate-income families so there just isn't a lot of cash available for new investment in homes or business formation. Average development costs for a new 75-foot wide residential lot is about \$7,500 for concrete and about \$7,000 for water and sewer. When you add these two to the land cost and site preparation, you can't build a \$140,000 house on it and have any kind of profit margin. If new families coming to Wayne for \$15 to \$18 dollar an hour jobs have nothing to look at but 50- to 90-year-old houses with bad utility bills, our businesses can't get enough of them here to grow. In our strategic planning with entrepreneurs, developers, and builders we continually find that those willing to invest in rural Nebraska simply can't or won't pay the development costs to cover the high cost of paving streets, storm sewers, and sanitary sewers. If they have to pay these high costs, they will build in urban areas where the return on investment is expected to be higher and labor is more readily available. This is happening in all of rural Nebraska. We now have two private developers building and selling \$150,000 houses in new subdivisions located in problem locations because they have tax increment financing created by new construction...the financing itself is created by the new construction and it pays for the streets. To help reduce development costs, we've been offering tax increment financing as one of our tools to many, but not all, of our

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investing developers. I have distributed a brief history of TIF projects in Wayne with a few anecdotal photos to show some of the project results. And I'd like to point out three things, if I may, Senator Crawford. And on page 2--it's the back of the title page. We only numbered the odd numbered pages in the top right-hand corner--on the back of the title page there is...that's a summary of the economic impact of the projects that we have done at Wayne. I won't spend time with that now, but there are a few photos that go in order with some of the projects as they're titled here, just for your reference. The first...page 3 has this purple segment in the middle of it. That's the first major project that we did. Wayne actually did that because we have bare land by the school but it was a bad slope and the drainage...we couldn't ever afford to do the drainage down through Wayne. And there was not a good neighborhood. So our only option...the Highway Department of Roads wouldn't let us build above that because of the stormwater runoff. So that was our first TIF project was...and it involves bare land, but we...no one could afford that, to build the four dam structures, the water retention capacity and still get that in there. So that's just one, I won't mention any more in the interest of time. I want to point out, this project and all those in there were a mess and they would have never happened. People had tried and failed. The appointed membership of the Wayne Community Redevelopment Authority includes a Wayne County commissioner, the superintendent of public schools, and a member of the Wayne Area Economic Development. Our school is looking to the Wayne Community Redevelopment Authority to help generate new affordable housing to support student enrollment and build future tax revenue. They know from the past 20 years that without CRA and TIF incentives, those wouldn't happen. Our elected officials are conservative and have done their best to follow the intent of the law. I won't finish this in the interest of time. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Johnson. I appreciate that and appreciate the written testimony that we'll be able to read in full and the pictures. Questions? [LB596]

LOWELL JOHNSON: (Exhibits 11, 12) I'm also leaving testimony against...in opposition to LB238 and from two other communities that are in opposition, so. [LB596]

SENATOR CRAWFORD: Give that to the pages. Thank you. [LB596]

LOWELL JOHNSON: Okay. Thank you. [LB596]

SENATOR CRAWFORD: Welcome. You may begin, yes, thanks. [LB596]

MARK STURSMA: (Exhibit 10) Chairwoman Crawford and members of the committee, thank you for your attention. My name is Mark Stursma, that's Mark with a "k" and Stursma is spelled S-t-u-r-s-m-a. I serve as the planning director for the city of Papillion. Today I'm representing the United Cities of Sarpy County, that includes Papillion, Gretna, La Vista, and Springfield. We are

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here in opposition to LB596. And some of my comments may be redundant to what you've already heard but bear with me, they're important. So I'll try to be brief. The addition of the school boards, the county board, and the community colleges on the community redevelopment authority, in our view, is simply unnecessary. Those entities are already involved. We have an extensive public notice process and we have excellent working relationships with those groups and so they are already involved. Requiring them to be active on that entity is simply unnecessary and could be burdensome. Regarding the creation of a new division on tax increment financing at the office of the State Auditor, three things come to mind in our opposition to this. On the helpful manual, that may be a good idea but we don't think it's necessary to expand state government to do so. There are plenty of resources out today. Many communities that use TIF already have such manuals. I don't think it would be a very difficult effort to get that accomplished. The funding of the new division is proposed as a fee on these redevelopment projects. And so we're siphoning off money from these projects to fund an expansion of state government. We don't think that's right and we think that would be harmful to TIF as a tool. And again, on the creation of this new division, it's simply redundant with the role of the State Auditor today. They already have the authority to audit these projects and so it's not necessary to siphon money off of these projects and for local government to fund an expansion of state government. That authority already exists. And then lastly, I'd like to add that we have further oversight. Our mayors and city councils are voted by the people of their communities. And if those people feel that we're not using that tool effectively, they'll let us know through voting. That's all I have. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Stursma. Questions? Do you know of any instance when one of the TIF projects in one of these cities was audited? Do you happen to know that? [LB596]

MARK STURSMAN: I'm not familiar. I don't know. [LB596]

SENATOR CRAWFORD: Okay. Thank you. Thank you, I appreciate it. Anyone else wishing to speak in opposition to LB596? Welcome. [LB596]

ANDREW WILLIS: Senator Crawford, members of the committee, thank you. My name is Andrew Willis, A-n-d-r-e-w W-i-l-l-i-s, I'm an attorney with Cline Williams Wright Johnson and Oldfather, here in Lincoln. I want to speak on behalf of myself and also to voice the opposition of the Lincoln Chamber of Commerce on all three bills, LB596, LB238, and LB445. Again, I think most everything has been said that I was going to add, so I'll be very brief. Looking at LB596, in particular, the public notice and, specifically, the notice to each of these taxing jurisdictions has been provided in the fact that there are two public hearings at the planning commission and city council level for each redevelopment plan and substantial modification of

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that plan is important. The new state office that would be funded with money that would otherwise be used for these TIF projects, again taking the small amount of resources that these communities are dealing with and using it, taking it away from the possible use for the project for the state organization seems unnecessary. And maybe I should start by saying we represent about 20 to 25 smaller communities, anywhere from...well, some small, some large, first class, second class, and villages for TIF projects. So we've been involved with many projects and have seen...you know, we...our goal is to guide the municipalities through this process, ensuring they do fully comply with the community development law while being able to remove the blighted and substandard conditions. So we see...I guess I see that the additional oversight is unnecessary, takes away some TIF funding that could otherwise be used and really is redundant because we see that this has been taken care of at the community level. The other sort of piece of oversight that exists, just from a practical aspect, is the lenders involved. In order to fund a TIF project there's a lender or redeveloper who will essentially have to bring a lender who's going to fund this tax increment financing indebtedness. The concern I see with adding another potential recapture would be just the chilling effect that these...it's hard enough to find a lender to...that are doing their due diligence, I should say anyway. And so to add that other layer I fear would add some additional effect of stifling and hurting tax increment financing that could be used. As I said, everything else has really been said. I would take any questions from you. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Willis. Questions? Senator McCollister. [LB596]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. How many projects have you actually been involved with? [LB596]

ANDREW WILLIS: Lots. Like I said, we represent probably 20 to 25 communities and some of those have done 1 or 2 projects, some of them have done 4 or 5...50 to 80. Is that...and we also represent some redevelopers here in Lincoln and Omaha. [LB596]

SENATOR McCOLLISTER: And so you have a set template that you probably follow when you do these projects. [LB596]

ANDREW WILLIS: Fairly close, yes. I mean, there's some standard...you know, we follow the...obviously, there's some standards you need to follow in the community development law. Projects in Lincoln are very different than a project in a village, obviously, but as far as complying with the law, from the community's perspective, yeah, there's... [LB596]

SENATOR McCOLLISTER: How many projects have you advised the clients not to pursue? [LB596]

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ANDREW WILLIS: A fair number. And it usually happens at the application level so it doesn't ever come to the hearing level, which is probably maybe why it seems like...you know, some people have this perception that every project is approved because what will happen is a developer will come with a TIF application first. And again, one of our sort of standards is, we will look at that with the city at the CRA and look at the eligible uses that are presented if they exist and make sure they are truly eligible uses. Also we do a projection to see potentially how much TIF is there, look at that, look at the project. And then you'll start going into that cost benefit analysis. We don't even necessarily get into that cost benefit analysis if you can already tell that this is a project that shouldn't be approved or that the city decides or the CRA decides won't be approved. So a fair number, but it usually happens at that application level. [LB596]

SENATOR McCOLLISTER: What are the common failings, if you were going to typecast or at least... [LB596]

ANDREW WILLIS: Not having the eligible public uses, because there's only certain uses that TIF money can be used for. So if a project comes and there isn't a sufficient use or they're asking for money for something that isn't eligible, that would be one fairly common one. [LB596]

SENATOR McCOLLISTER: Of the projects that you've helped with, how many...what percentage have failed or you advised a client not to pursue? [LB596]

ANDREW WILLIS: Oh, I don't know. As I said, it would be projects that were...maybe there was an application sent or even, you know, informally it was decided. I don't know the answer to that. [LB596]

SENATOR McCOLLISTER: Okay. Thank you very much. [LB596]

ANDREW WILLIS: Yeah. [LB596]

SENATOR CRAWFORD: Thank you. Other questions? I have a couple. So how many times has a project that you're familiar with been audited? Have you ever been an attorney in helping some client with an audit? [LB596]

ANDREW WILLIS: I have not but I...we have always advised or been under the assumption that these projects can be audited already. I have not been involved in the audit of a project but we have always assumed that's a possibility. [LB596]

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SENATOR CRAWFORD: Okay. The other question--and again, this is part of the established law--so there's part of the community development law that says the validity and enforceability of bonds and agreements presumption. So it basically says that if a project is deemed to have been authorized, the bonds won't be at risk. Do you think that's not adequate protection moving forward? There would still be...I mean, is that a help against that chilling effect, I guess is what I'm trying to ask? [LB596]

ANDREW WILLIS: I'm going to indirectly answer your question. Typically, in a...particularly in a smaller community, what we'll do...you know, if you look at the statute, the TIF indebtedness is issued either in a bond or a promissory note or in some other form of indebtedness for the community. And we like to view the CRA more as, essentially as a conduit that's going to facilitate this but there's no general obligation upon the city or the CRA. The redeveloper is typically going to find that lender who is willing to either purchase the bond or essentially fund the note or be the...I mean, be the lender that's going to fund that, so. The risk on the lender's side is that if a project doesn't...isn't constructed to a certain level of assessed value, doesn't create that tax increment, then there won't be enough tax increment to service that debt. So the...I mean, that's the risk on the lender's side if there's a potential recapture--and I'm not exactly sure what the recapture would do or how that would actually work--but if there was another level of risk that there's a potential recapture, particularly when it didn't seem...I mean, again, I'm not real sure what that would be, what it would mean to not meet the goals of the redevelopment plan. I would think there would be less lenders who are just willing to take that chance because of that additional layer. So that didn't answer your question but that's what I would say. [LB596]

SENATOR CRAWFORD: No, that's fine. All right, thank you. Thank you so much. Any other questions? Thank you for coming to testify. [LB596]

ANDREW WILLIS: Thank you. [LB596]

SENATOR CRAWFORD: Anyone else wishing to speak? Welcome, Mayor. [LB596]

DAVID BLACK: David Black, mayor of Papillion, D-a-v-i-d B-l-a-c-k. I didn't plan to testify so I have no handouts. But the last series of questions prompted me to get up, plus I just can't sit still and say nothing, even though I was prompted to. So I'm testifying on behalf of the city of Papillion, but it's directly to that issue of the chilling effect. Just for perspective, just like you guys, political is a part-time job. My day job, I'm a commercial lender. I've been 20 years in finance working with complex finance and I'm an active commercial lender today. In fact, I'm reviewing a TIF project as we talk. So I do business development, looking for projects for the bank. If I land a project, I do the credit analysis, I present it to the loan committee, and I'm a voting member of the loan committee. So I think very much about the risk. So it's with that

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background knowledge that I'm speaking. The bank didn't know I was speaking, so I won't share who they are because I'm not speaking on their behalf. But it's that knowledge that scares me as a mayor. And it is that chilling effect on the bond market or the lending market and what it would do to the projects. I believe it would stop our TIF projects. Just to build up on that last conversation a little bit, in the credit analysis today we already assume or plan for the risk of the valuation maybe not being where it's at. And we think about that in the repayment of that loan and that's why we don't loan 100 percent. There's...nobody does, I mean, you buy your house, you've got to have a little bit of wiggle room in there and that's what that's for. What the claw back feature does though is introduces a brand new risk that I don't think we can plan for and I think it will dry up the lending. When we look at making a loan, one of the most important things we look at, besides the loan to value to make sure the collateral is there, is the repayment ability. If we make the loan, we want to be repaid. And so what we look at is the repayment ability. And there's two components to the lending. One is the primary mortgage the bank is making, but the other one is the buy-back of the bonds that were being discussed just before this. And if the bank is buying those bonds or making that secondary loan, that's a second loan that I'm making, so I'm doing the analysis on that piece of credit as well. The repayment source of that loan is the TIF payment. If I believe that there could be a claw back feature that none of us control--we all went into good faith, we read the redevelopment agreement, we believed everybody is following the law, this has all been approved--I have to have faith that that redevelopment agreement is true. If there's a claw back feature in there, there's a whole unknown. We all believe that the agreement is right. We all believe that it's been approved. But if there's a claw back feature, that repayment source may not be there. If that repayment source is not there, I'm not going to make that credit that backs up that TIF portion. If I don't make that secondary loan for the TIF component, I'm not making the first loan because they fit hand in hand. So as a mayor, I would be fearful that no TIF project would occur because I don't think there's a bank that would make a loan on those projects because of that new claw back risk. [LB596]

SENATOR CRAWFORD: Thank you, Mayor Black. Senator Krist. [LB596]

SENATOR KRIST: I wasn't going to say anything, but I took your name in vain a few minutes ago. I thank you for coming up here, but I...just for the legislative intent of this hearing--and we'll stay here till 8:00, I mean, that's...keep coming up and telling us about it, that's what this is about--but just for the legislative intent, comment, if you will, on my suggestion that if you haven't been there, done that, worn that T-shirt, find somebody who has, find a guide that's out there. And I'm sure from your perspective, both from the lender's side and from the mayoral side, you understand the significance of some mayor who is maybe not experienced needing some help, please. [LB596]

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DAVID BLACK: Correct. And that's with any project. And again, some of that's to the assumption anything we do is going to be audited. We are open and audits can come from a number of sources, both internal...we go to a higher level for CAFR audits, which is a higher level of government audits that we do, and the Attorney General is out there. And to the other point, any citizen could make a complaint which would probably kick in an AG's action. And so I think any action, no matter whether you're a village or a primary city, you're going to be thinking of the actions. Is it legal, is it proper, plus you always have legal counsel there guiding you as well. So I agree with you. [LB596]

SENATOR KRIST: Thank you, Mayor. [LB596]

SENATOR CRAWFORD: Thank you. I have one other question. [LB596]

DAVID BLACK: Yes. [LB596]

SENATOR CRAWFORD: From a commercial lending standpoint, sort of with that hat on, and what...how is the TIF financing and economic development tool different than other economic development tools that we use in the state that do have claw back? Like, what is unique or different about TIF from those other ones that would have a claw back? [LB596]

DAVID BLACK: The unique feature is the developers and some of them have already talked. The developers are picking up these projects and they're picking...they're the ones picking up a very significant risk in these projects. The risks have a higher cost to them because, as was mentioned, you're either taking buildings down that you have a high cost, you're fixing old infrastructure which has a high cost. There's a high cost to these projects that the developers are picking up. Without TIF, the bank would require that lender to put up that much more money because we need to keep the loan to value at an appropriate ratio or we get in trouble with regulators. And to maintain those ratios, those developers would have to put up a lot of money. That's their risk. They're into this for a return. They're not going to risk that amount of money, they're going to jump to another project that's lower risk on themselves. [LB596]

SENATOR CRAWFORD: Thank you. Senator McCollister. [LB596]

SENATOR MCCOLLISTER: Yeah, thank you, Chairwoman Crawford. We talk about redevelopment. In a city of...in your city, how much of that was redevelopment and how much...how often did you use raw ground? [LB596]

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DAVID BLACK: Well, it's an interesting question for me. In the city of Papillion, I'm not aware of a TIF project we've done, period. I have one project we're contemplating. We have an old area right in our downtown area that's an old industrial area that we're thinking how could we get it redeveloped. And TIF may be the only thing that would tip it over to be an affordable project for a developer to take a risk, but we're not that far into it yet. But to date, we have not done a TIF project that I'm aware of. [LB596]

SENATOR McCOLLISTER: Oh, okay. I misunderstood. Thank you. [LB596]

DAVID BLACK: And we haven't done LB840 either, for the record. [LB596]

SENATOR CRAWFORD: Thank you. Thank you, Mayor. [LB596]

DAVID BLACK: Thank you. [LB596]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition of LB596? If we have other people who are wishing to speak on LB596, if you would move forward that helps just facilitate the flow here. Welcome. [LB596]

ED RIEKER: Welcome. Thank you. And thank you, Senator Crawford and committee members. My name is Ed Rieker, that's E-d, last name, R-i-e-k-e-r. I'm from North Platte. Philosophically, I'm opposed to this bill because, quite frankly, I don't think we need more government. It frightens me to think that we would be establishing another whole division, so to speak, to keep the eye on the public. Do I think that there needs to be some oversight on TIF? Absolutely. One of the things that I picked up during these conversations is, TIF has been routinely referred to as economic development. It's my understanding that TIF is for the redevelopment of existing sites. And obviously the goal is to improve economics. But the bill itself, the law itself is for the redevelopment of existing sites. And when I read the law it tells me that those captured funds are to be used by the taxing entity for public infrastructure, not private infrastructure. There's a big difference. If I'm a developer and I'm using these tax increment funds for my private infrastructure, I may be using them for sewers on my own property, I may be using them for my foundations on my buildings. On the other hand, if these monies are being used for public infrastructure, these monies would be used to build new power lines to satisfy the needs of the redevelopment, they may be used to construct a concrete street instead of a gravel street, they may be used to construct sidewalks and water mains and sewers, but those are all on public properties. And that's a big difference. In my hometown, I know that some of those tax dollars have been captured and been used by the developer for the construction of infrastructure on private property. Now I'm not opposed to TIF. There's certainly some places where TIF makes a lot of sense. But my own personal thinking is, as a businessman, if the business needs to have

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public money to make a profit, then they probably shouldn't even be in business. So my thoughts, I think, I've explained fairly well. One comment--and unfortunately, Senator Coash is not here--but a group of us did contact the Attorney General regarding questions about how tax increment financing was being done in North Platte. And we were told that he wasn't going to address the issue, that we as taxpayers, if we wanted to challenge it, we had that legal right. Unfortunately, when you take individual people trying to challenge city hall, you oftentimes have an unlimited amount of money as compared to a very finite amount of money. And so, unfortunately, Senator Coash wasn't here to hear that. But nonetheless, there was an attempt made to challenge that through the Attorney General and it was turned away. So that's the extent of my comments. [LB596]

SENATOR CRAWFORD: Appreciate that. Thank you very much for sharing your experiences. [LB596]

ED RIEKER: Questions? [LB596]

SENATOR CRAWFORD: Was there any suggestion or recommendation that you contact the Auditor's Office or... [LB596]

ED RIEKER: No. There was no comments along those lines to my knowledge. The challenge was, the...and I think Senator Groene's bills LB238 and LB445 will most likely address these issues. But it got down a lot to definitions and how you interpret certain words in the law. And how they were defined by one interpreter versus another interpreter had a big impact on how these funds may or may not be used or whether or not they could even be captured. [LB596]

SENATOR CRAWFORD: Sure, right. Thank you, appreciate that. Thank you for coming to testify. [LB596]

ED RIEKER: Thank you. [LB596]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB596? Anyone wishing to speak in a neutral capacity on LB596? Welcome. [LB596]

JON HABBEN: Thank you, Senator Crawford, members of the committee. My name is Jon, J-o-n, Habben, H-a-b-b-e-n, and I'm the executive director of Nebraska Rural Community Schools Association. You're probably wondering, what on earth would you have to say about this? Well, to put it as succinctly as I can, the questions that I hear about from board members or superintendents have to do with some very simple things. The last testifier brought it up again,

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definitions. When we look at these three bills--and I'll only testify once--when we look at these three bills, what they're attempting is clarity, oversight, and inclusion. The clarity is simply, what are those definitions? How well do we all understand them? Maybe the manual is an excellent way to improve that circumstance. Previous testifiers indicated there are places that don't use it very often and may feel somewhat clumsy, may even trip over themselves attempting to use it. But I agree with Senator Krist. When you get into circumstances locally, they are local circumstances. You have to deal with those issues locally. I don't get to go in and tell some other town how to do their business and vice versa. The oversight: This question has popped up repeatedly. You've heard it. We have heard it. TIF projects affect other things. Senator Davis mentioned the flow of money in TEEOSA, the school equalization finance formula, the distribution formula. And it affects other types of development around it. You've heard testifiers talk about the very positive impacts of using TIF. Do we define it narrowly so that we have better definitions and a stronger statute to follow and a more clear statute to follow or do we leave it as somewhat vague so that it can be used in its aggressive terms? That may be philosophical, but it's an important discussion I think for the committee to have. Inclusion: So notifying school districts. How well does that occur? Well, I would tell you that it is not consistently terrific. And part of that reason may be that local struggle with carrying it out when you don't use it very often. Part of it may have to do with the developers that are highly concerned about having the discussion of their development going to a broader audience. That is a part of it. As my last superintendency, I was part of a public-private partnership on economic development. And yes, it is true, you all know it, that not everybody who has a project wants it on the front page in its developmental stages. That's understandable, but at some point that inclusion needs to occur. Now it may be the superintendent, it may be the board president. But creating that inclusion, that attempt at a partnership starts to make sense if everybody is going to attempt to be on the same page. These three bills are attempts to improve those circumstances. And hopefully, as you look at all three bills you will find points of good discussion about how to answer the questions of clarity, oversight, and inclusion. Thank you. [LB596]

SENATOR CRAWFORD: Thank you, Mr. Habben. Questions? Thank you. Anyone else wishing to speak in a neutral capacity on LB596? Welcome. [LB596]

VIRGINIA MOON: Thank you. Senator Crawford, members of the committee, my name is Virginia, V-i-r-g-i-n-i-a, Moon, M-o-o-n, and I'm here representing the Nebraska Council of School Administrators. I'm giving similar testimony to Jon Habben in terms of where we stand. There is no superintendent or school district I think anywhere that doesn't want to be a part or consider themselves a part of the economic development of a community. And I think what we've heard today in the testimony is that that economic development in these TIF projects work best when schools are included as early in the discussion as possible--knowing that there are delicate natures to any kind of development project--but that school districts are often a part of this discussion. They probably are less of a part of the discussion when it's a once in a while

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effort or when the city doesn't have as much experience with it. So we appreciate very much how it's implemented in most cases. And I do believe that it works better when school districts are involved. The impact of a TIF project in a school district varies greatly from one district to another and from one community to another and the type of the project. Is it going to create jobs with a lot of housing? Is it going to create housing with a lot of kids and no tax benefits that come with it? And I think school districts are always willing to make an investment in the future knowing that the valuation will come later. But sometimes we have to provide services in that 8- to 15-year stretch because of that development, with no real resources to do that, especially districts that are up against \$1.05 and are struggling already to make their resources. So having some up front discussion about that really does help us out. So I think that we appreciate the intent of these bills in terms of being inclusive and encouraging discussion up front. We also appreciate the fact that these bills do bring to light, at least for discussion purposes, not because we don't support TIF because I think school districts in general do support TIF, but that it does affect TEEOSA. It does affect funding. And sometimes it affects that state funding from one community to another. So the impact of these projects is something that's worth discussion and we hope that you'll include that in your discussions going forward on these three bills. [LB596]

SENATOR CRAWFORD: Thank you, Ms. Moon. [LB596]

VIRGINIA MOON: You bet. [LB596]

SENATOR CRAWFORD: Questions? Thank you. Anyone else wishing to speak in a neutral capacity on LB596? Welcome. [LB596]

DICK CLARK: Thank you. Chairman Crawford and members of the Urban Affairs Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k, I'm testifying today on behalf of the Platte Institute. Thank you for this opportunity to speak in a neutral capacity on LB596. And a lot of ground has been covered before me so I'll try to keep it brief. The use of TIF has expanded rapidly since the 1980s, especially since the turn of the last century here. And there's been a shift over time in the types of projects that are being financed. I think that's important in the discussion on this bill and on the others. In 1997, approximately 54 percent of the base value of TIF projects was for commercial projects with another 36 percent for residential and just under 10 percent for industrial projects. Now by 2012, anyway, almost 72 percent of the base value was used on commercial projects, 22 percent for residential, and only 6 percent for industrial and other projects. That trend is important because certain uses of TIF are more effective than others in terms of getting a return on investment for the taxpayer. The hierarchy, as described in the 2013 Platte Institute report which has already been discussed, goes from industrial to residential to commercial. We've already heard some concerns about support of commercial projects through TIF where there's the danger, that moral hazard of sort of unfair competition backed by public

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resources. But you know, on the other side of the coin, for industrial projects there can be a synergistic effect, right, development of industry sectors where you have further development of industry in town. Those aren't industrial people that are necessarily attacking each other in the competitive market, they may be collaborators. And so where the industrial development through TIF may, indeed, promote the players that are already in that local market, maybe not so much with the commercial projects. Now if used correctly, TIF can be a valuable tool for the redevelopment of blighted substandard areas. And we see that that is the narrow purpose for which the CRA was enacted. TIF is not supposed to be used except in instances where the development would not move forward but for use of TIF. As described in our study, accurately assessing the probability of development without TIF is a crucial factor for understanding how a TIF project will affect local schools. The more likely it is that a project would have happened anyway, the more likely it is that "TIFing" that project will be detrimental to the local district. The "but for" text contained in law right now, we think it's too vague, allows for a lot of shoehorning. You've heard me talk about that in the past. We do need more transparency, more public accountability--I'll emphasize the accountability piece there--for projects that are to receive TIF dollars to ensure that project backers are acting in good faith and are following through on the conditions they agreed to when they proceeded with the project. Conflicts of interest relating to TIF projects are defined and prohibited in current law. But as described in our 2013 study, decisionmaking by local officials is not always at arm's length and that is of concern to the taxpayer. Whenever a TIF project is proposed, taxpayers should be protected from decisions that have the power to shift the burden of paying for local services onto fewer shoulders. And that means that Nebraska needs less ambiguous standards for approving or disapproving TIF project proposals, standards that incorporate more objective economic metrics for measuring the costs and benefits of a particular plan. Now we know Revenue collects and publishes data on implementation of TIF projects around the state but it doesn't currently have the authority to audit them or assess penalties for failing to comply with the law. LB596's way of addressing that concern would be through new authority granted to the Auditor of Public Accounts. And I would note that we've heard some disagreement today about whether or not that authority currently exists in the person of the State Auditor and his office. And I would say that whether or not the authority exists is a different question of whether or not a duty for regular audit exists. And so I think that's a further question that we should talk about as well, beyond just where the authority is, whether or not there's actually somebody with a duty to do this regularly. That's really all I had for you today, so I thank you for the opportunity to speak in a neutral capacity on this bill. Thanks to Senator Davis for his continued interest in this policy area. And I'd be happy to answer any questions. [LB596]

SENATOR CRAWFORD: Thank you. Senator McCollister. [LB596]

SENATOR MCCOLLISTER: Can you give us the address of the Platte Institute? [LB596]

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DICK CLARK: Oh, boy. I can direct you to the platteinstitute.org, which is the URL or Internet address and you can find our snail mail address there. [LB596]

SENATOR McCOLLISTER: All right. Is it on 74th Plaza? [LB596]

DICK CLARK: It is, South 74th Plaza, fourth floor. [LB596]

SENATOR McCOLLISTER: Is the Platte Institute inside a blighted area? [LB596]

DICK CLARK: You know, Senator, I haven't looked into that. But given your question, I bet it might be. [LB596]

SENATOR McCOLLISTER: It is. And the building on the north side of you, who owns that building? [LB596]

DICK CLARK: Oh, boy, I think you might be talking about the Furniture Mart? Is that what you're thinking of? [LB596]

SENATOR McCOLLISTER: I think so, yeah. So...and I would question whether that was truly a blighted area. [LB596]

DICK CLARK: I feel pretty safe when I walk out into the parking lot there, so. [LB596]

SENATOR McCOLLISTER: Okay. Well, that's all. Thank you, Dick. [LB596]

SENATOR CRAWFORD: Other questions? So you are testifying in a neutral capacity. Why is that? [LB596]

DICK CLARK: Well, Senator, I think the bottom line is I'm not so sure about the changes to the composition of the redevelopment authority. I'm not so sure about the particulars of the claw back process. I think that those are important things to talk about but, boy, we don't want to make a mistake on those. But generally, I like the audit and review components of the bill and I think it's an important conversation to have. That's why I'm here today. [LB596]

SENATOR CRAWFORD: All right, thank you. Any other questions? Thank you. [LB596]

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DICK CLARK: Thank you. [LB596]

SENATOR CRAWFORD: (Exhibits 14, 15, 16) Anyone else wishing to speak in a neutral capacity on LB596? Letters? So the letters we have to read into the record of opposition by Omaha By Design; opposition, Mutual of Omaha; and opposition, GreenSlate Development. Senator Davis, is he...he had another bill so I'm assuming he's not able to be here to close. So this will end our public hearing on LB596 and we will begin our public hearing on LB238. [LB596]

SENATOR GROENE: (Exhibit 1) Senator Mike Groene,... [LB238]

SENATOR CRAWFORD: Yes, welcome. [LB238]

SENATOR GROENE: ...Lincoln County, M-i-k-e G-r-o-e-n-e. This isn't your handout, this is something else. LB238...this bill seeks to implement the original intent of Nebraska's Constitution amendment to Article VIII, Section 12, as enacted by a vote of the people in 1978. And it clarified a tax increment financing is an intended urban renewal and redevelopment tool for blighted and substandard areas of the city. We...I am testifying and my bill is presenting under the Urban Affairs Committee because it is urban renewal and redevelopment. All economic development law is heard under the Revenue Committee. And I noticed from the last hearing, most of the proponents learned to try to bite their tongue instead of saying "economic development," blighted and substandard areas of the city. TIF funds originate from property taxes. The voters decided through TIF to shift future property tax revenue from public schools, county governments, community colleges, etcetera, to public uses by cities. TIF dollars are still tax dollars and are to be used for public expenses. Therefore, LB238 seeks to clarify that funds raised by TIF should only be used for expenses incurred by the city for land acquisition and preparation as well as costs associated with improving substandard public facilities and infrastructure. The bill further seeks to ensure that the best interest of taxpayers is protected by decreeing that debt sold pursuant to TIF is offered at public sale to ensure transparency and accountability and that taxpayers pay the lowest interest available on public debt. LB238 dictates that the interest rate on these secure bonds may not exceed the prime rate published by the Federal Reserve Board plus 2 percentage points which brings the interest rate in line with rates of municipal bonds issued by most Nebraska cities. As far as the changes to the bill, to the existing legislation, only a few: We add a definition for "public works." Public works means streets, roads, public utilities, or other public infrastructure and other public facilities. "Clarify," a clarification line. And then on...later, we just add "public facilities" to make sure when...the term "facilities" means public. And then later on, Section 18-2116: and the funds received from the issuance of bonds or other indebtedness will only be used for expenditures by the city for land acquisition, site preparation, and public works which we described earlier. Section 18-2117 adds: A certificate by the city that the funds received from the issuance of bonds or other

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indebtedness have only been used for expenditures by the city for land acquisition, site preparation, and public works. They have to document that that's what the funds were used for. Then on...and the end of it I add: Notwithstanding any provision of the community development law to the contrary, bonds that are issued and paid for through the use of tax increment financing shall not have an interest rate exceeding the prime rate published by the Federal Reserve Board plus 2 percentage points; such a bond must be sold at a public sale after notice published prior to such sale in a legal newspaper having general circulation in the city where the redevelopment project is located or in such other medium of publication as the authority may deem appropriate; and the proceeds from the issuance of such bond shall only be used for expenditures by the city for land acquisition, site preparation, and on public works. Bonds that are issued...you're going to hear maybe somebody say, well, we don't use bonds. We use the other ways that we can do it. We can use loans, notes, advancement of money, or otherwise. It doesn't restrict that. If you issue bonds, then you have to follow this policy. "If," it says. So that...you might hear, well, we just loan money. We just use money out of our general fund and give it to the developer or we do other options. But that doesn't restrict that at all. The constitution amendment in 1978 read...this is what we voted on: For the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property in a redevelopment project as determined by law, any city or village of the state may incur indebtedness, whether by bond, loans, notes, advance of money, or otherwise-- I'm skipping over some "not withstanding" stuff--may also pledge for and apply to the payment of the principal, interest, or any premium on such indebtedness all taxes levied by all taxing bodies, which taxes shall be at such rate for a period not to exceed 15 years, on the assessed valuation on designated blighted and substandard area that is in excess of the assessed valuation. Pretty simple, pretty clear, it's redevelopment, it's urban renewal. It came out of the '70s. Some of us are old enough to remember the slums burning. We used to call them slums. We can't call them...well, we've redeveloped them all already. But all across the country this...it made sense. It was a donut. This core of the cities was rotting and everybody was expanding outside of it. And this was a method to say, all right, developer, you can...if you're going to build out here, fine, you're going to build. But we'll offer you this if you build here. The "but for" clause does not mean you're not going to build it. What the "but for" clause says in the statutes is, the redevelopment project in the plan would not be economically feasible without the use of the tax increment financing. That's within the plan, redevelopment. The redevelopment project would not occur in the community redevelopment area without the use of tax increment financing. Most of the projects I know that have been given are going to build anyway, especially on the retail ones. They've done their research, they did their market research, they found out the customer base was there, they already are going to build. They're going to build at that location because the customer base is there. A Menards who built in North Platte is not going to build on the deal that they got \$2 million of TIF. They're going to build if they make a \$500,000 profit a month. Two million is minor. But they'd come to an area...but what the city used to do is to say, hey, don't build out here on the interstate--which they did and got TIF--you go down here on the north side of the tracks, we'll put some warehouses in for you. You build there. The traffic comes

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through the old downtown, everybody gains. That's not what's happening a lot of places. I put in there a World-Herald article. I did a little research back here a ways back where...well, wait a minute. I skipped over something. Senator Krist said that there needs to be a manual. There already is one. The Department of Economic Development has a brochure that's over...it's really plain and it's been out for years on TIF and how it works and how you should use it. And here's how it starts. Tax increment financing: Tax increment financing in Nebraska is primarily designed to finance public cost associated with a private development project. Essentially, the property tax increase resulting from a development are targeted to repay the public investment required by a project. TIF provides a means of encouraging private investment in deteriorating areas by allowing city governments to devote all property tax revenue increases to repay the public investment needed to track development. Nebraska voters approved community tax increment financing--then known as community improvement financing--in November 1978. Pretty clear. Then it lays out all the steps you take and it's got a chart, it shows you what to go through. And that's been out...it's a great model. It helped me a lot when I started doing research on TIF ten years ago. But anyway, it's there, I gave you guys copies. And then, you know, the World-Herald, everybody reads the editorials, that's how they vote. So I went back to 1978 and read one of their editorials in support of...to pass TIF. And you can read it, it's there. But it compares us to Minnesota. I read some other articles, too. Prior to the election they did a lot...Minnesota was ahead of us, Mankato, some areas, and they kind of mirrored that in Nebraska. One of the things I highlighted: The amendment would enable communities to issue bonds to buy and clear property for sale to a developer who had contracted for a specific project. Basically, it used to be you condemned some land, bought some bad land, you pushed it into the city, it paid for that, improved the infrastructure, the developer said, yeah, that sounds good. I got wider streets, better curbs, 100-year-old tile sewers are replaced. That's TIF. Anyway, TIF is a good program. I like it. I don't know if I voted for it, I was 18 back then or so. But anyway, in North Platte we used in our...to entryway to our downtown. It was a bunch of dilapidated houses. We "TIFed" the Pro Printing strip mall, took them old houses out, they built this nice strip mall going right into the old downtown. It was nice, really nice. Omaha, ConAgra, Riverfront, the Old Market, haymarket. A lot of towns stopped their deteriorating by "TIFing" those areas and putting new infrastructure in. Lincoln, I will say, probably because of the two ex-senators who sat on this committee at one time, do a very good job. I really couldn't find a project with...they...now, I want to tell you that the reason we have State Patrolmen on the interstate is not because of the people who only go 75. We have enforcement and oversight, but that's my next bill for another reason and as we all well know. But we've had bad TIFs too out in our area and that's what got me involved. We did a Menards. Some real estate speculated, bought an alfalfa field at the interchange for \$.5 million, 80 acres. The friends in the city council, they had it blighted and annexed within two to three years. Menards was coming to town, Menards was going everywhere. So was...they went to Hastings, they went to Kearney, they went to Scottsbluff, Grand Island, they were coming. Two and a half years later they sold that and I've got the property tax statement for you to prove it in here. They went to Menards and said, I got blue sky.

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You come to this spot versus the competitor's alfalfa field across the road and I'll get you "TIFfed." They sold that alfalfa field to Menards, for \$3.5 million, plus they got about eight cuttings of hay off of it. And they gave the TIF to Menards and we, as taxpayers, got stuck with the sewer extensions, the water extensions, and everything out across the NPPD canal to get systems there. What I'm trying to fix here is not the people who do the law right but the ones that don't, plus help the ones that don't even know they're not doing it right. What's happening out west is that we've got an attorney or two that found their ambulance. They came up with some programs and pedaled it across the cities, the smaller size cities. Lincoln, I admire too. They have their own legal department do the TIF contracts. They don't pay extra lawyers because they do it right. It's a simple form, but if you don't do it right you have to find ways around it, so they have to hire attorneys to do that. But anyway, and then the reason I did the bond financing part of it is we had a practice there where they'd sell the bond right back to the developer at 8 percent, 7 percent, 6.5 percent. Now quite frankly, I would take all of my retirement, everything I could if I could buy taxpayer-supported, guaranteed, municipal bonds, tax free, at 8 percent. Now that's why we think it should be put at public auction. And if it's a small project, you can sell it back to the developer. But those are tax dollars. So you're skimming off not only the money to give the developer, you're skimming off an extra profit margin on their own debt. So 2 percent over prime is a heck of a return on your investment if you are tax free. So that's why I added that section in there, to catch those types of things that are going wrong. I appreciate OpenSky's...they did a good job of analyzing that. So did the Platte Institute on their earlier study. And that, by the way, was a professor that used to be at UNO, he's now at Wichita State, that did that. I heard that there is already control. We send out all these notices to the schools and counties and NRDs and the community colleges. Remember, when you look at a stack statement, the city only has about 25 percent. They only got 25 percent of skin in the game. They're taking the money from the schools, the counties, the NRDs, the community colleges and they're doing it without any veto power by those other entities. Most of the ones I've talked to...there's also some ways around. It's all in the wording. You can interpret--and some cities have--if you did a public hearing when you blighted that whole area, that whole development plan, that's the only public hearing you have to have. You don't have to have one for each project that goes in there. And it can be interpreted, especially if there's no policeman looking over your shoulders, so a lot of times nobody is notified. Plus, even if they are notified, they have no veto power. They can't tell the city, no, we don't want to give up our tax base. They can't do it. School financing, Senator Al Davis hit on it, but school finance is a pie. It doesn't grow. If one city takes out 4.5 percent of their valuation with TIF, its resources...and first in the formula, then state aid. You take off 4.5 percent of your entire valuation, TEEOSA has to fill it in. But now what happens because we don't add more to the pie of TEEOSA, everybody gets a little less and it's all reapportioned across all the school districts. It affects TEEOSA a lot, it really does. So anyway, you're going to hear a lot about economic development but, like I said, but TIF is not an economic development statute. If it was, the bills I have introduced would be heard in the Revenue Committee, as I said earlier. Here's another thing that's another variable that threw into the mix is when we passed TIF, cities didn't

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have the authority for sales tax. So now they look at a project and say, well, if I give up \$40,000 on property taxes a year, I'm going to make \$300,000 back in sales tax if I get a Menards. So it's more of an issue to say that they get sold on it is that, we can make a lot of money on sales tax. But...what else was I going to say? The...oh, this is the TIF report, the 2013 one. That's two-sided sheets, two-sided sheets. In 2003...well, in 1993, that's 20 years ago--we don't go back that far--1996... [LB238]

SENATOR CRAWFORD: You're not going to read all 300 sheets to us, are you? [LB238]

SENATOR GROENE: What's that? [LB238]

SENATOR CRAWFORD: I said, you're not going to read all 300 sheets to us, are you? [LB238]

SENATOR GROENE: No. There was \$11 million TIF of property tax loss in 1996; in 2003, ten years ago, there was \$24,258,000; in 2013, it more than doubled, \$55 million went off the tax rolls; \$2,000,572,000 of assessed valuation is off the tax rolls in the state of Nebraska. We just got the numbers from the 2014 report. We had to twist the arm of somebody up in Revenue Department because the report comes out next week, first week of March. It's jumped from \$55 million to \$61 million lost property taxes and the valuation went to \$2.9 billion that's off the tax rolls. Now if you talk of what this Legislature is going to do about fighting over if we're going to do \$45 million worth of property tax relief or we're going to do \$60 million like the Governor wants to do, there's \$60 million right here. Now, if we want to talk about property taxes and we're swimming around in that lifeboat and we're bailing and you've got a big leak like this, who are you kidding? We've got to fix the leaks. TIF is a good project, good, good, good program, but let's do it right. Those are tax dollars that are being used. We have one government entity that has veto power over the other government entities and can do what they want. But that's just some of the numbers and I'll close and have some other information and answer questions at that time. Go ahead. [LB238]

SENATOR CRAWFORD: Thank you, Senator Groene. Questions? Senator Krist. [LB238]

SENATOR KRIST: Three things: Point of clarification, I didn't say that we need to develop a checklist, I'm aware that we have a checklist. What I said was, people like North Platte that don't know what they're doing need to go to see Papillion and Omaha and Lincoln and the rest of them. And so supporting your point, Lincoln does it well because they do it well. And that checklist is only a small portion of what they use to get TIF to work for them in Lincoln. To your point...and then you can...when you close you can contest it if you want to. When you look at stopping the leak in the lifeboat, that \$60 million that you're pointing to, if you lump it all together, that's the good ones that you said are out there and it's the bad ones that you said are out

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there. And I would contest that the good ones in Omaha, Lincoln, and the places that you pointed out are turning around. For example, let's take the stockyards. The stockyards came in paying off that particular development at least 50 percent of the time, I think, of what was scheduled. And now they're back on the books. They're back on the tax rolls. So when you take a snapshot and you say we're losing \$60 million, I think that's disingenuous. I mean, when you say that you're losing it, you have to say that it's a reinvestment tool. [LB238]

SENATOR GROENE: I qualified that that TIF is a good program, maybe a third of that would be. [LB238]

SENATOR KRIST: I would venture to guess a third or more. [LB238]

SENATOR GROENE: Yeah. [LB238]

SENATOR KRIST: And my last point is simply that, once again, this is big government telling little government what to do. We're sitting in Lincoln saying, you messed it up--the genesis for this is North Platte, it's several other places--you messed it up so I'm going to tell you what to do. You and I have had this discussion on the floor about another issue. I'm really reluctant as a government to say, we, the state of Nebraska is going to tell you how to do things better when those examples are already out there, so. [LB238]

SENATOR GROENE: I'll save my comments on oversight and government because this bill doesn't cover oversight. This bill just clarifies existing law that, when we passed the amendment in 1978 and told the state of Nebraska to set up law that governed the amendment. And this just clarifies it, Senator Krist. My next bill, you can jump on me about oversight. [LB238]

SENATOR KRIST: No, I...it's not...I'm not jumping on you, I'm just pointing out that when I talk about examples that are out there, I talk about examples that are out there that can be used and people who don't know how to use the product need to go figure out how to use it. I don't know that I need to clarify anything anymore than what's there, so your opinion, my opinion. [LB238]

SENATOR GROENE: We have a State Patrol, not for the people who obey the laws, but for the people who don't. [LB238]

SENATOR KRIST: Well, that would be in traffic court and that would be in transportation. This is Urban Affairs. [LB238]

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SENATOR GROENE: Well, but we have oversight. We have oversight and they can arrest local people. [LB238]

SENATOR KRIST: All right, thanks. [LB238]

SENATOR CRAWFORD: Sure. All right. Other questions for Senator Groene? I have a question. [LB238]

SENATOR GROENE: All right, good. [LB238]

SENATOR CRAWFORD: Do you have the bill language, do you have a copy in front of you? [LB238]

SENATOR GROENE: Yes. [LB238]

SENATOR CRAWFORD: Okay. So if you do, I'd just have you turn to page 4. And this is not something you're changing your bill, I'm just pointing this out to you. So page 4 is part of the definitions and it's talking about what the redevelopment project can do. So look at line 14, is where it starts. So it's talking about clearing areas by demolition, clearing those things, install, construct, reconstruct streets, utilities, parks. So that, in my mind, is a part in the statute that defines what you can do. So I was wondering if your language about public works...are you...I guess my question is, why do we need that? Or how is that different than these things that are laid out here that are the purposes that it's supposed to be used for? [LB238]

SENATOR GROENE: All of these things fit under my public works definition. It's because later in the bill I also tie the public works to the report, you know, that you had to prove that you spent it on these types of issues. Yeah. [LB238]

SENATOR CRAWFORD: Right, right. So these uses are in the language already, I would say, so the limitation to that would be through this language. So I was just asking what, in addition, the public works requirement does beyond the restrictions that are here in your intent? [LB238]

SENATOR GROENE: It makes a simpler...basically, this is what public works is. Basically, just... [LB238]

SENATOR CRAWFORD: What's already there. So you're not wanting to restrict it tighter than that? [LB238]

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SENATOR GROENE: Yeah. No. [LB238]

SENATOR CRAWFORD: Okay. [LB238]

SENATOR GROENE: But I want to make sure they understand that that's what it pays for. Those are tax dollars. [LB238]

SENATOR CRAWFORD: Okay. And that's your intent is what's basically... [LB238]

SENATOR GROENE: Yeah. They're not economic development dollars to go out and buy somebody's...to come to your town. They are tax dollars used to pay for infrastructure improvements where somebody's already looking at coming, they've done their research. And here we're saying, don't build it out here on the interstate on the "outerterria" of this donut, build it here in the center. That's as simple as that. [LB238]

SENATOR CRAWFORD: Okay, thank you. [LB238]

SENATOR GROENE: That's why I'm sitting in Urban Affairs Committee and not the Revenue Committee. [LB238]

SENATOR CRAWFORD: One other question and I don't know if you think it's more appropriate to answer it for this bill or the other bill. So you raised the Menards example. So do you...how would you specifically see this, LB238, as preventing that from having happened or if you think that it should have not have happened? There you go. [LB238]

SENATOR GROENE: I setting this one up for the next one... [LB238]

SENATOR CRAWFORD: Okay, so we'll ask you that on the next one. [LB238]

SENATOR GROENE: ...for...so that they...and by the way, I did look it up...we did--my aide, I got a great aide, he went and ran and got the information, I didn't have it--the Auditor can audit a community redevelopment authority because they can audit anybody who has the power to issue a property tax; community redevelopment authorities do. If they do not issue a property tax, they cannot be audited. [LB238]

SENATOR CRAWFORD: Thank you. [LB238]

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SENATOR GROENE: And a few of them do. The ones I know do not have a property tax issuance. They rely...they just set it up to basically manage TIF. So the Auditor is limited to what he can do and I'll address some of that in the next bill. [LB238]

SENATOR CRAWFORD: All right. Thank you, thank you. Anyone who wishes to speak in support of LB238? [LB238]

GARY HEINZLE: My name is Gary Heinzle, H-e-i-n-z-l-e, and I'm from North Platte. [LB238]

SENATOR CRAWFORD: Excuse me, we're going to have the... [LB238]

GARY HEINZLE: One of the earlier testifiers I think hit the nail on the head when he said that all three of these bills are an effort to clarify existing language. And I think we really need to consider that as the foremost objective of these, especially LB238 or what is it? [LB238]

SENATOR CRAWFORD: Yes. [LB238]

GARY HEINZLE: Is that right, LB238? When TIF was first introduced in North Platte, the people that sold it gave the impression that infrastructure included everything. And if you look at the original bill that was passed, in my opinion, it's pretty clear that it applies only to those things that require the city to improve, like roads, sewer, electrical power, those sort of things. But our city councilmembers were led to believe that this money could go to anything that the developer designated as infrastructure. That included parking lots, foundation for buildings, structure within the property itself. And I think that was...it was wrong to start with, but people took advantage of it and developers took advantage of it. People that were...businesses that were moving to the location took advantage of it and it was actually, in my opinion, was breaking the law. This particular bill...and I will clarify that to say...to exactly say what infrastructure is. And this is...the money has to go to the city and it has to be used by the city to improve the location of that particular building that they're wanting to build. I think also the...and again, we saw with the issue of the bonds, the people that were promoting the TIF arbitrarily set an interest rate on the bonds that seemed a little bit exorbitantly high. And the bonds went to people that were part of the development, went back to those people. You didn't even know who bought the bonds. We tried to find out who was buying the bonds; we couldn't find that. And this particular part of LB238 will clarify that the bonds have to be issued in a public manner and at a certain interest rate. So I think, again, going back that this bill just helps clarify what needs to be done as far as a TIF is concerned. My personal opinion is, TIF is a very usable tool if it's used properly and legally. And "legally" is the word. Thank you very much. [LB238]

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SENATOR CRAWFORD: Thank you, Mr. Heinzle. Any questions? Thank you for coming to testify. Anyone else wishing to speak in support of LB238? [LB238]

ED RIEKER: Thank you, again. [LB238]

SENATOR CRAWFORD: Welcome back. [LB238]

ED RIEKER: My name is still Ed Rieker, R-i-e-k-e-r. I think I, at least I hope I was pretty clear in my previous testimony. Clarification I think is so important so that everybody knows what the rules are. You know, if the sign on the interstate says 75, then I need to drive 75. If I drive 85, then I probably ought to be looking in my mirror. And I think the same thing happens with TIF. And I think it is incumbent upon our state government to write rules and laws that are understandable by the common man or woman. When we have things that are left open ended and convoluted, that's when we end up in lawsuits and misunderstandings and lots of haranguing. And so I would like to voice my support for LB238 and encourage your support as well. Thank you. [LB238]

SENATOR CRAWFORD: Thank you, Mr. Rieker. Questions? Thank you. Anyone else wishing to speak in support of LB238? Anyone wishing to speak in opposition to LB238? Welcome. [LB238]

CASSIE SEAGREN: (Exhibit 2) Welcome. Good afternoon, Senator Crawford and members of the Urban Affairs Committee. My name is Cassie, C-a-s-s-i-e, Seagren, S-e-a-g-r-e-n, and I'm the deputy chief of staff of economic development for the city of Omaha. TIF is an important tool utilized by the city of Omaha to aid in the redevelopment of our community by helping finance the cost of making improvements in a redevelopment project area. TIF not only is the most effective redevelopment tool, but it's also the city of Omaha's only true redevelopment tool. Without the use of TIF, projects such as Aksarben Village, Midtown Crossing, the Livestock Exchange Building, and Stockyards Business Park, and the revitalization of the Blackstone District would not have happened. This is why the city of Omaha is opposed to LB238 as well as LB445 and LB596. LB238 is plagued with flaws that communities cannot afford. It creates barriers to development. It creates uncertainty and more concerning is the undue risk it puts to taxpayers. Within LB238, a definition for "public works" is given. Several of the items listed are already defined within community development law and are routinely completed as part of the TIF projects approved by the city of Omaha. By constructing or reconstructing sidewalks, streets, utilities, or a host of other public improvements, the city is demonstrating that the project is furthering the objectives of the city's master plan per community development law, Section 18-2112. This includes job creation, application or implementation of urban design elements of the project, and related or adjacent public areas, preservation of historic sites and structures,

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revitalization of older neighborhood communities, business start-ups, business growth and expansion, and a densification of the urban core. A prime example of how TIF is used on public improvements is within the Blackstone District. This district is situated between the Mutual of Omaha campus and the University of Nebraska Medical Center campus. Private developers have started to invest in this particular area by revitalizing deteriorating structures and creating homes for several new businesses and residents, thus bringing life back to this historic neighborhood. Part of the revitalization of the area included a conversion of Farnam Street from a one-way westbound street to a two-way street between 36th and 42nd Streets. This conversion included new striping, signage changes, traffic signal installations, modification to pedestrian facilities at the intersections, and on-street parking changes. The cost of these improvements were approximately \$676,000. TIF paid \$130,000 of those dollars. Without the use of TIF, this public improvement project would not have been completed. LB238 also requires that funds received from the issuance of bonds or other indebtedness be used for expenditures by the city for land acquisition, site preparation, and on public works. Those three items, as community development law is currently written, are eligible expenses within TIF funds. However, requiring the city to make those expenditures, quite frankly, is not practical. In the city of Omaha, the city doesn't issue bonds for TIF. The city requires that the developer of the project secure the TIF note through a financial institution. Having the developer secure the TIF note through a financial institution takes the risk off of the taxpayers and puts it solely on the back of the project developer. If the city were forced to make expenditures for land acquisition, site preparation, and public works you would see inflated property prices, potential for slow construction, and more importantly, a greater burden on municipalities to take on additional debt. If the city were forced to take on additional debt, it could ultimately impact our bond rating and cause property taxes to increase, both of which are unacceptable to the citizens of the city of Omaha. In addition, it could have implications on our capital improvement program in terms of timing and the plan on where the dollars are spent. The rate of return that the city of Omaha sees on projects that receive tax increment financing is important to note. We have conducted evaluations of the effectiveness of TIF projects and an example of this would be Midtown Crossing. We just recently updated these numbers; I believe I shared them with you during the interim study. But for Midtown Crossing, the initial project valuation was \$11 million. In 2014, that same project was \$170 million. That's an increase 1,422 percent. The real story, however, is what investing in these projects has done to the properties within 300 feet. Those properties combine for a 32.75 percent increase in valuation. That's additional revenue streams for not only the city but other taxing entities such as school districts. Utilization of TIF is not only an investment in a project currently happening, but an investment in our future. You can't lose money you never had. I'll stop there and I'll take any questions you might have. [LB238]

SENATOR CRAWFORD: All right. Senator McCollister. [LB238]

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SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. And welcome, Cassie. [LB238]

CASSIE SEAGREN: Thanks. [LB238]

SENATOR McCOLLISTER: You didn't speak personally on any of the other...yeah, the first bill, did you? [LB238]

CASSIE SEAGREN: I did not. [LB238]

SENATOR McCOLLISTER: Is there any...you oppose all three bills? [LB238]

CASSIE SEAGREN: We oppose all three bills. [LB238]

SENATOR McCOLLISTER: Why did you choose this particular one over the others? [LB238]

CASSIE SEAGREN: In my opinion, I think this one is the most damaging, especially as it relates to a municipality's budget. Obviously, LB596 creates additional layers of government that aren't there. City of Omaha, we go through the same process city of Lincoln does, it's quite extensive. You know, in terms of the whole auditing oversight, we stand by the fact that anybody could walk in and look at our records at any point in time. They're a public record so anybody could come in and look at them and conduct that. We chose this one because we believe it has an effect on how development would occur within our city and it would impact us financially. [LB238]

SENATOR McCOLLISTER: Thank you very much. [LB238]

SENATOR CRAWFORD: So I don't know if you were about to get to this point and so I would give you an opportunity to respond whether or not you were. So another part of the bill talks about an interest rate. Could you speak to any issues that you think that raises? [LB238]

CASSIE SEAGREN: Yeah. So I know that there's some other folks that are well more versed in municipal bonding that will speak to that. What I can tell you from what our legal team has looked at and has advised me on as well as just my knowledge of how we run our TIF program, how TIF financing typically works, it would make them much more difficult to sell. They become riskier. I think you started to hear this a little bit in the previous testimony from some other people. I believe it also, potentially, has the ability to open up a variety of different other

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regulations depending on what sort of mechanism. But again we, the city of Omaha, don't issue bonds. I mean, we go through a different route and a different process. And that note is secured by the developer. And oftentimes, especially since the financial crisis in 2008, 2009, you're starting to see those TIF notes--even though they're secured by the private developer--they're having to be backed multiple times to ensure that the financial institution is able to get repaid in the event that that TIF note is not paid back to them in full. So you're starting to see more pressure put on the developers themselves of being able to secure those notes. [LB238]

SENATOR CRAWFORD: Thank you. Are you or someone else from Omaha planning to testify on LB445? [LB238]

CASSIE SEAGREN: I certainly can. I wasn't planning on it but if there's something... [LB238]

SENATOR CRAWFORD: Oh, that's fine. I have a...I was just going to ask a question. [LB238]

CASSIE SEAGREN: Yeah, I'd be happy to answer those questions now. [LB238]

SENATOR CRAWFORD: Sure, okay. Well, this is just a question and it was a little more oversight related which was why I was going to wait if you were planning to, but I'll go ahead and ask it now. I think one of the examples that often gets raised to us, as senators, is the Ameritrade Building in Omaha. So I wonder if you would care to comment on that development project. [LB238]

CASSIE SEAGREN: Sure. The TD Ameritrade project is in the Old Mill area of town. I think some people would call that west Omaha, where I said I would probably tell you it's probably more truthfully the center of Omaha anymore. That area was declared blight and substandard via the...as the statute reads today. There was a TIF that was issued on that particular project. The TIF itself went to pay for streets, public infrastructure. I would tell you that our mayor at the time that this TIF was presented was on city council, did not vote in favor of that. Since that time, that TIF note was repaid in two years based on the valuation because it wasn't specifically for TD Ameritrade there. If you go back to where TD Ameritrade's headquarters is at, which prompted the TIF, there's a lot of other businesses. There's a church back there. I mean, there's public infrastructure to get to a variety of different places. That TIF was paid off in two years. We recognize that. We took a hard look at that area and, quite frankly, there's nothing else there that we would be able to use a TIF for, so we actually rescinded the blight and substandard designation on that particular area this last fall. You know, I think it's one that a lot of people say might have been a misuse. I think that's always in the eye of the beholder, but we used it for public infrastructure. The note is paid off, there isn't any other public improvements within that

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area that could be made. Therefore, that's why we made that decision to rescind the blight and substandard designation. [LB238]

SENATOR CRAWFORD: So to clarify, is it the case that the redevelopment project in that case...what was the redevelopment project? [LB238]

CASSIE SEAGREN: It's my understanding that the construction of the headquarters kind of spurred that whole discussion. I was not actually at the city at that time. But that's my understanding of how that all came to be. One other thing, if I can indulge you for a second, there seems to be this misunderstanding as between community development and economic development. By trade, I am an economic developer, that's my background. Ironically, I worked for the Nebraska Department of Economic Development for a number of years. I also sit on the board of the Nebraska Economic Developers Association. So to say that economic development is not a part of community development, I would challenge anybody on that because without an economic development component you don't always have that community development component. And when you're trying to grow neighborhoods such as the Blackstone District, parts of north Omaha, parts of south Omaha, downtown, it's one in the same. And so to say that they're two different things and wildly different things is different. Now there's a difference between community development activities and business recruitment. And I think that's where a lot of times people see economic development, especially the sexy side of economic development of recruiting businesses, that's what it's all about, when truthfully, it's all encompassing. [LB238]

SENATOR CRAWFORD: Thank you. [LB238]

CASSIE SEAGREN: You're welcome. [LB238]

SENATOR CRAWFORD: Any other questions? Thank you. [LB238]

CASSIE SEAGREN: You bet. [LB238]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition of LB238? Welcome back. [LB238]

LARRY BURKS: Thank you, Senator Crawford, members of the committee. I am Larry Burks, L-a-r-r-y B-u-r-k-s, I'm the assistant city administrator for the city of Bellevue. On behalf of the city of Bellevue, I'm here to speak in strong opposition to LB238 for many of the same reasons as my prior testimony in LB596, but also because, again, the bill is--I think, and many other

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folks in the economic development community think--is effective as written if everything in it is used properly and people are empowered to do so. I also want to remind that everyone who is hearing the honorable senator's testimony from North Platte about cities doing whatever they want, no, we're not doing whatever we want. We're doing what we're empowered to by the state legislation. Now if there is something that's beyond that and we're doing something that we're not supposed to or we're not empowered to by the legislation, the process within the bill empowers citizens and the other taxing authorities oversight and they can call into question through that process already. So other than that, I have no further... [LB238]

SENATOR CRAWFORD: Thank you. Any questions? Thank you. Anyone else wishing to speak in opposition to LB238? And again, if you're wishing to speak, you might move near the front, so. Welcome. [LB238]

PARKER SCHENKEN: Thank you. Good afternoon, Senator Crawford, members of the committee. My name is Parker Schenken, I'm with the...and Parker, P-a-r-k-e-r, Schenken, S-c-h-e-n-k-e-n. I'm with the Baird Holm law firm in Omaha. I head up our firm's public finance practice group. I've been with the firm a little over 20 years. And my comments today are really made in opposition as a practitioner in the public finance arena. Our firm's practice area in this area has represented numerous small- and medium-size communities across the state, some of whom you've heard from today. And the communities are constantly struggling to structure and encourage redevelopment projects. And as you know, the tools they have at their disposal are limited. And you've heard testimony today about many of these things, which I won't repeat. I want to comment today solely on a couple of mechanical pieces that I think are going to be problematic in LB238 from my perspective, again, as a bond lawyer. The first that I'd like to comment on is the requirement for public sale of the bonds. And bonds in this act and in others has a very broad definition that picks up any evidence of indebtedness, not just the bond that you think of that's offered to the public market. But it's a bond that could be the promissory note to the developer or any other obligation to pledge the incremental revenues back to the developer. So the concern there is if that has to be placed by a public sale, that could really cause some challenges, particularly on the smaller end of the scale that I live in. The two ways that I see TIF obligations being issued or monetized to provide the money to provide for the improvements up front are either an obligation that's delivered to the developer by the city or the authority that that developer then funds those projects himself or that developer can then take that obligation and pledge it on to his lender or her lender with a corresponding guaranty or some other thing to monetize that to put the money up front. And if you require the public sale, the challenges I see are many: Number one, the credit is challenging in redevelopment projects. While it appears to be a tax-backed bond, it is only backed by the incremental revenues attributable to this project. In other words, the credit of this bond is going to rise and fall with the success or failure of this project. There are TIF projects that--I'm aware of at least one--where post-2009 when valuations took a large hit, while many redevelopment agreements, most of them that I see, the developer

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promises not to protest their tax below a certain level. You can't bind the assessor. And so when valuations dropped after 2009, there were examples of valuations dropping below the minimum amount required to service the debt and either banks or developers holding those obligations coming up short. So the credit is not without risk. And to sell a credit like that in a public sale, assuming that means a public offering, would require a lot of disclosure, a lot of things that you'll walk into that you might otherwise be exempt from in terms of securities laws, disclosure laws, and other things, that a typical transaction with a pledge to the developer, the developer's lender will find an exemption under applicable securities laws. The second, ultimately, if the public sale requirement is required, it's going to increase costs and complexity of the transactions and, again, on smaller transactions might price them completely out of feasibility. The second feature to comment on just briefly, and it is related to the credit, is the cap on interest rates. And I certainly understand the intent, which is to lower that interest rate to maximize the present value of the benefits that are provided for the projects to be financed. However, if you put an arbitrary cap on whether it's prime plus 2 or prime plus 10, somewhere in there you're making the judgment as to what that credit risk is, not, as Mayor Black spoke to, a lender, a bank, an investor, or someone who's actually doing a credit analysis on this and has to be compensated at an interest rate for the risk that they're taking with the project, which is not without risk. And so to me, the cap presents a little bit of a problem in that it is arbitrary. And again, different types of projects are going to have different risk levels. And as bankers will tell you, that will translate into different interest rates which may or may not be inside that cap. Those are the two points I really wanted to highlight and I appreciate the opportunity to comment and would be happy to answer any questions. [LB238]

SENATOR CRAWFORD: Thank you, Mr. Schenken. Any questions? Thank you, that's helpful. [LB238]

PARKER SCHENKEN: Yes, thank you. [LB238]

SENATOR CRAWFORD: Welcome. [LB238]

ROGER FOSTER: Thank you. Chairwoman Crawford and members of the Urban Affairs Committee, my name is Roger Foster, R-o-g-e-r F-o-s-t-e-r, and I serve as the mayor of Crete. I've been listening to discussion a little bit today and I just wanted to share some of our experiences and some of the things I heard that I think may necessarily...is either bad information or just inaccurate. But there's been some comments of communities that don't do it right because maybe they're a little smaller, they don't do it as much. Well, I can assure you that we contract with the same firm that talked about projects in Lincoln and Omaha and probably all across the state of Nebraska. We're members of the League of Municipalities and I guess the impression that small communities wing it is just inaccurate. And most of us seek advice from the League of

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Municipalities and they would never, I think...I don't want to speak for them but I can't see them ever recommending to a smaller community to not seek competent counsel. A little part of this that I had...it's been touched on briefly but our personal experience is, we have used TIF in our redevelopment corridor. We choose to do a corridor because it was easier for us to encompass our whole downtown, which is like most small, elderly communities, in need of redevelopment. And you know, through this process we've only, to date, had three TIF projects and it's pretty early on. It's probably two or three years into its origination. But we've also had three other projects that were not TIF projects. And we've removed probably five nuisance properties in the process, some of them with TIF projects, some of them with projects that are not TIF projects. And something a little unique that we were able to do is, within the development corridor we have an old city-owned hospital that a senior living facility occupies currently. And it's built in the '40s or '50s and it's...they're building a new facility and our concern always was, what are we going to do with that when they move out? Well, we had one of the projects that came in that was not interested in TIF. And so we approached them and said, you know, we have this dilemma in the improvement corridor that could have a negative effect on the area that you occupy. Would you be willing to apply for TIF if we designated that for the improvement district to repurpose or for the demolition of this old hospital so that that area could become developable? It's redevelopment in the area so we seen it as a good use for TIF and a way for the city to afford dealing with a future nuisance property that we would have no other way of dealing with. The funds are just not there and we don't, like most communities our size, we just don't have the resources to do that. I don't have much more to add other than, you know, I oppose all three of the bills. I chose to testify on this one because I thought it had the largest impact on our community. And I'd be more than happy to give you a smaller town perspective if you haven't already heard it today. [LB238]

SENATOR CRAWFORD: Thank you, Mayor Foster. I appreciate that. Any questions? Thank you for coming and testifying. [LB238]

ROGER FOSTER: Thank you. [LB238]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB238? How many other people are expecting to testify on LB238 in any capacity? One, two, three, four, okay. Thank you. Welcome. [LB238]

TODD HEISTAND: (Exhibit 3) Good afternoon, Senator Crawford and members of the committee. My name is Todd Heistand, T-o-d-d H-e-i-s-t-a-n-d, I'm with NuStyle Development. And we've actually been doing this...we started doing houses in 1988, old condemned homes and turn them over and then started doing fourplexes and on down. Since then, we've now done...we've got about 40-plus buildings on the National Register of Historic Places, so we truly

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do the old buildings with the historical rehabs. And the one I'm having passed out right now, that is the Lifestock Exchange Building. That was the one that we did in '03, started. And this is just a quick summary, sources and uses of it. And I thought this kind of helps explain a little bit of the complications that these projects...it's affordable housing on six floors of it, it was 102 units. The ballrooms were redone up on top. And then there was four levels below that...at that time when we were doing this, this was vacant. And then we, since then, by the time the building was completed, OneWorld Health Center moved in and we were able to build it out for them and helped with that negative number at the bottom a little bit. And since then, I mean this...there's a lot of like developers always making a killing on all these projects and using this TIF. And this particular one, we're still negative after the 12 years on this. And our capital account is still negative. That's okay. I mean, it was a real cool project, we'd do it again. But the other project that I guess I do want to talk about was the old Enron Building on 24th and Dodge. And that had sat there for ten years vacant. You know, kept hoping we'd have 350,000 square foot user the bank was. And finally, it kind of got into the foreclosure situation where it finally was like, okay, we're doing a fire sale. And I think that's probably...that's a market rate. We did 194 units in that project. And both of those projects, if it wasn't for TIF, would have been dozed down. I mean, the bank actually wanted to doze down the Enron Building and level it. It happened to be there is a cell tower lease on top that was going to cost them about \$1.2 million to buy out so they decided not to. And so those vacant...big pieces of vacant land in the middle of the city, whether it's south Omaha or downtown, they just don't get used up unless they're right on the river or something like that. But that's why I felt that the opposition of this bill was just--and the other two bills as well--we've just really got to be careful what we're taking away to be able to do these projects and it worries me a little bit. I think that was about it. The only other comment I really had, and I haven't heard any talk about that is, I'm getting ready to do my very first new 114-unit new project. It's going to be right beside The Highline kind of on some vacant land, but there was a lot of vacant land around there. And we're going to be able to use the existing parking garage and things like that. And without TIF, there's no way I could tie into that vacant piece of lot. It's 40,000 square feet, but I would be out west, you know, where SIDs pay for all the infrastructure. And you come in there and here's your land and you're paying about \$2,000 a unit for the land and you're done versus you try to do it downtown. The old energy systems have steam pipes through there. I mean there was just all these other pieces that really cause a lot of grief. You know, the rubble from one of the old buildings is down in the hole. And that's what TIF is truly needed for in these...in the urban areas so that we don't all of a sudden get frustrated and decide to go out west and just do urban sprawl. So I'd be happy to answer any questions. [LB238]

SENATOR CRAWFORD: Thank you. Thank you for your testimony. It's a beautiful building, too, so. [LB238]

TODD HEISTAND: Yeah, thank you. [LB238]

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SENATOR CRAWFORD: Anyone have any questions? Thank you. Welcome. [LB238]

DALLAS McGEE: (Exhibit 4) Good afternoon, Senator Crawford. My name is Dallas McGee, that's D-a-l-l-a-s M-c-G-e-e, I'm the assistant director of the Urban Development Department for the city of Lincoln. First of all, I'd like to thank Senator Groene for his comments on how the city of Lincoln addresses TIF projects. However, I would like to read you a letter that's been prepared by someone, an attorney here in Lincoln, that wasn't able to be here. He asked that his letter be read into the record so I will read that for you. [LB238]

SENATOR CRAWFORD: All right, thank you. [LB238]

DALLAS McGEE: Dear Chairperson Crawford: I am unable to attend the February 24, 2015, Urban Affairs Committee hearing in person due to prior commitments, so please let this letter serve as my opposition to LB238 proposed by Senator Groene. LB238 seeks to limit eligible expenses for tax increment financing projects and would require a public sale process for debt sold pursuant to tax increment financing projects. If enacted, however, LB238 would have the adverse effect of stifling future development projects and adding unnecessary costs to both the city, village, and proposed developer. Article VIII, Section 12 of the Nebraska Constitution is intended to rehabilitate, acquire, or redevelop substandard and blighted properties within redevelopment projects. There are numerous aspects to removing blight and increasing the taxable value of property. Limiting tax increment financing to only those expenses incurred by the city for land acquisition and preparation as well as public facilities and infrastructure is overly restrictive and would limit the ability of cities or villages to remove substandard and blighted properties from their community. LB238 also seeks to mandate that debt sold pursuant to tax increment financing be offered at a public sale, with the stated purpose of ensuring transparency in terms of debt. Private issuance of bonds is the standard process for redevelopments and is of no risk to the city or village because the bonds being issued are not full faith and credit bonds, but rather are backed only by the tax increment created through the redevelopment. The private method of issuance is also less costly to both the city and the redeveloper of the project. Furthermore, there are multiple phases of public input through the redevelopment process. And the terms of debt are a part of the redevelopment agreement and bond authorization, both of which are intended as part of the public record. It is standard practice for cities and villages to require the developer to assume all the risk of the bonds issued for the redevelopment project. And the process and requirements proposed in LB238 would add cost to the city or village authorizing a redevelopment project and to the redeveloper with no corresponding benefit to the interests of the city or its taxpayers. Based on the foregoing, I request the Urban Affairs Committee not to forward LB238 to the floor of the floor of the Legislature. Sincerely, this is from Robert (sic) C. Zimmerman. I'd be happy to see if I could answer any questions. [LB238]

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SENATOR CRAWFORD: All Right. Thank you, Mr. McGee. And we appreciate the testimony in the form of a letter from Mr. Zimmerman as well. Any questions? Thank you. [LB238]

DALLAS MCGEE: Thank you. [LB238]

SENATOR CRAWFORD: Welcome. [LB238]

KEN BUNGER: (Exhibit 5) Thank you. Good afternoon, Chairperson and the Urban Affairs Committee. My name is Ken Bunger, I'm testifying for myself as a practicing attorney in the area of tax increment financing. My background was, I was a deputy city attorney of Omaha from 1974 through 2002. And since then I've been bond counsel and project counsel, not only on occasion for the city of Omaha but for other communities throughout the Midwest. I also had the--as it seems now--dubious honor of drafting not only the constitutional provisions that we're looking at, but a large part of the statute itself. I passed out my attempt at a quick history summary of tax increment financing and I want to talk about two things very briefly-- constitutionality issues and the history. I'll start out with the constitutionality issues. And I'm speaking in opposition not only to LB238, but to save the committee's time, LB445 and LB596. The Constitution of Nebraska was amended in 1978 to add Article VIII, Section 12 to the constitution. Now the reason for that was not to be able to do more public improvements, but to do redevelopment and acquisition on behalf of private entities that wanted to develop the city. It expanded...it was intended to expand the old urban renewal statutes that were previously in existence. But along with the rest of the country, it became readily apparent in the '60s and '70s more needed to be done. So the constitution was amended because unlike a lot of states, Nebraska's Constitution prohibits public expenditures for a private purpose. So the way you change that is to make it a public purpose. Now this has been recognized by the United States Supreme Court. You talked about challenges. The only challenge we had to TIF in my 27 years of experience was the ConAgra project and another one on the Central Park Mall. Went up to the Supreme Court, the Supreme Court of Nebraska agreed this was a public purpose. The statute has never been challenged since. The ConAgra project was challenged for all sorts of reasons and it rose to the level of the Eighth Circuit Court of Appeals. They agreed with the city of Omaha it was indeed a public purpose. So that's the reason for the law. It's not so narrow as to be just streets and sewers, it's to actually do the public improvements, the private improvements, if you will, the acquisition site improvement to enable that redevelopment. A few years later in 1985, I believe--I need to look at my summary--we added the provision "rehabilitation." Now the reason for that was that federal money, which we use to rehab old buildings, was drying up. The process was changing, the cities didn't want to rely solely on the federal government to provide rehabilitation. So the constitution was amended to make it clear that redevelopment also included the rehabilitation of existing structures. So redevelopment is a much broader term than rehabilitation, but they're both in the statute. The following year the Legislature put into law a further definition of rehabilitation and that's in there now. The concern I have with a lot of the

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way these...not only these proposals but ones in the past have been going is that the constitution provides for the city and villages of the state to decide what projects to do. It's sort of like...you look at it as land use. You know, we don't have a super state zoning board that second guesses local decisions on land use, nor should we have something that is as complicated as tax increment financing at the local level with all those things you've been hearing all afternoon that go into those decisions. Those subjective decisions need to stay at the local level. Now the constitution also provides that the state can define what's blighted and substandard and that's fine. And they have done that, done that several times. The biggest thing was in 1997 after two years of study, after much negotiation, the statutes were amended. I take that back, it was 1984; 1984 when the blight and substandard objective criteria was put in. The large statute in 1997 put further objective criteria in and it gave uniform operating procedures, if you will, to the communities without (sic) Nebraska. But it did not attempt to substitute the judgment of elected city council with some state employee, which (inaudible)...these statutes do. There's also a problem with the constitutionality of some (inaudible) that would impair contracts. Impairment of a contract is constitutionally forbidden under federal and state constitutional law. Existing projects that would in any way be impaired by these new provisions would necessarily fall. So it would only apply to new projects. Secondly, if you had this claw back provision in, and I'm not sure how it would work either, that would arguably impair the development contract that the city enters into. The provisions...I know, be quiet at this point. [LB238]

SENATOR CRAWFORD: All right. Thank you, Mr. Bunger. And this is very helpful to see this overview of the... [LB238]

KEN BUNGER: I have one quick thing. The Aksarben...go ahead, I'm sorry. Are there any questions? [LB238]

SENATOR CRAWFORD: Yes. Yes. [LB238]

SENATOR HANSEN: Oh, I was just going to ask if there's anything else you'd like to say. [LB238]

SENATOR CRAWFORD: Yes. Very nice. [LB238]

KEN BUNGER: Yes, there is. Thank you, Your Honor. Just very briefly, the Arksarben project that's been talked about. Westside Schools was a cooperative effort in that when we first did...First Data Resources and the university create that whole campus. TIF was absolutely necessary. The reason you see, TIF was actually blight and substandard over into the Westside school district, they were very happy at that time and still are, as far as I know. The "but for" clause was in the earlier bills. I don't know how you'd do that other than a local level because it's

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so complicated. Transparency, that's been addressed like six or seven times in the summary I handed out. So any other questions? [LB238]

SENATOR CRAWFORD: Thank you. Thank you. Any other questions? Thank you. [LB238]

KEN BUNGER: Thank you. [LB238]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition of LB238? Welcome. [LB238]

KEN MAR: Good afternoon. [LB238]

SENATOR CRAWFORD: Good afternoon. [LB238]

KEN MAR: My name is Ken Mar, I'm the chief operating officer for Habitat for Humanity of Omaha. Like the other speakers you've heard today, TIF financing has afforded our organization some tremendous opportunities. I'm here more to speak about the direct effects of... [LB238]

SENATOR CRAWFORD: Oh, excuse me. Could I...I'm sorry to interrupt you, but just have you stop and spell your name for us, please? [LB238]

KEN MAR: Yes. Oh, sorry. Ken Mar, K-e-n M-a-r. [LB238]

SENATOR CRAWFORD: Thank you. [LB238]

KEN MAR: Okay. Just like it sounds. All right. So because of the new and renovated projects we've completed thus far, Habitat families have been able to utilize particular neighborhoods--in this case that I'm discussing it's Kountze Park, which is basically on 22nd and Ames Street--this particular neighborhood, with families, with the new injection of revitalization and families, we've been able to...the schools, the churches in neighborhood, and businesses have been able to really parlay that into positive organic growth within the neighborhood. Without TIF as a financing tool, we could not have accomplished our residential project and help restore a whole neighborhood that was in steep decline for a number of years. The TIF project encompassed a six-block area of north Omaha. Basically, our project was 22 homes, 18 which were new and 4 which were rehabilitated, and it generated about \$3.5 million of redevelopment in the area. Our TIF project accounted for about \$350,000, threw off about \$37,000 in tax increment. And if you compare that to what was there before, which was basically houses that were dilapidated, it was

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generating about \$1,000 total annually in real estate taxes. So you can see the positive nature in which TIF can really truly affect urban renewal. Again, most importantly, were the 22 new families, basically 120 new people, that really energized the neighborhood and kept that north Omaha treasure, which we call Kountze Park, really alive and going. Without TIF, these families would have continued to live in substandard housing. We're talking no running water, without HVAC, electricity, proper ventilation, and various code violations. So again, just speaking for Habitat Omaha and the families that we represent, we're blessed and the whole city of Omaha no longer runs the risk of losing an important piece of its history which is in Kountze Park, so. [LB238]

SENATOR CRAWFORD: Thank you, Mr. Mar. Thank you for coming. Any questions? And thank you for your work for those families, too. Thank you. [LB238]

KEN MAR: Okay. Okay. Okay, thank you. [LB238]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB238? Welcome. [LB238]

JOSEPH KOHOUT: Chairwoman Crawford and members of the Urban Affairs Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist on behalf of the United Cities of Sarpy County. I will be the first of those testifiers tonight with the hour being close to 5:00 to say, for the foregoing reasons and for the same reasons that were previously stated, we appear in opposition. [LB238]

SENATOR CRAWFORD: Thank you. Any questions for Mr. Kohout? Thank you. [LB238]

JOSEPH KOHOUT: Thank you. [LB238]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition? Anyone wish to speak in a neutral capacity to LB238? Welcome. [LB238]

LARRY DIX: (Exhibit 6) Senator Crawford, my name is Larry Dix, L-a-r-r-y D-i-x, representing the Nebraska Association of County Officials today in a neutral capacity. I don't find myself in front of Urban Affairs very often, but I certainly wanted to be here today, really to learn some of the process. We have heard from some counties some of the things that have been said today about notification. I briefly talked to Gary Krumland with the League of Municipalities and said, you know, maybe we as the two organizations should work together a little bit better on this notification. I would tell you, we don't hear that in this end of the state, but as we travel across the west I think when we get more in some of the rural areas. And I think some people have

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touched on some of the rules and things that may be completely followed in some of the urban areas as opposed to the rural areas. So we're certainly committed to do that. The other thing, I'm handing out a letter that I received from a Harlan County board member. And in that letter he doesn't really specify if he's in support or opposed and so I felt that neutral and that handout in this component would be appropriate. He does make a point there that I really...I don't have the details on it and I did not have a chance to call him back to get the details but certainly I can when he talks about how that money flows directly back from the city to the developer. And so I'll get a call into him and, Senator Crawford, I'll get that information to you, so. [LB238]

SENATOR CRAWFORD: Okay. Excellent. Thank you. Any questions for Mr. Dix? Thank you. [LB238]

LARRY DIX: Thank you. [LB238]

SENATOR CRAWFORD: (Exhibits ____, ____, ____, ____, ____) Anyone else wishing to speak in a neutral capacity on LB238? So we have letters to read in: opposition, Omaha by Design; opposition, Mutual of Omaha; opposition, GreenSlate Development; opposition, Derek Zimmerman; opposition, Omaha Mayor Jean Stothert. Senator Groene, would you like to close on this bill? [LB238]

SENATOR GROENE: Thank you, Chairman Crawford. We just heard how development would not happen without property taxes. Well, I'm a free market person. It happens. It happens all the time. We have folks in North Platte who build. They're fiscal conservatives, they do not ask for TIF. I know four or five of my friends who have built businesses, they believe they need to support the schools, they need to support the county, they need to support their local governments. If taxes are so high, property taxes are so high that it discourages development, we've got a problem, folks, and we all heard it when we ran for office. Property taxes are too high. Maybe this is a safety valve popping. Developers are saying, I can't afford the taxes. I can't afford the taxes that you charge me on new properties. So they're scrambling, looking for ways to offset those costs. Figure it out. If it's 2 mils, 15 years, they just recoup 30 percent of their investment, their increased spending. That's a lot of money; 15 times 2 on all the valuation, I mean, because taxes are 2 percent usually, about, of your valuation. So we've got a real problem. Now remember, I'm not trying to destroy TIF here. I am trying to make it be more towards what this committee handles, urban development, urban renewal, urban redevelopment. A lot of the folks that came up here for Habitat for Humanity, they would be fine because if they're really redeveloping an old, blighted area, that's what it's for. But we've seen a lot of abuses. Omaha, a lot of abuses. They think that they elected a new mayor because they put a stop to the Crossroads development. Their plan there was to give the TIF money to the developer, spend \$50 million on infrastructure and issue bonds, and turn around and raise the sales tax at that mall on the

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consumer and use that sales tax revenue to pay off the bonds. Now if that isn't an extortion of TIF...there's a lot of those kind of stories out there. TIF was supposed to pay off the bonds, not the consumer. Also heard that, who cares about the interest rate, it's the developer who's going to have to do it on the bonds. Those are tax dollars paying for the interest rate. It's not the developer's money, it's the people's tax dollars. So if you pay too much for a bond if they issue with too high a interest rate, that comes out of the TIF. And it comes into their hands, whoever bought the bonds, as profit. We heard a lot of...I've always learned about lawyers a long time ago that half of them are wrong every day in the courthouse. So they are not experts until that judge says they are, but they speak well and firm about the issues. But we don't...on the bond...and we don't discourage anybody from taking a loan out from the city, self financing it. Some cities are in such good shape, I believe Kearney is, they self financing it and then they take the proceeds of the bond to offset what they used in the general fund. You can do that. What we are talking about is when you borrow revenue bonds...and by the way, on revenue bonds...and I talked to the attorney from one of the bond companies outside. I said, the way I understand it, if taxes are not paid, the property is auctioned off at the courthouse steps and the first person who gets their money is who has the lien against those taxes. And he agreed. They're pretty secure. Plus you get 14 percent interest on that money. So those TIF bonds are secured by property taxes, they're pretty secure as far as a lot of investments are out there. But anyway, you know, who'd we hear from today? The average taxpayer ain't got time to come down here. And I'm learning the ropes here, I should have got ahold of the education people because basically when they sit in my office, they don't like this. TEEOSA is being killed. If you're not...Senator Davis' area and some of the areas out there, if a...Valentine, they did a Shopko up there. School district just lost the money because they're not equalized, they're an unequalized district. There was no make up by TEEOSA and they have no veto power over those issues. What we have here is one government entity has complete power over the rest of the government entities on how and when they recoup their property taxes. Counties and schools...we set up a system of property taxes that is supposed to support all those entities and we are distorting it. The new 2014 TIF report, like I said, Lincoln I think does a good job. Lancaster County, there's \$21,327,212 of property taxes that are off...no. Their total valuation is \$21 billion, \$21,300,000 is off the tax rolls because of TIF; that's 1.4 percent. Omaha, \$37.5 billion of assessed valuation, \$1.6 billion is off the tax rolls due to TIF and it's growing; that's 4.3 percent of their entire valuations. So every \$100 of valuation in the city of...in Douglas County...I got Douglas County's numbers. Of every \$100, \$4.30 is not being...is off the tax rolls. That's wrong, that's too high. So that's 4.3 percent that is not going to the schools. And they complain about TEEOSA, that somehow ag land went up and that local business and real estate in the cities did not. Well, if you give away 4.3 percent a year, it all of a sudden becomes a little higher and it does affect TEEOSA. Everything is tied together, everything is tied together, and there's no free lunch. We're paying a lot of property taxes in this state. And my income and sales taxes go help offset where a community overuses tax increment financing to fill that hole from TEEOSA and then we get less too. I'd like to clarify, the mayor and the city manager of North Platte are friends of mine. They are after a lot of the problems.

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But the people who are pushing the TIF still don't understand because they think that attorney that's running around western Nebraska in the rural areas pushing their program is correct. It is not the people in North Platte. Like I said, not every lawyer is correct and we have a problem. And the only way those communities will know that some of the things that are happening is, we need to have some oversight, which I'll talk about in the next bill. [LB238]

SENATOR CRAWFORD: The next bill. Great. Thank you. So this closes the public hearing on LB238. We're going to take a ten-minute break. All right? And actually, just a little over. We'll come back at 5:15 and start again with the next hearing. [LB238]

BREAK

SENATOR CRAWFORD: Okay, wonderful. Well, welcome back to the Urban Affairs Committee. And we will now open our hearing on LB445. Welcome, Senator Groene. [LB445]

SENATOR GROENE: (Exhibits 1, 2, 3, 4) Thank you, Chairman Crawford. M-i-k-e G-r-o-e-n-e. The following constitutes the reason for this bill: Presently, there is no state oversight over the use of tax increment financing, TIF. At this time, cities are free to, without worry of penalty, use the property tax dollars entrusted to them by the people of Nebraska for expenditures unrelated to acknowledged public costs pursuant to Nebraska Constitution, Article VIII, Section 12. They are their own enforcement. LB445 provides this oversight. This bill decrees that the cities using TIF submit itemized statements to the Department of Revenue showing funds received pursuant to TIF as well as showing that these funds were used for city expenditures for land acquisition and preparation as well as improvements to public infrastructure of facilities. Cities using TIF already have the obligation under the community redevelopment law to give the Property Tax Administration and the Department of Revenue a report of their TIF projects. This bill adds detail to that requirement so that the Department of Revenue can ascertain and regulate that the law is being followed. This bill further allows for biannual audits by the Department of Revenue to ensure that the TIF-raised funds are used for normal taxpayer funded purposes. Those cities and municipalities found to be in violation of state law are barred from proposed additional redevelopment projects until the violation is rectified, till the Department of Revenue is satisfied. I'm going to...in line 7 on page 2 of the bill: report to the Property Tax Administrator--which, by the way, is under the Department of Revenue--and to the Department of Revenue on a redevelopment plan. A copy of the city's guidelines regarding the use of funds received from the sale of bonds issued and paid for from the use of tax increment financing. And (d) An itemized statement showing all funds received from the sale of bonds issued and paid for from the use of tax increment financing and supporting documents as to the use of such funds. And then: The Department of Revenue shall use the information provided by the city pursuant to subsection (1) of this section to develop an audit plan for all redevelopment plans that are financed in whole or

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in part through the use of tax increment financing. The audit plan shall ensure that each redevelopment plan is audited no less frequently than once every two years. The audit plan shall determine whether such redevelopment plans are in compliance with the community redevelopment law. If the department determines that any redevelopment plan is not in compliance, the city approving such redevelopment plan shall be prohibited from approving additional redevelopment plans until all discrepancies have been addressed, as determined by the department. Basically, it puts somebody in charge. Right now...talked to the Auditor. Auditors have the authority to audit city municipal finances and do a performance audit if the city requests. That doesn't include TIF, that's just their books. Also, it can look at their levy lids. In other words, we have lids in place of how high the property tax can be and their limited increases. So the cities are audited. Other parts of their budgets, I mean their operations, are audited. Streets are under certain mandates and specs from the state. There's oversight. There's government oversight over government oversight. We called the Auditor. And I told you earlier about that you can take an audit of a community redevelopment authority if it has issued a tax. They thought they had done four or five; they have done none. They called us back and said they have audited no TIFs--the State Auditor--that they know of because they've thought about it but they thought the law was too vague to give them authority. So they have not done it. And there is a bill in Government where we're trying to do the interlocals and once money is given to another entity, they can be audited, but that has not passed. My...somebody mentioned about the state Attorney General, AG. Back in 2003 when I first got involved in this, I wrote a letter to the Attorney General because of problems that I'd come across in our area, which I thought were not up and up. So I wrote a letter describing what I had found and here's the reply I got from Jon Bruning, Attorney General, Jay Bartel, Assistant Attorney General: We have received your letter expressing concern about the use of tax increment financing, particularly pursuant to the redevelopment plan adopted by the city of North Platte under Nebraska's Community Development Law. As is the case with most state statutes pertaining to actions of cities, villages, and other units of local government, there is no state office or agency responsible for overseeing the propriety of actions of cities and villages under the Community Development Law. If you feel the current statutes are deficient in this regard, the only recourse is to seek amendatory legislation. Took me 12 years, but I'm here. As to your concern, the community redevelopment funds are not being expended for authorized purposes in North Platte, you should bring this issue to the attention of appropriate city officials. I did. I told a city councilperson once, he was a retired State Patrolman lieutenant, explained this whole law to him. Sat him down for a hour or so over coffee. And he said, I understand, Mike. You're right. You're right. You're right. And then at the end of the day he told me, as long as everybody is doing it, I'm going to vote "yes." As long as everybody else is doing it. So then I thought if I got in a pack of guys beating down the interstate and if everybody else was doing it, he wouldn't arrest me. But anyway, but that's the attitude out there. City...people run...average citizens run for city councils. They are pressured over jobs. They are told, if you don't do this, we're not getting the jobs. And if you're a con artist, there's two things to hide around when you want government money: jobs and children. If you

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are dissatisfied with their response, you may have standing to bring a taxpayer suit seeking to enjoin expenditure of such funds. You should contact a private attorney if you wish to consider pursuing this course. So in the state of Nebraska, to make sure that statutes enacted by this body to have them enforced, I have to use my own private money to hire a state patrolman to go out and catch the guy speeding, according to what the Attorney General told me. There is no oversight. I heard questions asked, there is none. The Auditor cannot do it. The Attorney General cannot do it. I at that time also...one of the things that was being done--and I'm not blaming my local community. They were good people trying to do right things. They were told...given advice by an attorney that, like I said, one of those that was wrong in courthouses 50 percent of the time--and one of the things they set up is when you got the proceeds from a bond, that you split it 75/25--I have the documentation here--and that's being done all over in some certain communities. So you sold the bond for \$100. You wrote up the contract that \$75 was a grant, \$25 was a loan from the city. You loaned money the city never had. So they paid the...it was extortion, basically. You want this money, developer, you give us \$25 back. It was brought back into a revolving loan fund and then that was used by the city for other infrastructure things. Basically, what it was done for...the plan is that for those city councilpeople who really are in districts that are blighted, to bribe them to go along with the issue, we will kick you back 25 percent of it while we build on the interstate...we build Menards on the interstate and make 3 million bucks. But we will spend that 25 percent that we kicked back and we will use it for some infrastructure, a parking lot or a new street in your part of the town. Well, folks, it's specific in that law that every dollar collected by a TIF, tax increment finance, has to be used on that project. That's what's going on in a lot of places. I've got a copy of the...well, anyway, I sent Senator Hartnett...good man, he was on this committee for years, he was around back then in 2003, he's still around. But he was part of the original people who helped craft the TIF law. So this is the response I got from him...I'll skip over the "salutory" parts and greetings: while I have not had the time during this busy part of the Legislative session to fully digest them, what I have seen raises some serious questions as to whether the program as set out comports with the authorization statutes. I believe the program is legally flawed and subject to court challenge if implemented. Well, if you want to put your money forward and hire a...in the state of Nebraska, by the way, you do not get your legal fees back if you win, it's got to be a federal case. So you, just to prove your point, you've got to hire a lawyer to get something done. Let me begin by stating that, while I am not an attorney, I have been deeply involved in legislation actively regarding the Community Development Law and TIF financing during my tenure in the Legislature. In 1997, I was principal sponsor and author of LB875, which implemented major reforms to the law and stopped a number of practices that the Legislature believed were not contemplated in original authorization constitutional amendment. From your information, it appears that we may need to go back and look at matters yet again. The most serious concern involved the use of funds derived from tax increment financing on one project for other projects, some of which may or may not qualify for tax increment financing. Another...he goes in and mentions a bunch of segments of the law and...but he says later in the letter: The language is

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clear and unambiguous: TIF funds are to be used only to pay for debts incurred to rehabilitate, acquire, or redevelop its substandard and blighted property in a redevelopment project. The siphoning of TIF derived funds into the community redevelopment fund is improper because the funds are not then being used for the purpose of rehabilitating the substandard and blighted conditions of the redevelopment project. And in section...I don't have it here but I think it's 18-2116. But it's quoted in his letter. He didn't quote the statute but he quoted the portion of the law: That portion of an ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay...they added that line in 1984 or whenever when he said he did that. But it's not being enforced. There's nobody out there enforcing it. The money is...it's free money. But anyway, that was from Senator Paul Hartnett. And it's 18-2147, excuse me, is where it's in. But that's my point. I am just trying to make...I'm a big believer in the rule of law. If there is a law, we obey it. If you do not like it, change it. I've heard people say, we're doing it correct. Then you have nothing to fear from my legislation here. If you are using the law correctly, you have nothing to fear. If you're using it for public infrastructure or if you are using it to acquire land and it's blighted and substandard and razing the building off of it, then giving it to a developer or selling it to a developer, you're fine. If you're fixing public infrastructure, you're fine. The city of Lincoln does 99 percent of that. The bike trail, that's public infrastructure. Some might argue about how much you need a bike path along O Street but that's public infrastructure, I have no qualms about that. What I'm seeing is the money being used as a bribe and being used by real estate speculators to escalate the price of their land. That is wrong. And it's being used by economic development employees who can put a feather in their hat if they brought something to town. They sit down across from the city...they come into town and they're looking to expand because they did their market research. And boom, the first thing offered to them is TIF. I can give you a feather in your hat. It's not being used as urban renewal, it's being used as economic development. And what we are trying to do is get that straightened out. The reason I, unlike Senator Davis--which I admire Senator Davis for putting his...getting into the fray because he's seen it being abused too--the reason I did it in the Revenue Department is because they already are experts on TIF as far as collecting this report. They do this report. They can't tell anybody they're doing wrong or anything, they just report it to them, the cities do, and then they make this report. And it's a very good report if you want to see what your community or your county is...how much is off the tax rolls. They already do that. And they already have auditors or investigators because try not to pay, if you're a small business. Pay your sales tax and see what happens when they come in and make you pull up all your receipts. But they have those people in place. I think the fiscal note is a little high, but that can easily be fixed with a fee to the cities as to their plans. Now if they complain that that's a waste of tax dollars, about every one I've seen there is already a fee that they charge to anybody seeking an application. At least the plans I've seen, so. It didn't offend them to charge the developer, they shouldn't be offended if we...if the state asks them to pay for their oversight. As I said, we can all sit here and boast that we do it right. But \$61 million of property tax disappeared. We've gone from 149 projects in 1996 to 716

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this year. And it is "exponently" increasing. It is not being used for urban renewal. There is nobody to say "no." They are forcibly confiscating the property taxes of the citizens from the schools, from the counties, from the NRDs, from the community colleges with no oversight. And we need oversight. We do that in government. I've taken a few accounting classes and a major principle is that you always have somebody else check your numbers. Most of these cities aren't trying to do anything wrong. They're just average folks that ran for city council or mayor and they want to do what's best for their city. And they want it to be done right. And a little oversight that they could call up somebody and say...and if you notice, I didn't say we're going to destroy the town, we're not going to charge them a big fine. We're going to tell them, halt. Halt on your redevelopment plans until we can work with you to get these straightened out. That's all the Revenue Department is going to do. Nobody is...I dislike government that tries to embarrass. We're all working together. And governments should work together. And the state should help the cities make sure this is done correctly because there's money involved, folks. And then we get back into human nature. If there's money involved, somebody is going to play the game and somebody is going to abuse it and somebody is going to stick money in their pocket. And we all thought we were doing a good thing when we voted for TIF in 1978. It's overdue. Take a look at these numbers. I think my aide passed them out to you. It's exploding "exponently," we have property tax issue. If we're going to stop this rowboat from sinking, we've got to start looking at how the leakage is coming. And the other thing is this: We've heard a lot of foxes testify today that the fence is fine. But sometimes you've got to pass a law to protect the chickens. Thank you. [LB445]

SENATOR CRAWFORD: Thank you, Senator Groene. Are you staying to close? [LB445]

SENATOR GROENE: Yep, yep. [LB445]

SENATOR CRAWFORD: Anyone have a question right now? All right. Well, thank you. [LB445]

SENATOR GROENE: Yep. [LB445]

SENATOR CRAWFORD: Anyone wishing to testify in support of LB445? Anyone wishing to testify in opposition to LB445? For the record, he did praise Lincoln profusely earlier. Okay. [LB445]

DAVID LANDIS: (Exhibit 5) Members of the Urban Affairs Committee, David Landis, D-a-v-i-d L-a-n-d-i-s, urban development director for the city of Lincoln. This....I take a position on this bill because it relates to the last one because if you do anything wrong in the last bill, this bill says the Revenue Department gets to stop you in your tracks. You don't get to continue until you

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get "Mother, may I?" and get out of jail free. So, anything that the city does wrong in any of the previous bills, this one suspends their ability to do tax increment financing. That's why they're related and I took this position. One of the very last things that Senator Groene said was that a large amount of property tax disappeared. If you'd like to take a look at this with me because this is my way for being accountable for what we do. This is where the property tax "disappeared," using his language. The very first TIF project in the city...in the state was the Cornhusker Hotel. The next page is the Embassy Suites project that replaced pawn shops, empty buildings, and the place where Lincoln prostitution was most commonly situated at the Hotel Sam Lawrence. The third page is a former train station which was on hard times. It's now been rehabilitated and is a flourishing center. The fourth page is an empty warehouse that is now filled with affordable housing projects. The property taxes went into all of these projects to make them work, it did not disappear. This is where the money is. Now if you don't want this, I get it. But it is what the purpose of this statute was all about. The fifth page is the Apothecary building. It was empty, there was no dock. Now it's filled with restaurants and office building and some residence. Eighth Street, that's what it looked like before we did the work down in the Haymarket. If you've been in the Haymarket, it's very much a product of tax increment financing. The next one is the sawmill building. It's what it was before and this is what it is today. What I want you to see is what was there before, and it was blighted and substandard property, and what is there now? Community redevelopment. That's the statute. That's the law. That's what we delivered and that's where the property tax is. If you take a look outside of downtown area, go along North 27th Street, you'll see an old rundown service station that became a police station and an accompanying retail. Walgreens took over a small, rundown little location and a busted up surface parking lot; it became Walgreens at 27th. The Northbridge project, you can turn past that. My favorite, Sterling Village, there were \$5,000 of hazardous waste in that backyard that we had to pay for when we cleaned it up so that we could get to what is there now. On the next page, if you take a look at CenterPointe and where it was, that's blighted and substandard property and here's what we have in its place and that's where the property tax went. People's Health Center before and People's Health Center after. And by the way, it was the property taxes of the people who owned the land on the bottom half. It wasn't yours or yours or yours, it was their property taxes who went into making the project happen. Now the question is, what do we get out of the deal? I think we've answered the question by just seeing the before and afters. However, for those who are concerned about the economics, we did some analysis you'll find starting here. The first 15 projects that the city of Lincoln has done have closed. We've done the 15 years, they're out, they've now had their project and they're paying taxes. So we know about them. The total amount of taxes that were being paid on those total 15 projects was \$330,000 a year on \$15 million of valuation. Today that valuation is \$165 million and they're paying \$3.4 million of taxes every year. And in between time, when we diverted money--where it "disappeared," if you will, to use Senator Groene's word--that \$6.3 million was what was diverted and that's what allowed us to now be collecting \$3.4 million a year. If you take a look at the money, what we've done is collected \$31 million of new taxes, \$20 million of which go to our LPS. It's why LPS

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isn't out in this area complaining about TIF. We've substantially grown the tax base by TIF projects, that we know of, \$200 million. So we got, I think, community redevelopment. We're also getting a good deal. Now, the relationship of the previous bills to this. Here's what I read that we do wrong in the previous bills. I get that public site acquisition is legitimate, but private site acquisition that we would reimburse I think is questionable under that. Facade improvements that we approach, I don't think qualify. Energy efficiency doesn't qualify. Privately bid improvements that are the developer's facade, for example, would violate the law. Developer purchased bonds, which take off risk from public individuals and property taxholders and puts it on developers, would be illegal. And private site preparation, not public site preparation, but private site preparation would be illegal if I get the first bill correctly. And take a look at the Assurity project. The Assurity project violates all six of those. Take a look at the next page. The Larson Building, which is now ten stories of downtown Lincoln, violates three of those. The Tool House project which replaced an old building, violates four of those. The 50/50 project that took a surface parking lot was built up...I'm sorry, it was busted up and substandard, it violates four of those standards. The Latitude project, which was a tailgating surface parking lot and now will be five stories of downtown housing, it violates four of those. The UNL Credit Union violates two. The Rosewood Hotel, a place where we used to have drug meetings and meth labs, violated two to become a new hotel. The Creekside Village, which had meth in it and broken out windows and has become housing for seriously mental ill people with case management--that's community redevelopment--violates five of the rules of that law. The Piedmont shopping center violates four. The Turbine Flats project, one. The Antelope Creek Village, four. The Little Saigon project are four. In other words, every one of those was a way in which this bill would stop our ability to do another project like this. If you're going to do this, get it right because if you don't, it screws up a big time engine that's really important to us. And that's five minutes. [LB445]

SENATOR CRAWFORD: Thanks, Senator Landis. Questions? Senator Krist. [LB445]

SENATOR KRIST: I have no question but in terms of prerogative from this side of the table, I'm going to ask you, is there anything that you would add in closing in this? [LB445]

DAVID LANDIS: Thank you. There's a couple of things that have come up today. I appreciate the fact that the schools and the counties were neutral. They'd like to be treated a little better. Maybe they want better notice. And they didn't come and say, my God, let's burn the house down. Maybe we could do better. But writing a manual on how to be a good neighbor, at the state level, I don't have a lot of confidence in. We could be a better neighbor but, you know, we've got a pretty good relationship. We do. And we talk to them. And where we've been wrong, it hasn't been immediate but it has been repaired. You know what? The Crossroads project wasn't done because it was controversial. Ameritrade has a new mayor who wouldn't do it a second time and, in fact, they undid it. Now, was it immediate? No. But there was no violation of law.

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Westside story: Westside came in and said, you know what? We are in favor of the first bill. But they also told you that they negotiated the boundaries of the district. Well, isn't that what a good neighbor does? Do we need a law telling us how to be a good neighbor? I don't know. And is that subject to being put into a manual that easily? I'm not sure. There might be...by the way, North Platte, 15 years ago, the one that Senator Groene is really focusing on is about 15 years ago. What we haven't had is a series of those since. I mean, it apparently has been proven to be controversial. In other words, the system is somewhat self correcting. Between all of the public hearings and the news coverage and the elections and the thought of initiative and referendum and a lawsuit, over time cities come to learn with their neighbors. There are bumps in the road, absolutely. But solving each and every one with a city...with a state law when that bump occurs and not letting the natural processes of working things out among neighbors is, I think, betting on the wrong horse. And that I would have said had I had more time. [LB445]

SENATOR CRAWFORD: Senator McCollister. [LB445]

SENATOR McCOLLISTER: Senator...thank you, Senator Crawford. How about the auditing function? Is there, in fact, some ambiguity on whether or not the auditor has any jurisdiction? [LB445]

DAVID LANDIS: You know what? I've got a...I've heard what Senator Groene says and, in fact, I think he's quoting some direct phone calls that he's just had. I also had a conversation with a State Auditor a number of...not an Auditor, one of the auditors who was there who said, we were going to audit some of the TIF projects in Lincoln, but we've done 40 audits elsewhere so we're not going to do it. Now, that was not the State Auditor. It was an auditor in the Foley administration. I don't know which one is true. I don't know. I would say this: A city's behaviors and their practices, a public auditor has always taken the high ground. Mike Foley did not get pushed around by anybody or pushed out of a room he wanted to walk into. If you name a time when Mike Foley got pushed out of the room and was told, this is off limits, I'd like to have you tell me about it because he was just that forceful. And so I don't know the answer to your question, Senator. I do say this: We'd be hard-pressed, don't you think, if a public auditor says, I want to see this first? You'd say, oh, my God, no. Would you? Let me put it that way. In which case, we'd have to be stupider and more bone-headed. And maybe we are. [LB445]

SENATOR McCOLLISTER: Mike Foley's bigger than me. [LB445]

DAVID LANDIS: There we are. Yeah, you'd let him do it and so would I. [LB445]

SENATOR KRIST: I think the only person that actually did that in that behavior no longer has a contract in Douglas County, so there you have it. [LB445]

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DAVID LANDIS: There we are, that's right. [LB445]

SENATOR CRAWFORD: Any other questions? Thank you. [LB445]

DAVID LANDIS: Thank you very much. [LB445]

SENATOR McCOLLISTER: Thanks for the entertainment. [LB445]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB445? Welcome. [LB445]

MIKE BACON: Senator Crawford and members of the Urban Affairs Committee, my name is Mike Bacon, M-i-k-e B-a-c-o-n. I think Mr. Groene would tell you I'm the ambulance chaser. I'm a 64-year-old lawyer from Gothenburg. I'm representing myself. I got into tax increment financing doing economic development for Gothenburg about 25 years ago. What I do on a full-time basis, other than being a city attorney, is do tax increment financing. I've done something north of 200 projects from Douglas County to Scotts Bluff County and from both the north and the south state boundaries. I represent a number of first-class cities in their urban development projects. I will be brief. One, these are not tax exempt bonds. Two, I know that the last State Auditor audited 40 TIF projects looking specifically at the expenditures. And the reason I know that is that two of mine, one in North Platte being the Walmart Distribution Center, was audited. And if you want proof of that, you can call Richard Baier at the Bankers Association because he was economic developer for that. I can't remember if Richard was there during Menards or not. So they have. Whether they have authority to or not, they have, in fact, done that. As to a claw back, almost every redevelopment contract out there provides that if there's a failure on the part of the redeveloper to comply with the contract is that they claw back the benefit of the grant. That is distinct and different from he who holds the bond. So please consider this my testimony in opposition to all three bills. I give you my perspective as having done 200 and probably 250. I have seen in those projects maybe five times that someone from the school or the county or some other taxing entity showed up in protest. And after their questions were answered, they no longer had a complaint. I have never seen a city fail to send the letters out to those taxing entities. In fact, I have stopped those cities and made them go back and do it over for failure to do that. There have been literally dozens of times I have recommended to cities that they not do tax increment financing and so those generally don't go to the public hearing phase. LB238 would have the city condemning property, remediating environmental stuff, selling bonds in violation of the Securities and Exchange (sic) Act of 1933 or in the alternative, requiring a registration of that bond and a prospectus by bond counsel. I've done a project in a town of less than 400 that was trying to get a lot for a rental for a low-income person. Do you think I can spend \$30,000 to go get a prospectus done? And, yes, I've done...I've represented either the cities or the corporations

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on multinational projects. The interest rate is subject to risk and that risk ought to be borne by the developer and not the city. If this bill passed, or just about any of them, I would tell my clients, being either the city or the redeveloper, not to do the projects. Current best practice is that in the redevelopment plan there is an itemization of the costs, what portion of that is being paid by TIF and what portion of it's being paid by the redeveloper. And we have morphed over time in the business to, it was pretty loose; to requiring them to certify that they will, in fact, spend those dollars; to making them give us a separate certificate saying, we spent these dollars on these portions of it. And now the practice is, we will advance on the bond when you bring us the bill and the check showing that you've paid it. And that's what we're currently doing in McCook and it's driving them nuts, but it is...that's the level of the practice out there. [LB445]

SENATOR CRAWFORD: Thank you, Mr. Bacon. [LB445]

MIKE BACON: Yes, open land on the edge of small cities I will tell you, some of these small cities are four blocks across. You can't do the Menards in the middle of North Platte unless you take out ten city blocks. And Menards won't go there because they want to be on a high-volume street. And it's interesting listening to those complaints. I am the one that has to sit either with the city or with a developer and try and figure out how to make the project go. I hear time after time after time the project was going to happen anyway or that rich man is going to make money. There are not poor people that have the capital to rebuild our cities. [LB445]

SENATOR CRAWFORD: Thank you, Mr. Bacon. Any other questions? Thank you. [LB445]

MIKE BACON: Thank you. [LB445]

SENATOR CRAWFORD: Anyone else wishing to testify in opposition to LB445? Welcome. [LB445]

MARLENE JOHNSON: Good afternoon, Senator Crawford and members of the Urban Affairs Committee. My name is Marlene Johnson, M-a-r-l-e-n-e J-o-h-n-s-o-n, I'm the mayor of West Point and I'm also the president of the League of Nebraska Municipalities. And I am testifying at this point in time because I wasn't going to repeat the same thing three times. We are in opposition of all three bills and I just decided to wait and speak now and not repeat it three times. I was also going to say to you, Senator Krist, I fully agree with what you stated. I tell my people all the time, we don't need to reinvent the wheel. We need to find someone that's done what we want to do and take their ideas and add our own to it and make it work. So I fully agree with what you said about that. I am testifying in opposition to this bill. As Mayor Beutler indicated in his testimony on the first bill, the League opposes all three bills before the committee today. The city of West Point is a city of the second class with a population of 3,368. Although we may be

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considered a small- or medium-size city in the state of Nebraska, I wanted to testify to inform you that tax increment financing is just as important in West Point as it is other municipalities and also in the larger cities. It's also very important to us. I was going to mention one...a TIF project, the one that we did. We have a soybean processing plant in our community. They manufacture, basically, a lot of feed for dairy cattle and this travels...it's shipped all over the United States. We had a closed animal rendering plant that had sat empty for a lot of years that was near their property, the soybean plant's property. And there was also an abandoned, unused former alfalfa "dehy" plant that was also sitting there that was not being used. It had sat there for quite a number of years also. They wanted to buy these pieces of property and possibly try and do a little refurbishment on them so that they could use them as part of their business they wanted to expand, but they also wanted the street to their business paved. They were on a gravel road and they were requesting that the city TIF the project so that we could pave the street for them because they wanted to expand and it would entail more truck traffic and that type of thing to their business. And so in order to cut down on the dirt and the dust factor they were requesting that we do a TIF and pave the street and we did do that. And I do not have facts and figures on the increase of monetary money that was brought in. I've been out of town for a while and did not have time to do that. But that was one project that we felt was very important to our community because it allowed them to expand and to grow and send more of their products and develop new products also for the soy beans that they purchase. As you've heard all afternoon, TIF is our only effective tool for financing redevelopment projects that otherwise would not have occurred and that is very true in this instance. There are many positive consequences to successful redevelopment projects, including job creation and resulting economic development in the surrounding area. Municipalities, big and small, are a huge economic driver in the state of Nebraska. Certainly, agriculture, universities, and our state college systems are also economic drivers. It is important to emphasize that as municipalities grow and prosper, the revenue stream resulting from sales and income tax for the state of Nebraska also grows. I respectfully request that the Urban Affairs Committee not advance this bill or LB596 and LB238, which you received testimony this afternoon. Tax increment financing and LB840 programs are literally the only tools that we have on the local level to help transform our municipalities into even more vibrant communities. And I thank you for this opportunity to testify. [LB445]

SENATOR CRAWFORD: Thank you, Mayor Johnson. I appreciate that. Questions for the mayor? Thank you. [LB445]

MARLENE JOHNSON: Okay, thank you. [LB445]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB445? Welcome back. [LB445]

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LARRY BURKS: Hello, again. Senator Crawford and members of the committee, Larry Burks, L-a-r-r-y B-u-r-k-s, I'm the assistant city administrator for the city of Bellevue. I just want to thank you all for your attention today. On the subject of audits, subsection (7) of current legislation reads: The books of any authority shall from time to time be audited upon the order of the governing body of the municipality in such a manner as it may direct. What this tells me is that a city can pass an ordinance to require that every TIF project within their community be audited. That's a local control. That's where it needs to be. Furthermore, I read on: and all books and records of the authority shall at times be open to the public...to public inspection. That tells me that a school board or a community college or a county can also pass similar rules and regulations for their organization to require that someone go get the books and audit them. That's where the local control should be. That's...I just wanted to reiterate that point from previous testimony. Thank you again. [LB445]

SENATOR CRAWFORD: Thank you, Mr. Burks. [LB445]

DAVID LEVY: (Exhibit 6) Senator Crawford and members of the committee. I may be the last one. I don't know how I drew that straw but here we are. David Levy, D-a-v-i-d L-e-v-y, Baird Holm law firm here on this bill as a board member of the Nebraska Association of Commercial Property Owners, opposed to LB445 but also LB238 and LB596. Two very quick points: You are receiving a document called "Economic Development Incentives", City of Kansas City, Missouri. It says April 2004. They have an updated document but it wouldn't print very well off the Web site. But as you see on the back of this, this is just the table of contents from this document. There are 20 items there that somebody...and if you read those, you see many of them have to do with urban development, urban redevelopment, in fact, even though it's called "Economic Development Incentives", they have 20 of them. We have TIF. And thanks to this body...and last year we have the state historic tax credit. Nebraska and our communities compete with the states around us for redevelopment dollars. LB445, LB238, LB596 would severely impair, if not make unworkable, our tax increment finance program which would make it even more difficult for our communities, businesspeople, residents, taxpayers to compete for investment with our surrounding states. So with that, I respectfully urge you not to advance these bills. And thank you. [LB445]

SENATOR CRAWFORD: Thank you, Mr. Levy. Any questions? Thank you. [LB445]

DAVID LEVY: Thanks. [LB445]

SENATOR CRAWFORD: Anyone else wishing to testify in opposition to LB445? Did you have a green sheet? [LB445]

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DAVID BLACK: David Black, Mayor of Papillion, D-a-v-i-d B-l-a-c-k. Again, I didn't intend to testify but I can't keep my mouth shut. We hear of a mistake 16 years ago and we also heard very real examples, I think, former Senator Landis gave prime examples of projects that are done, what they were, the dollars that are now on the tax rolls, no money taken away because this is new value, and the amount of money that's now being generated to school districts, NRDs that wouldn't have happened without those projects. The point I want to make is, in light of the audit as well, this sounds like proposed legislation to manage an exception. I'm very fearful of trying to create legislation to manage an exception. There was an accident on the interstate. Do we shut down the interstate? The interstate works very well. Don't shut down the interstate because there was an accident. Yes, a mistake was made. I'm fearful that emotion from 16 years ago is going to create some legislation and the unintended consequences of that, to the examples that former Senator Landis provided, would be not just detrimental, damaging. Thank you. [LB445]

SENATOR CRAWFORD: (Exhibits 8, 9, 10, and 11) Thank you, Mayor Black. Any questions? Thank you. Anyone else wishing to speak in opposition to LB445? Anyone wishing to speak in a neutral capacity to LB445? We have letters for the record: In support, Platte Institute for Economic Development. In opposition, Omaha by Design; opposition, Mutual of Omaha; and opposition, GreenSlate Development. Senator Groene. [LB445]

SENATOR GROENE: Thank you, Madam Chairman. What I heard was, economic development doesn't happen unless we TIF it, unless government is involved, it absolutely doesn't happen. Four point three percent of it apparently doesn't happen in Omaha unless you TIF it out of a hundred dollars worth. It does happen. The businesses...by the way, I don't blame any business...the bottom dollar. They try to make a buck. If they can have a government entity give them TIF, they will take it. It's part of being a business. They did nothing illegal because they went through the process, so I'm not here...and I'm not here to criticize any city council. I'm here to criticize those...I'm not even here to criticize anybody. I just want good government. I want our property taxes under control. To say that any of these projects would not exist or the economic development would not exist without TIF is...you can't prove that. Developers develop. If they've got money and there's customers, something is going to happen somewhere. They're not going to build something...an apartment complex in St. Louis when the customer base is in Lincoln. They're not going to build a big box store in Kearney, which they already did, when the customer base is in North Platte. So that, you know, you got to sort through the fog and realize that economic development doesn't hang on a string of TIF. It's extra money laying out there and somebody's going to try to take it if it's available. Second, the perception that I only talked about the Menards is wrong. I have uncounted examples. It was a very bad one. We had a John Deere dealer...just did a TIF on a John Deere. And we were told...I went to the hearing at the city council, that John Deere wouldn't build it in North Platte. Well, I happen to be in ag business and I happen to be in the equipment business. Let me explain to you John Deere. They are a franchise. They are like a McDonalds. They give you a franchise for an area. You cannot

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build...if you have the franchise for North Platte, you cannot build your John Deere dealership in McCook. You've got to build it in North Platte. And John Deere also had a mandate to their dealers that they had to upgrade their facilities. They didn't do it because TIF was available. They built it on the interstate, along the interstate right off an exit. They left a blighted old store down on Highway 30. The people who owned the ground used it as blue sky and got extra money for their piece of ground. I could go on and on, on different communities, but I'm not going to talk about other communities because that's not my prerogative...but in the west. But I know of all sorts of issues where that has happened. And it's not...we talked...my aide, again, called...in fact, while we were talking, they must be up at the Auditor's office watching because they called our office. Deann Haeffner, A-A...H-a-e-f-f..., a new assistant deputy is the one we got our information from, called back. Wanted to do it back in 2009 but, again like I said earlier, they were unsure if the law allowed to it. Here, same old memories, I talked to Mike Foley because he's a friend over time about why don't you do TIFs and he said, I just don't know if we can do them. So I don't know who told Senator Landis his story. I'm not going to...he's a good man and you've got to...hearsay is hearsay and you've got to trust your sources. But that's something I will check into and I'm sure this committee will, too. But there is no authority over this and it's tax dollars. You have one entity, government entity, forcibly confiscating the tax dollars of other entities. There should be some oversight. There should be some oversight. The mayor from West Point; great TIF, beautiful TIF. If that's what they did to TIF it and improve the infrastructure of a road, perfect TIF. The ones that...I have to reiterate again, I agree with Lincoln. Now, to say that you told a developer, we can't do that facade. We can do your streets and sidewalks outside, we can get you new sewer lines, we can widen the street. And the developer will say, oh, no, you got to pay for some bricks in the front of my...I doubt that would happen. Like I said, businesses will take what they can get and they'll take everything they can get if it's offered. To say those projects would not have existed...if you tightened up the guidelines because usually it's easy to say three things, four things. What if there's \$100 and \$90 of it was used correctly and \$10 was for these other things that might have broke the rules? Is that developer going to go away? We don't know that. You can't base it on that. So anyway, what we're trying to do is make sure it's urban renewal and redevelopment. And we all know. I've talked to...everybody off to the side knows it's being abused, knows it's being used for economic development and we need to tighten it up. We need to tighten this thing up. We are the oversight, we create the laws, and there needs to be oversight. I forgot to mention...I'm talking...the Platte Institute, Dick Clark, I think he gave you...when they did the study, part of that study was those other states have oversight. Some states...the note is, some states task their state auditor with TIF oversight, others handle it through some other government organ. In any case, the function is important and it should be carried out somewhere. Examples from other states which provide for public audits of TIF projects list is not exhaustive: state auditors, Minnesota, Vermont. That's who we kind of copied our TIF over. Minnesota decided that the state auditor should; revenue department treasurer, Michigan; county auditors, some states have county auditors, Iowa; municipalities or local development districts, Louisiana. So the Auditor can do performance audits. And that's only if

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the municipality asks them to come in and do it for them, but they can't forcibly do it. And I know Mike Foley, he might be big but he's not a pushy bully. He's about as meek as I am. But anyway, so anyway, all I'm looking for and all the taxpayers are looking for is, hey, we agree. This is a good way to help our cities out. A lot of us live in the cities. I do not, so...but it's affecting my school district. And we're saying, yes, use this. Fix your infrastructure. It's tax dollars. We're just going to...it's a true...I never thought I'd say this so you never say never in this place. But it's truly a good tax shift. You are taking tax dollars from the counties and all the other ones, the schools, and you are shifting it to the city to use for public good. Not a rebate, it's tax dollars that's supposed to be used for tax purposes. Now remember who...and I don't blame them, it's easy money and you can just take it from everybody else and you can say it's the greatest thing since iced tea. But I have faith in the free enterprise system. I really do, it's going to happen. Would it have been done in downtown Lincoln? Probably not. The town would have gone like a donut, like it does, like it was doing in the '60s and '70s, but it would have been done, it would have been spent. And if you give those people the opportunity around a college center to expand and put restaurants in, they're going to do it as long as you fix the infrastructure for them. We can argue all day long, but \$60 million and it's "exponently" increasing...of property taxes disappeared...I shouldn't say disappear...were shifted last year because they went somewhere. Some of it went to public good, some of it went in the pocket--depending on where it was--into the pocket of the developer to offset his cost while the good citizen, the good corporation built it, did it on their own, and didn't ask the taxpayer to help them. Those people aren't here, but they're out there. So thank you. Is there any questions? [LB445]

SENATOR CRAWFORD: All right. Questions for Senator Groene? Thank you. So this closes the public hearing on LB445. Thank you for your patience today. And our hearings for the week. (See also Exhibits 11, 12, 13, 14) [LB445]