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Urban Affairs Committee  
February 09, 2016

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[LB719 LB808 LB860 LB1012 LB1042 LB1059 LR394CA LR399CA]

The Committee on Urban Affairs met at 9:00 a.m. on Tuesday, February 9, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB860, LB808, LB1059, and LB1012. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Colby Coash; Laura Ebke; Matt Hansen; Sara Howard; and Dan Hughes. Senators absent: None.

SENATOR CRAWFORD: (Recorder malfunction)...District in Bellevue and eastern Sarpy County, and I serve as Chair of the Urban Affairs Committee. We will start off having members of the committee and committee staff do self-introductions, starting on my right with Senator Hughes.

SENATOR HUGHES: Dan Hughes, District 44, 10 counties southwest Nebraska: Chase, Perkins, Dundy, Hayes, Hitchcock, Frontier, Red Willow, Furnas, Harlan, and Gosper.

SENATOR COASH: Senator Coash, District 27: Lincoln.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR HOWARD: Senator Sara Howard, I represent District 9 in midtown Omaha.

SENATOR HANSEN: I'm Matt Hansen, District 26: northeast Lincoln.

SENATOR EBKE: Laura Ebke, District 32: Jefferson, Thayer, Fillmore, Saline, and the southwest portion of Lancaster County.

CHRIS TRIEBSCH: And I'm Chris Triebsch, and I'm the committee clerk.

SENATOR CRAWFORD: So also assisting us today are two pages, Ally Coufal from Wichita, Kansas, political science major from UNL, and Conner Kozisek from Ainsworth, Nebraska, also a political science major. Thank you for assisting us today. This morning we will be hearing four bills, and we'll be taking them in the order listed outside the room. On each of the tables in the back of the room you'll find blue testifier sheets, if you're planning on testifying today, please fill one out and hand it to Chris when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill you must testify during that bill's hearing. If you do not wish to testify but would

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like to record your position on a bill, please fill out the pink sheet in the back of the room. We would ask that if you have any handouts that you please bring at least 10 copies and give them to one of the pages. If you need additional copies one of the pages can help you with some more. Testimony for each bill will begin with introducer's opening statement, after the opening statement we will hear from supporters of the bill, and then from 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 us your first and last name and please spell them for the record. While we typically don't use the light system in this committee, we are going to go ahead and use it today because we just have the morning hearing and want to make sure we're done in time. And so we will be using the light system today for both of our sets of hearings. So we will be using a five-minute light system today. When you begin the 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'd ask that you wrap up your final thoughts. I would remind everyone, including senators, to please turn off your cellphones or put them on vibrate. We've been joined by Senator McCollister, would you like to introduce yourself?

SENATOR MCCOLLISTER: John McCollister, District 20: central Omaha. Thank you, Madam Chair.

SENATOR CRAWFORD: Great. And with that, we will begin with testimony on LB860. Senator Hughes, welcome.

SENATOR HUGHES: Thank you, Chairwoman Crawford. Good morning, members of the Urban Affairs Committee. For the record, my name is Senator Dan Hughes, that's D-a-n H-u-g-h-e-s, and I represent the 44th Legislative District. I'm here today to introduce LB860. Using the Local Option Municipal Economic Development Act, also known as LB840 funds, this bill-- LB860--would allow cities of the first and second class and villages to include grants or loans for the construction or rehabilitation for sale or lease of housing, as part of a workforce housing plan, under their economic development program. Workforce housing plan means a program to construct or rehabilitate single-family housing or market rate multi-family housing, which is designated to address a housing shortage that is impairing the ability of a city to attract new businesses or is impairing the ability of existing businesses to attract new employees. During the interim hearings on LR152 last summer this committee heard from quite a few people who suggested workforce housing be added to the Local Option Municipal Economic Development Act. The definition of qualifying business in Nebraska Revised Statute 18-2709 currently limits the use of LB840 funds to certain statutorily identified business activities. This would not be the first time that business activities have been expanded in the act. There are approximately 70 municipalities which have voted to create the LB840 program. It is my hope that the adoption of

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LB860 would offer more tools to those towns in growing Nebraska's workforce and economy. Thank you for your time. I'll be happy to try and answer any of your questions. [LB860]

SENATOR CRAWFORD: Thank you, Senator Hughes. Questions from the committee? Yes, Senator McCollister. [LB860]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. Senator Hughes, is this legislation necessary because the banks are unwilling to loan money for worthy projects? [LB860]

SENATOR HUGHES: I don't think that that was the main issue. I've had discussions with some bankers and there was an initial concern, but they've looked at it more closely and decided they did not have a concern with making this change. So I don't think that was the problem. This just allows an expanded definition of what cities and villages can use their LB840 dollars for. [LB860]

SENATOR McCOLLISTER: What would that money typically go for, with regard to some of these projects? [LB860]

SENATOR HUGHES: There are several business activities: low and moderate-income housing, broadband internet, film production, rural natural gas infrastructure are a few of the things that can be used...tourism. So there's a fairly broad definition of what LB840 funds can be used for and this just seeks to expand that. Because in the hearing we had...or the interim study we had last summer, we heard a lot from cities and villages that they need additional flexibility on how these funds can be used to build workforce housing. [LB860]

SENATOR McCOLLISTER: So no such authority exists for any city of any size in the state of Nebraska? [LB860]

SENATOR HUGHES: I can't answer that question. [LB860]

SENATOR McCOLLISTER: Okay. Thank you, Senator Hughes. [LB860]

SENATOR CRAWFORD: I think that would be a question we could refer to legal counsel, if you want to comment on that. [LB860]

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TREVOR FITZGERALD: Yeah. Currently, there is no authority under the LB840 program to utilize LB840 funds for workforce housing. There is authority for low and moderate-income housing, but not for any housing that falls outside of the low and moderate-income definition. [LB860]

SENATOR McCOLLISTER: Okay, thank you. [LB860]

SENATOR CRAWFORD: Thank you. Other questions? Senator Coash. [LB860]

SENATOR COASH: Thank you, Senator Crawford. Senator Hughes, if a community has already an LB840 plan in place, this bill becomes law...does that community need to...we're authorizing it here under statute, but will that community need to then vote to expand their program or will the cities under this bill just be able to expand it without a vote of the citizens? [LB860]

SENATOR HUGHES: It's my understanding under this bill that they would have to go back to the voters to have an expanded definition of how the LB840 funds can be used. I think there's a bill following this one that would change that criteria, should that bill pass. But this one, yes, the city councils would have to go back to the people. [LB860]

SENATOR COASH: So just by putting this into statute doesn't mean that they get to start doing it, there's still another step that a community would have to take if they want to use LB840 money for workforce housing? [LB860]

SENATOR HUGHES: Correct. Yes, that is correct. [LB860]

SENATOR COASH: Thank you. [LB860]

SENATOR CRAWFORD: Other questions? I have one question, just for the record. Could you give an example of a business or industry that has talked about housing as a challenge, in terms of being able to locate in the community? [LB860]

SENATOR HUGHES: How much time do we have, Chairman Crawford? As all of you know...of course, my district is rural, but that is the biggest concern of, you know, housing. You have, you know, very low-dollar housing, the you know, \$40,000, \$50,000 housing, or you have \$250,000 homes. And if you have a middle-level management person wanting to come into the hospital or a principal into the school, you know, they want something in that \$150,000 to \$200,000 range. And that is simply not available, you know, in a lot of the small towns and villages. So this would provide an opportunity for the city to use those LB840 funds to provide some of that

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housing and get, you know, middle-level management people coming in, either to the school or to the hospitals especially, or small manufacturing. [LB860]

SENATOR CRAWFORD: To somehow put some plan together for how they might support it or help it in some way. [LB860]

SENATOR HUGHES: Yes. That's pretty universal across first and second class cities and villages. [LB860]

SENATOR CRAWFORD: Excellent, thank you. Any other questions? Thank you, Senator Hughes. So we will now turn to testimony proponents of LB860. Welcome. [LB860]

DAN MAUK: (Exhibit 1) Good morning. Senator Crawford and the members of the Urban Affairs Committee, my name is Dan Mauk, D-a-n M-a-u-k, and I'm the executive director for the Nebraska City Area Economic Development Corporation. I've got 17 years experience professionally in economic development, serving at Norfolk, North Platte, and just most recently in Nebraska City. [LB860]

SENATOR CRAWFORD: Could I just interrupt you just for a minute to have you spell your name. To say and spell your name, I'm sorry if I missed that. [LB860]

DAN MAUK: My name is Dan Mauk, the spelling is D-a-n M-a-u-k. In all three of those communities housing has been an issue. I'll give an example of one of my most recent. I was just seven years in North Platte, but if you could look at Imperial, Columbus, McCook, Broken Bow, you name a city outstate Nebraska they've got housing problems. In North Platte there was a high demand, but nobody was building homes. The average number of homes for sale in April, per one of the realtors, was 203 as I recall. This past April, we had 68, and of those 68, one-third of them were tear down and rebuild or mobile homes or very low quality homes. In the workforce housing bracket, which I would qualify as between \$175,000 and \$225,000, there were six. Not much choice. I had began telling my board when I was hired, because I experienced it firsthand, you've got a housing problem. And the board at that time didn't think it was an economic development issue. But when the hospital administrator began calling my board members saying I've got people turning jobs down because they can't find housing and he has 150 open positions, 50 of them mission critical, then we got the attention. What I and my board did, we began interviewing the builders, why aren't you doing any building? We've got this huge demand, we wouldn't think you'd have to worry about carrying the house very long, why aren't you building? Well, in North Platte the general economy was strong, there was plenty of commercial work, plenty of remodeling work, there was no speculation involved with those things. This was the plan, this is the quote, I'm going to get paid on time. If you're building a

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bank, you're not worried about getting paid. So we began to interview, what would it take to change your mind? And one of them mentioned that the average home would generate \$8,000 in state sales taxes. I said well, what if you could get that money back? There's no statute that would allow you to do that, but what if you could? Well, they began to get some interest in that. So I went to my board, we raised \$170,000 in change, we went to the city for the LB840, and that's where we ran into this modern income problem. We got a commitment for the city to match the funds, but when you're building a spec home, even though you've got high demand, you don't know if that person is going to qualify or not as a low to moderate-income family. You can presume they will because you're pricing the home in that category, but you don't. This bill would solve that problem. It would have made it much more simple in North Platte and almost any community that has LB840 funds to do something similar. That program was successful, that's one of the reasons...I wanted to move back east to get closer to my family in Omaha and I had a house that was in that price range and I wanted to sell it before the 49 homes that the program that we put together generated became on the market. It was an outstanding success out there, I've spoken to many economic development corporations around the state and at the Governor's economic development summit. It seemed like a crazy idea to give money would change a behavior, but it did. If this bill would pass, many communities would be able to access this without having to worry about the matching the low to moderate-income. There's not very many tools a community can use for housing development--block grants, tax credits. Those are both LMI restricted. This bill would just be ideal, so I encourage your support. I would also encourage somebody to prioritize it. I'd be open for questions. [LB860]

SENATOR CRAWFORD: Thank you so much, sir. Questions? [LB860]

DAN MAUK: I would add one more thing. [LB860]

SENATOR SULLIVAN: Sure. [LB860]

DAN MAUK: Senator McCollister asked about banking. Days gone by, a builder could get a 100 percent loan for construction. Those days are gone. A guy with a pretty good portfolio can usually get about 80 percent of the cost of the construction, so that's why you see a lot of communities a builder will build one or two. They've only got the capital to match that equity piece on one or two a year. And one or two isn't even matching the replacement problems of, you know, homes that have to be tore down in each community. [LB860]

SENATOR SULLIVAN: Yes, Senator McCollister. [LB860]

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SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. So in the case that you just cited, would the bank...if an LB840 type of process were employed, LB840 would supply the what...20 percent that the bank needed to proceed with the project? [LB860]

DAN MAUK: That could be. In the case we did in North Platte, we had an \$8,000 magic number, which would have been 20 percent. But the bank counted that as equity. It enabled some builders to apply...in North Platte we required them to build four homes. We knew they were going to build two anyway, we...needed more than two, so we made them at least do four. And that allowed them to count as equity and so some that would probably not have been able to get finance were able to get finance. [LB860]

SENATOR McCOLLISTER: If for some reason the project failed, is the community out the LB840 grants? [LB860]

DAN MAUK: Yeah, they would be. [LB860]

SENATOR McCOLLISTER: Is that the state's supply of money? [LB860]

DAN MAUK: No, it is local money, so it would be the local risk, local loss, yeah. In our example, the businesses donated \$170,000. The banks and other member businesses thought it was a big enough problem, so their money was at risk too. But it was...the demand was so clearly so high that the risk was not felt to be substantial. [LB860]

SENATOR McCOLLISTER: You have left that community, but is the demand still high in that? [LB860]

DAN MAUK: Yes, it is. Yeah. I did list my house just last week. I've had three offers in a week at full price, which tells you maybe you didn't price it right. But I'm pricing \$15,000 above Zillow estimate and \$10,000 above what the realtor recommended. [LB860]

SENATOR MCCOLLISTER: Good luck and thank you for your testimony. [LB860]

SENATOR CRAWFORD: So in your case in this project, were those grants or loans? Was there a mechanism to pay the money back or was it basically incentive that was offered to them? [LB860]

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DAN MAUK: Those were grants. But I think, should this bill be enacted, it could be both ways and it would fit whatever the community's needs are. [LB860]

SENATOR CRAWFORD: And I think you said how many homes it had generated. [LB860]

DAN MAUK: We had...we also included duplexes. There's a minimum size that they had to have. There was six duplexes, so that's 12 units there, and there was 38 single families, so a total of 49 total homes. [LB860]

SENATOR CRAWFORD: Excellent. And over how long of a time period? [LB860]

DAN MAUK: We required them to be ready for sheet rock by August of 2017, and they've already delivered the first check. [LB860]

SENATOR CRAWFORD: Excellent, thank you. Any other questions? Thank you for your testimony. [LB860]

DAN MAUK: Thank you for the opportunity. [LB860]

SENATOR CRAWFORD: Other proponent testimony for LB860? Welcome. [LB860]

GARY KRUMLAND: Senator Crawford, members of the committee. My name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, in support of LB860. Adding housing to the list of qualifying businesses and qualifying opportunities under the LB840 is going to be very important for economic development across the state. As you have heard and as we have heard over the last several years, cities with LB840 programs will give grants and loans to bring in qualifying businesses. And they were hoping to have nice, high-paying jobs and there just isn't housing for the employees that you're trying to attract. And as has been mentioned, under the law right now they can do low and moderate-income housing, but there is a need for housing above that too. And LB860 will fill that need. You heard that I think at the hearing in Norfolk, people asking that. And at the time the committee asked that we do a survey...I think Senator Coash asked that we do a survey in asking all of our members who had LB840 programs what qualifying businesses should be added. And the response was overwhelmingly housing. That's the one area that they really think they need to fill to complete the tools they need in order to bring in businesses across the state. So we do support LB860. [LB860]

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SENATOR CRAWFORD: Thank you. Questions? So when you're talking to cities about how they may use it, I'm assuming in this case they'll still be working with banks and it's just somehow an incentive for a grant or a loan to make that more possible. [LB860]

GARY KRUMLAND: Oh yeah. I mean, there's financing but there's also just getting contractors willing to go out to get some of these smaller communities to build houses. And they think that this would be just enough incentive to do that. [LB860]

SENATOR CRAWFORD: (Exhibit 2, 3) Okay, thank you. Thank you for your testimony. Other testimony in support of LB860? Anyone wishing to testify in opposition to LB860? Anyone wishing to testify in a neutral capacity on LB860? We have letters for the record. We have a letter of support from Mayor Rod Koch, city of South Sioux City, and also a letter of support from the Nebraska Economic Developers Association. Would you like to close? Senator Hughes waives closing, so that will end our hearing on LB860. And we will now move to our hearing for LB808. Senator Hansen, welcome. [LB860]

SENATOR HANSEN: Thank you. Good morning, Chairwoman Crawford and members of the Urban Affairs Committee. My name is Matt Hansen, for the record, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today on this side of the table to introduce LB808, which would change the process for amending an economic development program under the Local Option Municipal Economic Development Act, commonly referred to as a LB840 program. The Local Option Municipal Economic Development Act allows municipalities to collect an appropriate local tax dollars for economic development purposes approved by local voters. A local economic development plan is developed as part of this act. This bill stems from the committee hearings on LR152, which was an interim study held by this committee last summer. During those hearings there was significant testimony discussion on the ability for a municipality to respond to changes the Legislature has made in the Enabling Statute and an overall request for clarity of the issue. Currently in Nebraska state law Chapter 18, Section 2714, Subsection 2 gives municipalities the ability to change their plans to "conform to the provisions of any existing or future state or federal law." While the next Subsection prohibits them from amending their plan to "fundamentally alter its basic structures or goals" without an additional vote of the people. Naturally you can see how confusion can arise from those two sections. Specifically, if the Legislature adds a new type of qualifying business, would the municipality have to resubmit the plan to voters? An Attorney General's Opinion last year, addressed to Senator Coash and relevant to his questions earlier, found the current statutory language requires voter approval whenever the municipality wishes to add a new qualifying business, even if that business was authorized by the Legislature after an LB840 plan was adopted. LB808 would change the current statutory framework in this area. Under LB808, voter approval of the amendment would not be required in three instances: first, if the amendment adds or removes a type of qualifying business from those eligible to participate, as long as the change is approved

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by the citizen advisory review committee; secondly, if the amendment makes corrective changes designed to comply with the Local Option Municipal Economic Development Act; or thirdly, the amendment makes corrective changes to comply with any other state or federal law. All such votes would still require a two-thirds vote of the governing board as well. With that, I would ask the committee to advance LB808 and be happy to answer any questions. [LB808]

SENATOR CRAWFORD: Questions? Seeing none, thank you for your testimony. [LB808]

SENATOR HANSEN: Easy enough. [LB808]

SENATOR CRAWFORD: So we will now hear proponent testimony for LB808. Welcome. [LB808]

GARY KRUMLAND: Senator Crawford, members of the committee. My name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, with the League of Nebraska Municipalities, appearing in support of LB808. As Senator Hansen mentioned, this has been an issue basically since the beginning, when LB840 was started, is when and for what reasons does a city need to go back to a vote of the people to amend the LB840 plans? And the interpretation mostly has been that you need to go back to the vote of the people, and that was confirmed by the Attorney General's Opinion last year. That Opinion, however, did say that the Legislature may have some authority to designate a little bit of procedure in amending it. And I think LB808 does that and it will be very helpful to cities, especially in these situations where a city adopts an LB840 program and intends to adopt all of the options that the Legislature gives them for qualifying businesses, but then the Legislature adopts some additional qualifying businesses after the adoption of the plan. And that's happened before. And the question is what do we need to do to add that to our plan too? This clarifies that and gives a procedure for adding qualifying businesses that the Legislature adds after the adoption of the LB840 program by the voters. So this will clarify the procedure and we do support it. I'd be happy to answer any questions. [LB808]

SENATOR CRAWFORD: (Exhibit 1, 2, 3) Thank you, Mr. Krumland. Questions? Seeing none, thank you. Other testimony in support of LB808? Anyone wishing to testify in opposition to LB808? Anyone wishing to testify in a neutral capacity to LB808? Senator Hansen, would you like to close? Oh, excuse me. All right, Senator Hansen waives closing. But we have letters of support for the record. A letter of support again from Mayor Koch, the city of South Sioux City; a letter of support from the city of Lincoln; and a letter of support from the Nebraska Economic Developers Association. With that, we will close the hearing on LB808 and move to the hearing LB1059. I'll ask Vice Chair McCollister to take over here. [LB808]

SENATOR CRAWFORD: Good afternoon, Vice Chairman. [LB1059]

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SENATOR McCOLLISTER: Welcome, Senator Crawford. You may proceed. [LB1059]

SENATOR CRAWFORD: Thank you. Good afternoon, Vice Chairman McCollister and members of the Urban Affairs Committee. My name is Senator Sue Crawford, C-r-a-w-f-o-r-d, and I represent the 45th Legislative District, which includes Bellevue, Offutt, and eastern Sarpy County. LB1059 is designed to address the intersection between state incentives in the Nebraska Advantage Act and the two primary local economic development incentives in Nebraska, the Local Option Municipal Economic Development Act, commonly referred to as LB840, and tax increment financing, or TIF. When a business receives incentives under the Nebraska Advantage Act, those incentives largely come in the form of tax credits that can be applied to a number of different tax liabilities, including state income tax, state sales taxes, and even local option sale taxes. Since local option sales taxes are collected by the state and then remitted to the municipality and the Nebraska Advantage Act agreements are confidential agreements between the state and the businesses, many municipalities are often unaware that credits will be claimed against their local option sales tax revenues until they receive a letter from the Department of Revenue stating that instead of getting a check for \$100,000 as projected, they're getting a check for just \$10,000. And in some cases municipalities have gone multiple months without receiving any sales tax dollars, as a result of the Nebraska Advantage Act refunds. Developers of projects that seek Nebraska Advantage Act incentives often seek local incentives as well and LB1059 would require that prior to applying to receive LB840 funds or entering into a redevelopment agreement for TIF a business must certify the following information: one, whether the business has filed or intends to file an application to receive tax incentives under the Nebraska Advantage Act for the same project; two, whether such application includes or will include a refund of the municipality's local option sales tax revenue; three, a good faith estimate of the amount of tax incentives the business expects to receive under the Nebraska act for any such application; and four, whether such application has been approved under the Nebraska Advantage Act. It is critical that municipalities facing a decision of whether to grant local tax incentives for development projects know if state incentives for that same project will likely cause them to lose their local option sales tax dollars. In the case of LB840 plans, all but one municipality that has adopted an LB840 plan relies on local option sales taxes to fund the program. As a result, the impact of the Nebraska Advantage Act on local option sales tax revenues may well be an important consideration on whether a municipality chooses to grant LB840 incentives from their local option sales tax revenues. Similarly, before a TIF project can be approved, municipalities are required to conduct a cost-benefit analysis for the project. The potential withholding of local option sales tax dollars under the Nebraska Advantage Act should factor into those cost-benefit discussions, but since agreements are confidential, municipalities may not have a full picture at the time the cost-benefit analysis for the TIF project is completed. In many cases, the fact that a redevelopment project is also receiving state incentives may not deter municipalities from utilizing local incentives as well. But what the disclosures in LB1059 will do is give municipalities ample warning that while they may get an immediate boost in local sales tax

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revenues from a project, that boost may be short-lived. Most critically, municipalities should have this information to make good decisions about when to offer their own local incentives. Representatives from the League of Municipalities and several cities are behind me to testify but I would be happy to answer any questions the committee may have at this time. [LB1059]

SENATOR McCOLLISTER: Thank you, Senator Crawford. Questions for Senator Crawford? Seeing none, thank you very much. We will now open up the hearing LB1059 for proponents wishing to speak. Welcome. [LB1059]

LANCE HEDQUIST: (Exhibit 1) Senator, members of the Urban Affairs Committee. My name is Lance, L-a-n-c-e, Hedquist, H-e-d-q-u-i-s-t, I'm the city administrator of the city of South Sioux City, Nebraska, and we are here in support of this bill that I think, as Senator Crawford very well articulated on the impacts on our community. South Sioux City is located in the corner of three states--Iowa, Nebraska, and South Dakota. And we face stiff competition for industrial development in our particular location. And the Nebraska Advantage Act has frequently been a key player in terms of having industries locate and expand within our community. And clearly we are solid supporters of the Nebraska Advantage Act and what it can provide to expand industries in Nebraska. We've also had several sales tax bills been passed by the citizens of South Sioux City to be used for such things as a fire station, a library, to fix streets, and for property tax relief within our community. And these voter-approved sales taxes can actually go away, as we have rebates that are given for the industrial expansions in our particular location. I've listed for you in the statement I have today that we have had paybacks to the tune of \$761,000 one year, to a low of \$3,000 in a different year. So we never know how much it's going to be, when it's going to be. But we also know that with the industrial expansions that we've had in our community...and we have a project that's \$35 million, we got another project that's \$36 million, we have another one that's \$10 million. All of those we know are going to ask for Nebraska Advantage rebates that will impact the voter-approved sales taxes within our community. And so having a little more awareness and knowledge of those rebates is certainly very important to us. And just a note that our property tax levy is about \$2.4 million, so if you see we get back \$700,000, that's a significant impact on our community. And again, we are solid supporters of the Nebraska Advantage Act, that's not an issue here today, but we think that the efforts being suggested by this legislation would be beneficial for us because actually industries can double dip. They can get the sales tax money from us for doing roads or infrastructure, extending streets into that facility, and then turn around up to 25 years later...that's an important issue...it's not like next week, next year, or next month, it can be up to 25 years later, ask for a rebate of funds and we're totally blindsided by that particular issue. So we do support the bill and encourage its passage. [LB1059]

SENATOR McCOLLISTER: Thank you, Mr. Hedquist. Any questions from the committee? Seeing none, thank you for your testimony. Welcome, Mr. Kohout. [LB1059]

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JOE KOHOUT: Good morning, Vice Chairman McCollister and members of the Urban Affairs Committee. My name is Joe Kohout, K-o-h-o-u-t, and I'm here today on behalf of the United Cities of Sarpy County, which includes the cities of Gretna, Papillion, Springfield, and La Vista. And I'm here in support of LB1059, which would require disclosures under the community development law and the Local Option Municipal Economic Development Act. First of all, let me apologise on behalf of Mayor Doug Kindig, who had intended to be with you last Tuesday, but unfortunately, due to scheduling conflicts, was not able to be with you today. But so I'm going to read from some of his remarks that he had prepared for you. As you may or may not be aware, the city of La Vista has been significantly impacted by the state's tax incentive program, specifically related to privately negotiated agreements associated with Nebraska Advantage and the Employment Investment and Growth Act. In La Vista alone, since 2014, sales and use tax revenue in the amount of \$4,994,174 has been or is anticipated to be withheld. At best we may be only given a year's notice and we may have to go several months in the following year without receiving sales tax. One of our primary sources of frustration relates back to the lack of transparency and an inability to anticipate the plan for the local impact. LB1059 would require applicants approaching a municipality for incentives related to tax increment financing or funding under the Local Option Municipal Economic Development Act program to disclose whether or not they have filed or intend to file an application for Nebraska Advantage and incentives, and if so, to estimate an amount to the city's local option sales tax revenue and the total amount of tax receipts intended to be received. A municipality will then be able to utilize this information as part of the process in determining whether or not to enter into a redevelopment contract or provide financial assistance under the Local Option Municipal Economic Development Act. The United Cities take very seriously our responsibility to identify which projects are investments in our communities and how to best plan for those and provide the essential municipal services. Understanding the available resources is key, and advancing LB1059 will be a tremendous step in the right direction. And we encourage your support. We thank Senator Crawford for bringing forth this initiative and I will try to answer any questions that you might have. [LB1059]

SENATOR McCOLLISTER: Thank you, Mr. Kohout. Any questions for Mr. Kohout? Seeing none, thank you, sir. [LB1059]

JOE KOHOUT: Thank you. [LB1059]

SENATOR McCOLLISTER: Next proponent. Morning. [LB1059]

LYNN REX: Senator McCollister, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We strongly support this measure, we think this is critically important. I remember the testimony of former state tax commissioner

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Doug Ewald when he testified before the Revenue Committee and indicated, under then LB775, there's a 22-year window for companies to make application. And I understand why it needs to be that long. As Lance Hedquist, the city administrator of South Sioux City, just indicated to you, it's a 25-year window essentially under the Nebraska Advantage Act. And I would submit to you that in the same way that the state of Nebraska can't really budget that far out, neither can a city. I mean, you can make projections, you can try to understand what the level of refunds might be, but when it's all said and done we've had cities that have had outstanding managers in finance--these are people with master's degrees; some of them with degrees more than a master's degree and still struggle trying to anticipate what might happen. And in large part it's because of the lack of transparency. That being said, I understand that some of the opponents have some concerns about confidentiality issues and what I would submit to this committee is we're more than happy to work with you to make sure that whatever they submit to us would be held confidential. Right now, municipalities, in order to have access to local option sales tax funds over the Department or Revenue...to review them, not to have access to the funds, but to review the sales tax information. Cities can identify one individual for example to go over and look at it and then have some information so that they can try to at least get a sense of what's at stake here. And that individual has got to sign some kind of a form indicating that they will keep that information confidential. Certainly a city is capable of keeping information confidential, there's a lot of that that goes on with any economic development project. So if that is the concern here, we're happy to work with you on that. There are 68 municipalities that currently have LB840 plans and I think it's extremely important to understand, as you know, those are voter-approved. But as Lance Hedquist said, and I cannot underscore this enough...and I know Senator Crawford indicated this as well, the double dipping, if you will. So when a city decides do we give an LB840 voter-approved plan, saying that basically we're going to be able to incentivize the following types of businesses--a through d, for example. And so a business comes in, they qualify for that, so the city is going to make the decision do we give them that or not? Well, as Lance said, not only is the city going to be providing roads and other types of public infrastructure along the way, which fits into the TIF side of this more than likely...not always, but more than likely...but in addition to that, LB840 funds that are sales tax funds. So if you get the sales tax funds on the front end and then within the next 25 years you file for your refund, guess what, you're taking the sales tax funds that basically were supposed to be there to pay what they gave you on the front end. And what Lance didn't indicate is that I remember many years ago, before the Revenue Committee, when he testified on a similar type of proposal that indeed in South Sioux City, when they had a joint sales tax effort to build a jail, there were several months that went by when they didn't get a dime of sales tax. And the county was asking to the city when are you going to be paying your part of the bond. A bond issue--when are you going to be paying your part? Because of local sales tax refunds they didn't have the money. So at the end of the day, this is important. It's important from a transparency standpoint, it's important from a local standpoint to be able...in fairness to everybody involved, to be able to go ahead and do this. So a city then doesn't overcommit what they can do on LB840, but yet can use that tool very

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effectively. Because that has been extremely important for municipalities across the state and certainly the 68 that have already received voter approval. So Senator Crawford has already outlined for you on Page 3 of the bill, and I won't go through the elements of disclosure. But obviously, starting on Page 8, this relates to the tax increment financing element of it, which is under the totally separate set of statutes to the community development law. And then when you turn to Page 4, these are amendments to Article 18-2701, this is...the back side deals with LB840 plans. So I'm happy to respond to any questions you have. We're happy to work with the opponents to this, if there are those who choose to testify today. But please know that it is very important, so we don't have municipalities overcommit. And also to try to explain to voters why aren't you doing certain things that you said you were going to do, when in fact the moneys aren't there. And for those municipalities of the 529 that do not have LB840 plans, we've got hundreds of them that have the local option sales tax. So for example, they will have because of LB860, that passed years ago when then Governor Kerry was our governor, he signed that into law, and that allows municipalities...I'll finish up...allows municipalities to indicate on the ballot question how they're going to use local sales tax dollars. So they may say, as an example, shall the city of x, Nebraska have a half-cent sales tax for the purpose of building a library or building a public safety center or whatever it may be? And let's say that's approved, because they typically are. I mean, if the city does a good job explaining the need for it. When that happens you can imagine then what occurs when the voters are saying we approved that, how come it's not going for the library? And it's very hard to go back and indicate that's because we don't have the money due to refunds. [LB1059]

SENATOR McCOLLISTER: Thank you. [LB1059]

LYNN REX: So with that, happy to answer any questions you might have. And thanks to Senator Crawford for introducing the bill. [LB1059]

SENATOR McCOLLISTER: Thank you. Questions for Ms. Rex? Seeing none, thank you. [LB1059]

LYNN REX: Thank you so very much. Thanks. [LB1059]

SENATOR McCOLLISTER: Welcome. [LB1059]

JACK CHELOHA: Good morning, Vice Chair McCollister and members of the Urban Affairs Committee. My name is Jack Cheloha, first name is spelled J-a-c-k, last name is spelled C-h-e-l-o-h-a, I'm the lobbyist for the city of Omaha, and I want to testify in favor of LB1059 this morning. Thank you to Senator Crawford for introducing the bill. As we reviewed the bill, prior to the hearing today...basically it has our city planning department and economic development

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team, you know, review it, look through it. We thought, in the interest of transparency, as you've heard the word this morning many a time, it's a good bill. Right now, the city of Omaha does not have any LB840 programs, but we do have TIF programs in place. And likewise, we have a number of businesses in our community that have qualified either under LB775 benefits or LB...or excuse me, the Nebraska Advantage Act. Roughly, in terms of the LB775 or Advantage Act, our sales tax refunds on an annual basis average anywhere between \$7 million to a high of could be \$14 million, \$15 million. And so as the others have stated, that's hard to budget for. Just to let this committee know, in 2015, at our request, Senator Burke Harr introduced LB466 in the Revenue Committee, where we asked the state of Nebraska, as they've offered to some of the smaller communities, the ability to carry you for a year on your sales tax refund. We'd like that extended out to all cities, that way we could budget an absolute number for our refunds. We'd have one year advanced notice, that was LB466. Unfortunately, the bill is...I'll call it stuck in Revenue Committee, so that's where it sits. And I think the reason behind it is the state would have a one-time hit, if you will, of an appropriation to carry these communities, but then after that that money would come back to the state. And so the question is how do we finance that first year for the state? I'll try to move along here. In terms of when applicants for TIF programs apply through the city of Omaha, on our application we do ask them, you know, what are your sources of financing other than TIF? And so there is at some point maybe some confusion if they have applied for state incentives. Due to the confidentiality, they may not disclose that. And so if you did pass this bill, LB1059, I think that would give them clear authority to actually let us know on our applications whether they've applied or not. So I think that would be a good thing. I think in the end, in terms of transparency, it's a good thing. It would help communities budget for these things and overall it would give you a better understanding and fit for your economic development programs in the city as a whole. So with that, I'll close and try to answer any questions. [LB1059]

SENATOR McCOLLISTER: Thank you, Mr. Cheloha. Any questions for this witness...this testifier? Seeing none, thank you. [LB1059]

JACK CHELOHA: Thank you. [LB1059]

SENATOR McCOLLISTER: Any other proponents? Welcome. [LB1059]

JANE KINSEY: Thank you, senators, for allowing me to speak to you at this hearing. I am Jane Kinsey, spokesperson for the Watchdogs of Lincoln Government. [LB1059]

SENATOR MCCOLLISTER: Will you spell your last name, please? Your first name, last name. [LB1059]

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JANE KINSEY: J-a-n-e, and then K-i-n-s-e-y. I wrote a letter as the spokesperson to the senators who had sponsored legislation, considering or in connection with the urban affairs and also with the changes made to the community development law. Unfortunately, I didn't realize that I would have more people here, but Senator Crawford and Senator Friesen, Senator Hansen, Senator Hughes, Senator Davis, and Senator Groene have that letter in their possession, and Senator Groene responded to me about it. We are a watchdog organization that's interested in accountability, efficiency, and transparency. And we like this bill, as well as all of the bills that are up for hearings this session, because it puts some oversight to what's happening in Lincoln, Nebraska and its use of the community development law. We have spoken for an audit of them, back in 2012, and nothing was done about it of course, since we were just a small organization with not a lot of power. I used the Freedom of Information Act to look at how the TIF particularly was being used in Lincoln, Nebraska, and I chose two companies in April of 2015 to peruse. And we found that all that was necessary in order to get a TIF was for a spokesperson for the developer to stand up and say we need this. There was no financial statement, there was no concern about whether it was needed or not. And we felt that this was lax oversight. So we would like for this bill to pass because it allows the state to look at the TIF, to look at the community development law and how it is used in Lincoln. And we feel that you can give good oversight to that and can let the citizens of Lincoln recognize that this is not just being used willy-nilly. There are aspects of other legislation that is before the...in hearings before the Legislature and we like those also. So I would encourage you to please do this, in order to keep the spirit of the law, which is rather vague and can be subject to abuse, to bring it down to definite meaning and usage, particularly in Lincoln, Nebraska, which we are familiar with. [LB1059]

SENATOR McCOLLISTER: (Exhibit 1, 2) Thank you very much, Ms. Kinsey. Any questions for Ms. Kinsey? Thank you very much. Are there any other proponents? Are there those in the audience who wish to speak and oppose this bill? Is there anyone that wishes to testify in a neutral basis? Seeing none. We do have a couple letters from the Mayor of South Sioux City, and that is Rod Koch--South Sioux City or...and the Nebraska Economic Developers Association. Two letters of support. So with that, Senator Crawford, do you wish to close? [LB1059]

SENATOR CRAWFORD: Thank you, Vice Chair McCollister, and thank you committee members. And I would like to thank everyone that came to testify, talk about how this impacts their own cities. We'll just clarify for the record that the bill allows the local municipality to ask someone who's applying for their benefits whether or not they've applied for the Advantage Act and to ask them how much they expect to receive, so that the municipality has that information. So the bill is really empowering the municipality, that's the focus of the bill. So I'm happy to try and answer any additional questions that you may have. [LB1059]

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SENATOR McCOLLISTER: Questions? Thank you, Senator Crawford. And that closes the hearing on LB1059. Welcome back. [LB1059]

SENATOR CRAWFORD: Thank you. And we will open our hearing on LB1012. Welcome, Senator Mello. [LB1012]

SENATOR MELLO: (Exhibit 1) Good morning, Chairwoman Crawford, members of...probably I'll have to say now tied for my second favorite committee, the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. This morning I'm here to introduce LB1012, a bill that would adopt the Property-Assessed Clean Energy Act. In 2010, I brought LB1098, which similarly would have brought this concept known as PACE to the state of Nebraska. Various issues with mortgage priority status and potential financiers sidelined LB1098 in 2010, and this past fall the FHA announced they had reached an agreement with the banking industry and I decided to bring back the concept of PACE for this committee to consider moving forward. LB1012 as written would provide enabling legislation to municipalities to create by ordinance a special district known as a Clean Energy Assessment District. The purpose of the district is to encourage, accommodate, and provide a means for property owners to finance energy efficiency improvements such as retrofitting and the installation of renewable energy improvements in residential and commercial properties. LB1012 would allow municipalities to arrange financing for residential and commercial property owners to make energy efficiency improvements to their property. Property owners would have to opt-in to this program, and the loan, including interest rates and administrative fees, would be repaid through the property owner's property tax bill over a length of time, up to 20 years. Eligible improvements would include installations or modifications designed to reduce energy consumption such as energy efficient windows, doors, upgraded HVAC systems, weather stripping, energy efficient fixtures, and much more. As written, the language in LB1012 restricts updates to an improvement that is designed to reduce energy consumption. While energy efficient improvements can significantly decrease a property's energy use, and therefore the owner's utility bills, they often require high upfront costs to install. This is a significant hurdle for many families and many business owners in Omaha but across cities across the state. Property Assessed Clean Energy concepts or PACE, as the concept is known, helps eliminate this barrier by allowing property owners to pay for energy efficiency improvements through their property tax bill on an annual basis. Because property taxes transfer with the property when it is sold, the cost associated with the energy efficiency improvements are repaid over time by the person benefiting from the improvement: the property owner. The issue I spoke of with LB1098 in 2010 was primarily the lien status of a PACE loan. Following the FHA's announcement this past fall, I've been working with stakeholders, as well as representatives from the banking industry, to draft this bill that you have in front of you. As written, LB1012 would provide any mortgage on the property to take priority in case of a foreclosure. There are still a few outstanding issues that others behind me may speak to, but I'm

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committed to working with all the interested parties to build any further consensus needed to bring an amendment to the committee to address the issues regarding consent and the issues surrounding priority lien status on commercial properties. I do have an amendment to present the committee today that addresses a few issues brought to us by the realtors. AM2003 would strike references to storm water in the definition of energy efficiency, redefine the definition of residential property to include multifamily dwellings, and few minor language changes to mirror existing current statutes. Across the country, PACE enabling legislation has been passed in 32 states, plus the district in Washington, D.C., and there are currently 2059 municipalities with active PACE programs. LB1012 is good for homeowners and commercial property owners, by reducing their energy conservation...consumption, I'm sorry, and therefore reducing their annual energy bills. Additionally, LB1012 has the potential to create new jobs in Nebraska by increasing the demand on the construction and trades industry. A University of California, Berkeley study shows that if PACE were implemented widely, it could infuse roughly \$280 billion into our national economy via bond financing. This same study showed serious environmental benefits that result from a bill like LB1012 as well. LB1012, that creates the Property Assessed Clean Energy Act, enables municipalities to create a clean energy district that would provide property owners a choice that is currently not available to them when contemplating cost-savings to update their older homes and older neighborhoods. With that, I appreciate the...actually I believe a majority of the committee has cosponsored this legislation, which I'm very appreciative of. And I really do want to end by thanking a number of interested parties that have consistently engaged in conversations with us over the last six years, since we last brought this bill to the committee, to craft the bill you have in front of you. That really addresses the major issues that were raised back in 2010, and really we feel very confident in regards to where we're currently at with this concept and hope the committee will look favorably upon it, moving forward this session. With that, I'd be happy to answer any questions you may have, Madam Chair. [LB1012]

SENATOR CRAWFORD: Thank you. Questions from the committee members? Senator Ebke. [LB1012]

SENATOR EBKE: I have a question. Let's say that this goes into place and somebody wants to put \$10,000 of new windows into their home. Where does the money come from, because I would think that the contractors would want the money up front. So where does that come from? [LB1012]

SENATOR MELLO: The concept, Senator Ebke, is that municipalities have to create essentially a special district. And the municipality helps facilitate the financing for these projects through bond financing with the banking industry. So to some extent, the city is going to help secure the up-front funding for property owners who wish to enter into this program, to pay for those upgrades to the property. The individual property owner then pays back that cost over...usually a 20-year loan on the property, where there is a lien established on the property. So that if you

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were to do that \$10,000 upgrade and you decided to sell your home at year 11, the other 9 years of still cost associated with that lien follow the next property owner because they're receiving the benefits of what you did, in regards to upgrading that home, in regards to reducing energy consumption and reducing energy bills. [LB1012]

SENATOR CRAWFORD: Other questions? Senator McCollister. [LB1012]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. Senator Mello, I've had the opportunity to work with the city on a road project, and when you talk about administrative fees, some of those fees, particularly when you work with the city of Omaha, can be fairly high. Have you talked to those...any city to know what those administrative fees would typically be? [LB1012]

SENATOR MELLO: I think to some extent it maybe better left to talk maybe...I know the League of Municipalities will be here testifying in support of the bill. It all depends, Senator McCollister. Programs across the country the administrative fees depend on the structure, in regards to how the municipality sets up the program. A number of states have actually gone in and kind of created a statewide focus of contracting, essentially with a third party that does all of the administration of the programs for municipalities across the state, to help reduce those administrative fees. And to some extent, it relieves a lot of the work that a city would or may have to do, in regards to once they create the special district they then transfer a lot of the administrative nature over to this third party to manage it. We've seen that in other states where they've been able to reduce the administrative fees on a statewide basis. For states to choose that, that's a decision that individual cities still get to make because the concept in LB1012 still is enabling legislation. It simply allows every city in the state to choose to enter into this concept. The hope would be, in talking with a number of stakeholders, that maybe an organization like the League of Municipalities would be able to serve as that statewide facilitator possibly to help figure out a mechanism so that all the cities in the state who want to use this concept can utilize it through one organization, instead of them doing it individual municipality by individual municipality. But once again, that's a decision that we leave up to the cities to decide, in regards to the bill. [LB1012]

SENATOR McCOLLISTER: If I heard your testimony correctly, the mortgage holder would have the first claim on any kind of a delinquency or a foreclosure, correct? [LB1012]

SENATOR MELLO: Correct. And that is based off of...that's essentially based off federal guidance, and that's the reason...Senator Coash I believe was the only senator who heard this bill back in 2010. We actually had an awful lot of support behind this concept back then, and the one issue was the priority lien status. And the federal government weighed in during that 2010

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session and essentially stopped all PACE programs in the country that gave priority lien status to a PACE loan over a mortgage holder. And that essentially is what's been the roadblock, in regards to finding some guidance from the federal government to make a determination of who should get the priority lien status when you create a special assessment loan like this on a property. And they came out this fall, the FHA, and said mortgage property. Mortgage liens will take priority lien status in PACE programs or give guidance to be able to do that, and that's what we've included in the bill. [LB1012]

SENATOR MCCOLLISTER: Having just gone through the housing crisis of 2008, is there any limitation on the amount of money that could be loaned out to that property owner? I would hate to see a situation where the debt on the property is higher than the actual value. [LB1012]

SENATOR MELLO: I believe the language the says that any loan that's made on the property has to show a reduction in energy consumption to help essentially quantify why you're doing the loan. So it's simply not being able to do \$100,000 of new projects on your property without showing here is how it's going to reduce the energy consumption and/or in some cases energy generation if you were to do for a residential property, put on a solar panel in your home in central Omaha. You'd have to show to some extent that cost-benefit analysis with a contractor before they can move forward. [LB1012]

SENATOR McCOLLISTER: Who approves a loan of that kind? Senator Ebke asked a question, the actual lender is a bank, correct? [LB1012]

SENATOR MELLO: Yeah, a financier of some sort. Yes, there is a financial institution of some sort who's providing that capital, so to speak, to a municipality to be able to create this concept. [LB1012]

SENATOR McCOLLISTER: So will that bank have the authority to determine the creditworthiness of the borrower and also whether that project fits within the confines of that particular house or the neighborhood the house is in? [LB1012]

SENATOR MELLO: Well, I think the issue is not so much...I wouldn't use the word creditworthiness, because the collateral is the lien on the property more than anything else. So it's not so much that you the individual is taking out a loan on your own personal credit line so to speak, you're taking a credit on the property that's owned in the sense that there now is a lien on that property that has to get paid back on the property through your annual property tax statement. If you didn't pay it back, obviously your property would go in foreclosure. It would go through the tax sale certificate process, possibly foreclosed on. Someone would ultimately pay

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that lien back eventually before the property could ultimately be taken care of. The lien would not be taken away from that property so to speak. [LB1012]

SENATOR McCOLLISTER: Thank you, Senator Mello. Thank you, Chairwoman Crawford. [LB1012]

SENATOR CRAWFORD: You're welcome. Other questions? So a couple of questions. So if you are in one of these districts that's created is there any risk to homeowners or commercial owners who are in that district but choose not to participate in the program? [LB1012]

SENATOR MELLO: No. Once again, it's purely an opt-in program. And the language in the bill spells out very clearly that it's an opt-in program, in the sense that the only way you can have a special assessment placed on your property is you the individual property owner have to enter into a contract with the municipality to do so. So it's very clear in the bill that it's really...most cities the way they do it is they create a district that incorporates the whole city, to give the municipality flexibility of anybody who wants to opt-in to the program. But really you are only opted-in the program when you sign a legal contract with the municipality to request I want to do these upgrades to my home, here is...you know, the contractor says this is what the energy savings would be. I sign the contract, the municipality they help facilitate the financing to do it and then the assessment and lien gets placed on my property to be repaid back over a period of time that is agreed upon between the property owner and the municipality and the financier. [LB1012]

SENATOR CRAWFORD: So there could be some agreement with a particular financier that the municipality chooses, or the municipality could raise funds some other way...or bond to have these funds available. [LB1012]

SENATOR MELLO: The municipality can choose to raise funds however they so choose by which to raise funds. That really is the decision placed upon how the municipality wants to do it. The reality is there who will testify after me that can talk through a little bit more on the financing and in regards to how other states and other cities have gone about doing financing. The reality is is once again, this enabling legislation gives the parameter so to speak, in regards to what cities can do within these parameters. And to some extent we've really tried to narrow and tailor this to the scent of what we thought would work for Nebraska, in light of a lot of negotiations we've had over the years with the banking industry. [LB1012]

SENATOR CRAWFORD: Thank you. Yes, Senator Ebke. [LB1012]

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SENATOR EBKE: Okay, so I'm still trying to wrap my head around the financing piece of it. So let's say that a city decides to engage in this, create one of these districts. Do they go then to the bank and/or whatever funding source there is and bond for \$1 million...whatever the magic number is, I'll use simple numbers. Okay, so they bond for \$1 million and then the city is then responsible for parceling out that money to contractors or whoever, correct? [LB1012]

SENATOR MELLO: To the contracts that have been signed, in regards to allowing the city to place essentially special assessment on their property and the accompanying lien with the property, yes. [LB1012]

SENATOR EBKE: Okay. So let's say that the city has bonded for \$1 million, just to make it easy money, and in the first year they get five people who have signed the contract, okay? So... [LB1012]

SENATOR MELLO: First off, I would remind you most scenarios the city doesn't bond until they have a certain amount of people signed up. I mean, they usually just don't go out and get bonds and then hope people utilize the concept. I mean, I want to reiterate that. In the beginning, it's not that cities I would say are acting irresponsible, just looking at going into debt and hope people utilize the concept. [LB1012]

SENATOR EBKE: So they're not building up a pool of money to then disburse. They're waiting until they've got an adequate number. [LB1012]

SENATOR MELLO: Some...in regards to if that's all you're utilizing to finance it, yes. Some cities utilize a number of other existing funds that they may have that could help serve as existing capital to help finance this concept moving forward. It really depends on what your individual city chooses to do. A number of cities have used private dollars, philanthropic dollars to help capitalize their fund. They've obviously used other bond financing to help capitalize their fund, other existing pools of government funding that they may have, federal dollars to help capitalize their funds. It really is dependent upon that municipality of how they choose to create their financing funds so to speak. But our research shows us that cities normally just don't go out and start looking for bond financing without having adequate interest in homeowners or property owners saying I want to utilize the program and then they go out and then try to get the financing. [LB1012]

SENATOR EBKE: So if the city went out and financed through a bond, would that bond be assessed only to people in that district or would it be a general... [LB1012]

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SENATOR MELLO: Yes. It would be only assessed to the individuals who have a contract within that district. That is essentially...once again, it's very clear in the bill that to only be assessed any liability, on behalf of the city essentially, would be you have to have a contract with the city to do this. So the city is not going to go out and do a \$1 million bond financing for five people and then somehow be liable so to speak...or have other people in the district be liable for that financing. It's only for the people who signed a contract with the city who are ultimately those being liable for it. And the reality is is the collateral always is the property. The lien on the property always serves as the collateral to covering that financing or that debt that the city or anyone else may go into, whether it's a private financier, because they have that lien on the property that will eventually get paid either by the property owner and/or through the foreclosure process. [LB1012]

SENATOR EBKE: Thank you. [LB1012]

SENATOR CRAWFORD: Any other questions? Thank you. Will you be staying to close? [LB1012]

SENATOR MELLO: I will, thank you. [LB1012]

SENATOR CRAWFORD: Excellent, thank you. So we will now hear from proponents of LB1012. Welcome. [LB1012]

ROB SHEAR: (Exhibit 2) Welcome, thank you. Madam Chair and members of the Urban Affairs Committee, my name is Rob Shear, S-h-e-a-r, and I'm from Overland Park, Kansas. I'm pleased to join you this morning to express support for LB1012, and I applaud Senator Mello for introducing the legislation. This bill will create an opt-in mechanism for local governments and private, institutional capital lenders to facilitate long-term--up to 25 years, nonrecourse fixed rate financing for property owners to pay for energy efficiency upgrades. I'm a managing director for PACE Equity, a company which specializes in enabling building owners, developers, and contractors to develop PACE projects. Our organization has been involved in the development, engineering, and financing of PACE projects in states and communities across the country, with boots on the ground locally, like myself. Because of our experience, PACE Equity possesses the credibility, knowledge, skills, tools, and resources to support successful PACE project development. In the past eight years, 32 states and hundreds of municipalities have passed legislation and local ordinances allowing PACE-funded building improvements and PACE funds for ground-up construction. More states, including neighboring Kansas and Iowa, are considering PACE legislation this year. PACE has many positive attributes. PACE enables energy efficiency with no risk to local governments, as PACE assessments are most often privately funded with no liability to municipalities. Because PACE efficiency projects can produce savings

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that exceed the cost of the PACE assessments or can be passed through to tenants or hotel guests, the result is increased building value that makes it a better and more marketable asset for both building owners and mortgage lenders. PACE improvements have an attractive ROI that can result in immediate positive cash flow to the building. PACE is a classic win-win for energy efficiency, property owners, developers, investors, and local economies. PACE notably is also a way for nonprofit building owners like places of worship, private schools, hospitals, and community centers to fund building campaigns without tapping into the resources of their donor base, who would prefer to donate to programs and work that serves to increase the reach of the nonprofit organization. Nonprofit PACE projects are structured to be cash flow positive throughout the PACE term. The nonprofit should never be out of pocket for a PACE efficiency improvement project, where energy and other operating savings exceed the annual cost of the assessments. I encourage this committee to support and advance LB1012, with changes to the bill based on lessons learned from other states that have already implemented PACE programs. First, we encourage that energy efficiency-related items be included in the definition of items that can be financed under PACE. Energy efficient-related items might be structural support for a new energy efficient rooftop HVAC unit, modification to a wall that allows new insulation to be installed, and changes in a ceiling to accommodate more energy efficient lighting. We suggest capping the amount of such energy efficient-related items included at 25 percent of the overall PACE financing amount. Second, to provide uniformity in the program across local jurisdiction and to simplify participation by municipalities of all sizes, we suggest allowing participating cities to join together for the purpose of administering the program. In other states this is accomplished through the creation of statewide PACE districts or boards. In Nebraska perhaps a statewide PACE district or board is the right terminology, or perhaps it's best or preferable to refer to and utilize your existing interlocal agreement statutes, or a combination. I've had a conversation with representatives of the Nebraska League of Municipalities about this issue. Third, it is critical, for purposes of bringing a steady flow of long-term fixed rate and nonrecourse funds to the PACE market from institutional investors like pension funds and insurance companies, that PACE financing--this is for commercial properties and residential--be repaid through assessments for commercial property. To ease concerns from banks about the priority of PACE assessments for commercial properties only, and to ensure that banks and other lenders are not harmed by PACE assessments, PACE lenders across the country have been agreeable to language requiring bank consent before any PACE financing can occur. We have also found agreement with banks by making the current year PACE assessment the only PACE-related lien that is placed on a property. And even then, the more recent the legislation, there is only a lien for assessments that are delinquent. We've also worked with banks to provide that nondelinquent PACE assessments never accelerate. We are glad to work with the bankers and the committee on language that accomplishes these objectives. I have attached a letter from an executive of Enterprise Bank and Trust, a regional bank in Overland Park, Kansas, that expresses the bank's view of PACE. Again, I want to thank Senator Mello for introducing LB1012 and providing a vehicle for Nebraska to join the other 32 states and the District of Washington that

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have adopted PACE financing legislation. As someone with hands-on experience with how PACE works in other states, I am more than willing to answer any questions you might have. Thank you. [LB1012]

SENATOR CRAWFORD: Thank you. Questions from the committee? Yes, Senator McCollister. [LB1012]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. So you're saying that this bill follows the template that you've used in other states? [LB1012]

ROB SHEAR: Yes and no. The subordinate lien status for PACE, if it's uniform across residential and commercial, there won't be a PACE market for commercial properties in Nebraska. [LB1012]

SENATOR McCOLLISTER: So this is strictly residential? [LB1012]

ROB SHEAR: The intention I believe is to bifurcate so that residential would have a subordinate lien status and commercial properties, which would include nonprofit and other type properties, would be with a priority lien status. [LB1012]

SENATOR McCOLLISTER: Yeah, you heard Senator Mello's testimony. And I got the impression from your testimony that the lenders would go out and borrow directly or have some involvement with the bank itself. Did I hear that correctly or am I misunderstanding? [LB1012]

ROB SHEAR: Banks have...Bank of America has financed a PACE loan in the state of New York, other banks are considering it. But for the most part, private lenders like ourselves, with institutional capital backing, are who finance PACE projects. [LB1012]

SENATOR McCOLLISTER: But it's not project specific, it's an aggregate typical... [LB1012]

ROB SHEAR: No, it's project by project. [LB1012]

SENATOR McCOLLISTER: Okay, thank you very much. [LB1012]

ROB SHEAR: Thank you. [LB1012]

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SENATOR CRAWFORD: Thank you. Other questions? So to clarify, you would be in a partnership with a municipality but specific projects that are contracts would be approved by you before they would be allowed. Is that what you're saying? [LB1012]

ROB SHEAR: Yes, we would approve them first and then we would apply to the municipality. The statewide district would say...or the board, with their application process they would have a board that would say yes or no and then if it complies with the statute. And then that project would then go forward with our financing. [LB1012]

SENATOR CRAWFORD: Senator McCollister. [LB1012]

SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. Okay, let me make sure I understand this correctly. So somebody initiates an energy conserving project, they come to you and you evaluate the creditworthiness of the applicant? Is that correct? [LB1012]

ROB SHEAR: No, we don't. [LB1012]

SENATOR McCOLLISTER: Okay. [LB1012]

ROB SHEAR: It's property specific. So you know, our business is primarily commercial and so the commercial properties that we finance, especially when we have an existing lender, will have required a debt coverage ratio, in our case 1.25 times with our financing and the first lien owner's financing. So they would have to be...the property would have to support this financing. And where a lot of that comes from is the energy and utility and maintenance savings that occur when these projects are done. And nonprofits that I mentioned earlier, they only get done if those savings will pay the assessment or greater. [LB1012]

SENATOR McCOLLISTER: So the energy savings itself is what you look to when you look at a particular project? [LB1012]

ROB SHEAR: Primarily, yes. And then secondarily the cash flow from the actual property, yes. [LB1012]

SENATOR McCOLLISTER: So you are checking the creditworthiness of the applicant, in effect? [LB1012]

ROB SHEAR: Of the property, not of the applicant. [LB1012]

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SENATOR McCOLLISTER: Well, let's assume the applicant or the person receiving the benefit defaults. You would be looking then to the city to make up your investment, isn't that correct? [LB1012]

ROB SHEAR: No, we would look to the...again, because it's property tax as an assessment, that delinquent tax...if there was a first lien holder, they're going to have complete control of the asset. If there's an event of default and they foreclose, they just have to pay this delinquent tax for both property tax and PACE while they're holding the asset, until they resell it. [LB1012]

SENATOR McCOLLISTER: So you wouldn't ask for an immediate payment from the city, you would wait until the property is sold to receive the money that was financed on the loan? [LB1012]

ROB SHEAR: Yes, as the status of property tax. So it's a strong credit in that sense. [LB1012]

SENATOR McCOLLISTER: I see. Okay, thank you very much. [LB1012]

SENATOR CRAWFORD: So I would just like to follow up on that line of questioning then. In your testimony you say that you found agreement with banks by making the current year PACE assessment the only PACE-related lien that's placed on a property. So perhaps you can explain what that means, because I think we were talking about the fact that if it's a 20-year repayment that stays with the property. So what do you mean by saying that the one-year lien is all that's necessary? [LB1012]

ROB SHEAR: Sure. Okay, so the assessment contract for the entire 20 years is signed with the building owner and us and the city, and that's filed with either the county or the city. But each year, as a tax bill is generated, it's depending on whether the state law says it's a lien or it says it's only a lien if it's delinquent...which we're actually amending in Missouri now to make it only a lien if it's delinquent...would then place a lien with that year's assessment or not. And if it's a state...if Nebraska chooses to say it will be a lien only if delinquent, and it's never delinquent, it's never a lien. [LB1012]

SENATOR CRAWFORD: Thank you. Yes, Senator McCollister. [LB1012]

SENATOR McCOLLISTER: One more. Thank you, Senator Crawford. Okay, the city sets up the districts, isn't that correct? [LB1012]

ROB SHEAR: Correct. [LB1012]

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SENATOR McCOLLISTER: Okay, but you're asking the county to collect the taxes and you'd be working with them, in case of default or some kind of lengthy process to earn back or repay the debt, isn't that correct? [LB1012]

ROB SHEAR: Well, we would get a opt-in. Typically, it's just if the taxing authority is a city, it's not an unincorporated, you know, county or an unincorporated city. Because the city, we would get an opt...if there was a separate statewide district set up in...pick a city in Nebraska, other cities could opt-into that district, that authority, and then that authority would hire an administrator and they would collect the tax and then repay the institutional investors. And that's what they do. Does that answer your question? [LB1012]

SENATOR McCOLLISTER: Sort of, thank you. [LB1012]

SENATOR CRAWFORD: Other questions? Thank you so much for your testimony. Other proponent testimony for LB1012? Welcome. [LB1012]

JON TRAUDT: (Exhibit 3) Thank you. Good morning, Chairwoman Crawford and committee members. I appreciate the fact that you've all, if I understand it, cosponsored this bill. I don't see any reason why you will ever regret that. The bill as written looks very good, the only thing that I would add... [LB1012]

SENATOR CRAWFORD: Could I ask you to just stop and state and spell your name please? Thank you. [LB1012]

JON TRAUDT: Sorry. Jon Traudt, J-o-n T-r-a-u-d-t, representing myself. [LB1012]

SENATOR CRAWFORD: Okay, thank you. [LB1012]

JON TRAUDT: The only thing that I would add to the bill would be that when the...for instance a home or a school is upgraded to save energy, that the indoor air quality be either maintained or improved. Because if it's done wrong, it can create health hazards. The EPA did a national survey that found that two out of three Americans actually don't want to save energy if it endangers their health. But I've been testing homes for 30 years, and really, it's not hard to improve the air quality in most homes. The Lung Association says the air quality is 2 to 10 times worse than outdoors. So what I passed around is an article I wrote back in 1993 about protecting people and houses while saving energy. One of the things is to achieve what Goldilocks would like, in way of ventilation rate. Most homes have ventilation that varies with the wind. Sometimes it's too much and wastes energy, sometimes it's too low and damages health--build up of pollutants. I've

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done a lot of research on radon mitigation and you'll find in the packet of information about health indoor environment protocols for home energy upgrades. So this is not new. A new Energy Star home is twice as energy efficient and a lot better air quality than an average existing home. Now a lot of energy efficiency programs across the country have already succeeded, and the average cost of saving a kilowatt hour has been about 5 cents. That's about half the retail rate, so there's a lot of opportunities. Again, the bill as written is very good, but in dealing with efficiency, you can also help to solve problems like carbon monoxide problems. Nebraska has the highest carbon monoxide death rate in the country. We don't want to be number one in that way. Another thing is to...on an Energy Star home you bring in air through a filter and you can remove particles that damage the immune system, the respiratory system, the cardiovascular system, and the central nervous system. None of that is good. And finally, I'd like to...later I'll give you some information about the remaining reserves of coal, natural gas, and oil. Right now we have a lot, but the amount in the ground that we can get--affordable energy--doesn't look so good for the long-term. For instance, we've been told that we have 200 years of coal, but this report from the USGS geological survey says that of the coal that's out in Wyoming and Montana that we may only be able to get about 3 percent of what's in the ground. And I'm going to give this to you later, but so you know I'm not making this up. So I'd be glad to answer any questions you might have. [LB1012]

SENATOR CRAWFORD: Thank you, Mr. Traudt. Questions from committee members? Seeing none, thank you for the information and for your testimony. Others wishing to testify in support of LB1012? Welcome. [LB1012]

JOHN ATKEISON: Good morning, Senator Crawford and committee members. My name is John Atkeison, J-o-h-n A-t-k-e-i-s-o-n, representing EnergyLinc, it's a little grassroots, nonprofit organization. In the course of our activities, we do primarily education around climate issues, and I often get into discussions with people about...to answer the question what can I do. And that involves things at all scales, including people wanting to do work on their house or install a solar system, that they're looking for ideas. I'm also a certified grid-tied solar installer myself and always keep one foot in that world. And so one of the things that I want to bring to you is that while the price of many of these things, particularly photovoltaic solar electric systems, have been lowered incredibly over the last decade--it's like three-quarters declined in the price--there is still that bump to get over, which is actually putting the money together. I find that many of the people that put photovoltaics on their house are recently retired folks who want to lock in today's price for electricity, which is basically what you're doing. I did a report...excuse me, when I was the energy policy guy at the Nebraska Wildlife Federation, that demonstrated that in Nebraska then, two years ago, that was possible. And the price has continued to come down. Yet, we still have that hump to get over at the beginning for many of these projects, as I talk to people across the state, especially in Lincoln and somewhat in Omaha as well. So I would support this bill as a way to enable localities to remove an obstacle in a way that suits their locality, their

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municipality, and gives people more options to do the things they want to do that helps to stimulate economic activity and move things in a good direction in general. So that's my basic message. Thank you very much. [LB1012]

SENATOR CRAWFORD: Thank you. Questions from the committee? So would you see yourself, your group, as someone who would be out educating homeowners, trying to help them understand the program? [LB1012]

JOHN ATKEISON: Certainly. We provide information about the energy office loans today, which can be used for many of the same things. But the unique thing about PACE, of tying the financing to the physical property, is a unique feature. And I think that will be very, very useful. You know, if you sell your property what am I going to do, take all of my panels down and rip out my insulation to get my money's worth? No. So you know, this just helps. And I don't see the downside if it's done in a careful and prudent manner. [LB1012]

SENATOR CRAWFORD: Thank you. Senator McCollister. [LB1012]

SENATOR McCOLLISTER: Now I have a question. Thank you, Senator Crawford. You just discussed the energy loans, what is the financing mechanism with that kind of loan? [LB1012]

JOHN ATKEISON: The State Energy Office provides, from a special fund, money that is given to the banks on a revolving basis at no interest. And then the banks provide it in turn to facilitate, to finance the installation of new windows or a solar system or insulation or whatever qualifies on the list of things. The loans are qualified by personal credit. You're qualified by that and it's basically a home equity loan. As I'm told by the banks, you do the home equity loan and if you qualify for the home equity loan then you are switched over to the 2.5 or 3 percent energy loan. [LB1012]

SENATOR McCOLLISTER: When you go out and talk to some potential customers, what kind of financing would you recommend? The energy loan? Or would you be talking about working this new arrangement that Senator Mello is advocating? [LB1012]

JOHN ATKEISON: I think it will vary a lot from situation to situation. I think this is a really good option for some people. I can imagine that, you know, a young couple buys a house and they are enthusiastic and they want to take care of the property and improve it, but then surprise, they have twins and they need a bigger house. So this provides a mechanism for the resident, the owner, the occupant of the property to actually benefit over time. [LB1012]

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SENATOR McCOLLISTER: To enlarge the house? [LB1012]

JOHN ATKEISON: I wouldn't say that this would cover that, but if they wanted to move to a larger house they're not losing the money that they put into the house. The rest of the payments for the work done under this program would travel with the building. [LB1012]

SENATOR McCOLLISTER: The program under the Energy Office...if a default occurs, who's on the hook? [LB1012]

JOHN ATKEISON: It would work just like the home equity loan, is my understanding. [LB1012]

SENATOR McCOLLISTER: So they can apply that lien against the property tax? Is that the mechanism that's employed? [LB1012]

JOHN ATKEISON: Not...it's strictly a bank transaction. [LB1012]

SENATOR McCOLLISTER: So it would go back to the Energy Office to pay the debt, in the case of a default. [LB1012]

JOHN ATKEISON: You know, I don't feel certain enough to answer that. [LB1012]

SENATOR McCOLLISTER: Okay. Thank you very much. [LB1012]

SENATOR CRAWFORD: Other questions? So just to clarify that, if you could identify the people who you think would benefit from these loans that would not be as likely to be able to use the Energy Office loans. Like is there a separate group of people that you think this program will serve that the energy loans do not serve? [LB1012]

JOHN ATKEISON: I suspect so, but I hope that, you know, in a few years we'll have the real life answer to that. And you know, we can at that point look back and tweak it since, as I understand it, we've never done this here before. So I think that will be a good experience. I'm assuming that's going to be the case. [LB1012]

SENATOR CRAWFORD: Excellent, thank you. Other questions? Thank you for your testimony. [LB1012]

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JOHN ATKEISON: Thank you. [LB1012]

SENATOR CRAWFORD: Anyone else wishing to speak in support of LB1012? Welcome, go ahead. [LB1012]

LYNN REX: Senator Crawford, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Our board has unanimously approved this legislation, and as late as yesterday afternoon. So for those that were on the conference call, it was a unanimous decision. And we really appreciate Senator Mello introducing this important piece of legislation because anything that can be done to assist in energy conservation is a very good thing. And this is a way in which a municipality can do it in a number of ways, either municipality by municipality, they can certainly do it as part of a statewide scheme. And we think that this does provide very important options for property owners who otherwise would not be able to afford energy efficiency. So with that, I'd be happy to answer any questions you may have. [LB1012]

SENATOR CRAWFORD: Thank you. Questions? Thank you, Ms. Rex. [LB1012]

LYNN REX: Thank you very much. And thank you to Senator Mello. [LB1012]

SENATOR CRAWFORD: Next proponent to LB1012. Welcome. [LB1012]

FRANK UHLARIK: (Exhibit 4) Good morning. Morning Senator Crawford and members of the committee. My name is Frank Uhlarik, F-r-a-n-k U-h-l-a-r-i-k, and I serve as the sustainability and compliance administrator for the city of Lincoln. I appreciate the opportunity to comment today and would like to express our strong support for LB1012, the Property Assessed Clean Energy Act or PACE legislation, introduced by Senator Mello and of course cosponsored by many of you all present here today. You have heard and may hear more from others more knowledgeable than me speaking today about the many benefits of PACE legislation that have been realized by states and communities across the country. To evaluate the impact of PACE in Lincoln, as we are looking at it, I refer you to the following chart...if it's made its way around, or I'll certainly cite the figures that were prepared by Lincoln--Lancaster County Health Department, which broke out energy use in our community based on 2008 data. Relatively dated, but still pretty representative of what we're using today. Note that city government activities contributed just 6 percent of the total community use, while commercial, industrial, and residential consumption combine for 58 percent of energy use, with the remaining 36 percent attributable to transportation. From this data it is clear, and has been reiterated by others today, that the greatest potential benefits of LB1012 are available to homeowners, businesses both small and large, and entrepreneurs engaged in energy efficiency, water conservation, and renewable

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energy, particularly those that are rooted and invested in our communities for the long haul. Along with the benefits to residential, commercial, and industrial entities, I'd like to point out the benefits specifically to the city of Lincoln as a municipality that we've envisioned through passage of LB1012. Going back to 2008, the city of Lincoln formally committed to monitoring and reducing our energy usage, pursuing clean and alternative renewable energy sources and improving water conservation efforts across our community. Eligible projects, as currently defined in LB1012, specifically encompass many forms of investment that we have targeted for improvement throughout the community and provides another tool in our tool chest for Lincoln to further pursue these efficiencies and goals. Again, what's in it for the city? Potential significant benefits of PACE legislation we see include of course continual progress towards achieving our community-wide sustainability goals, additional incentives for public and private partnerships, leveraging of PACE loan investments and community-wide matching contributions for other federal and state grant programs which we're investigating and could hopefully integrate into this whole process. And of course, increased property values through PACE investments. It is also important to mention that LB1012 does not force anything upon Nebraskans. Communities will have the option to implement or not implement clean energy districts in a manner which best benefits local needs. In closing, and I don't think I've heard the term climate change today, but inevitably you link that to energy efficiency and water conservation, etcetera. But it's difficult for me to see, regardless of your views or anyone's views on climate change, politically or scientifically or otherwise, difficult to see any downside to lowering energy and water bills, reducing air emissions, and contributing to economic development and local jobs. The city of Lincoln strongly supports LB1012 and urges the committee, the full Legislature, and the Governor to pass needed legislation. Thanks for the opportunity and I'd be glad to entertain further questions. [LB1012]

SENATOR CRAWFORD: Thank you. Questions? Seeing no questions, thank you for your testimony. Next proponent of LB1012. Is there anyone wishing to speak in opposition to LB1012? Welcome. [LB1012]

TIM HRUZA: (Exhibit 5) Good morning, Senator Crawford, members of the Urban Affairs Committee. My name is Tim Hruza, that's T-i-m H-r-u-z-a. I serve as legal counsel for the Lincoln Independent Business Association. I'm appearing today to register our opposition to LB1012. I listened to some of the support testimony here today, and while we understand that a lot of this is being pitched as a mostly financed or involving the private sector, in terms of backing these PACE loans that we're looking at, our concern in reading the bill is that I don't...at least my reading of the bill is that that's not necessarily how it has to work. And I think our concern is that the city having the ability to use bond financing to back these types of loans concerns us in that we're not sure the municipality's political subdivisions should be serving in this capacity and making bets on the success of these loans for these types of private development projects. We are open to discussing it, especially considering some of the testimony

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in support here today in exactly how this program works. That being said, we do register our opposition for those reasons. So I'd be happy to answer some questions, otherwise thank you for your time this morning. [LB1012]

SENATOR CRAWFORD: Thank you. Questions? Senator Hansen. [LB1012]

SENATOR HANSEN: Thank you, Chairwoman Crawford. So just to clarify, you have technical concerns about the bill and we could alleviate your opposition? Or is it more say a role of municipal governments you're expressing concern about? [LB1012]

TIM HRUZA: Maybe a little bit of both, Senator Hansen. I think that the biggest concern, again from our reading of the bill, is that Section 7 allows the municipality to outlay bonds. The way we kind of pictured this in reading it is that it would give the municipality the authority to finance bonds to create a pool of funds to then loan out to the private residential owners or commercial properties for these types of improvements. Now my understanding, based on the testimony today, is that there are private companies that help kind of facilitate this process, but the contract is still going to be with the city who's ultimately working as that direct mechanism that's operating these loans to the private entities. Our concern then is that if, you know, absent the private company coming in, the city would still have the ability to create its own pool for these types of loans through the bonding mechanism. Now again that's my understanding. I'm willing to visit with some folks after this. I've discussed it here this morning with a few people as well, registering our opposition based on that reading. [LB1012]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you for your testimony. [LB1012]

TIM HRUZA: Thank you for your time. [LB1012]

SENATOR CRAWFORD: Anyone else wishing to testify in opposition to LB1012? Anyone wishing to testify in a neutral capacity? [LB1012]

ROBERT HALLSTROM: Chairman Crawford, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as registered lobbyist for the Nebraska Bankers Association, in a neutral capacity on LB1012. I think a little bit of a historical perspective may be helpful for the committee. The NBA has traditionally been opposed to PACE legislation, starting with Senator Mello's initial efforts back in 2010. One of the constants beside Senator Mello is that Trevor has always been here as well on this issue. But our opposition was based principally on the fact that there was a hidden super lien priority that was provided, a

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hidden lien in terms of not being filed anywhere, so that individuals could find out that they exist. And secondly was that they were treated like a tax assessment or a special lien assessment and therefore had an absolute first lien priority. Senator Mello indicated back in about 2011, 2012 the Federal Housing Administration and the FHA both came out and indicated that they had significant problems with the super lien priority status of PACE liens. They would not purchase the residential loans that had the super lien priority for the PACE lien. More recently, last fall, the FHA came out and indicated that with respect to residential loans that their position has softened. There are a number of aspects of what is a yet to be finalized guidance that we at least I think have enough directive to move forward with LB1012. Some of the issues are there must be a flat interest rate, which LB1012 provides for; equal installments, also contained within the bill; and most importantly, under Section 6 of the bill, the PACE lien is subordinate to first mortgage liens. Section 6 has a requirement that there be a notice of lien filed, which addresses the hidden lien aspect that I talked about earlier. It also provides that all liens that are recorded prior to the notice of lien will take priority and that first mortgage liens, even if filed after the notice of lien is of record, will still have priority. And that seemingly should satisfy the requirement of the FHA that says the PACE lien must be subordinate to first lien mortgages on residential loans. There's been some discussion about bifurcating treatment for commercial loans, we have just recently received some language that we're in the process of reviewing. We've had meetings with Senator Mello and appreciate his efforts, as well as that of his staff, in trying to put some language together. And we should be able hopefully to get something put together fairly quickly that will allow, as long as there is consent for the commercial side of things, probably can get that worked out. And with regard to treating residential the way that LB1012 currently has it, it may also be helpful...again, we're in the process of looking at it, but it seems to narrow the scope of the lien to the delinquent portion...or the nondelinquent portion is not subject to the lien. That may be helpful as well. So I'd be happy to address any questions that you might have. [LB1012]

SENATOR CRAWFORD: Thank you. Questions, committee members? Thank you for your testimony. [LB1012]

ROBERT HALLSTROM: Thank you. [LB1012]

SENATOR CRAWFORD: (Exhibit 6) Anyone else wishing to speak in a neutral capacity on LB1012? We have letters on the record in support, from Nancy and Alan Meyer, and also from Sierra Club Nebraska Chapter. Would you like to close? Welcome back, Senator Mello. [LB1012]

SENATOR MELLO: Thank you, Chairwoman Crawford. To clear up a couple items, a couple questions that were asked. Senator McCollister asked about the Nebraska Energy Office Dollar

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and Savings Loan Program, that money usually is always allocated every year and there's a finite amount of money that's available as part of the issue. And so I know the money has been allocated. PACE financing is obviously available to any property owner across the state, assuming that their municipality creates a PACE or clean energy district. You know, this is my eighth year in the Legislature and probably one of the last...I've only got one more bill in front of this committee actually, in a couple weeks. To some extent, it's always a bit disappointing in regards that you hear of an opponent, which this particular opponent today has come in opposition...most of my bills I bring to this committee, for whatever philosophical reasons they may have, it's always a bit disappointing that opponents like that don't reach out to you prior to the bill introduction to try to get questions answered or get clarification. Similar to the way that a number of others who have brought forward concerns to us that we did address--the Nebraska Realtors, Nebraska Home Builders being some organizations that met with us prior to today's hearing, for us to address minor tweaks or changes or concerns they had to the bill. So all I can simply say, in regards to refuting the opposition testimony, is one, it didn't surprise me, I should say, in the sense that that would be their tactic or approach they would take with this bill; but second, I'm more than willing, if they want to be able to provide me some rationale in regards to what you heard from proponents today is that most cities obviously have tried to facilitate with private financiers a program like this, because it's an opt-in nature. And as I mentioned with some of the Q&A with Senator Ebke, most cities are not going to do bond financing for maybe 10 to 15 people who choose to enter into a program. They're going to find a more appropriate financing mechanism that doesn't put their municipality at financial risk is what you heard from one of our proponents today. But I look forward to maybe hearing more from the opposition organization, if they so choose to reach out to my office afterwards. More importantly I think, colleagues, this concept is one not new nationwide, but it is new to Nebraska. And I think you heard overwhelmingly that there is a financing need for a number of Nebraskans--residential property owners, but also you could hear from commercial property owners, to be able to do needed upgrades to their property to reduce their energy consumption. That would also save obviously Nebraska's very unique public power system, in regards to power generation, in regards to a financing mechanism right now that's just not available to people. Existing state programs are already tapped out, so really the only option the homeowner has or a property owner has is to get some kind of private financing through a home mortgage loan. Which to some extent once again, as you heard, the main argument is that individual is paying that loan based on their own personal creditworthiness, they're paying out of their own personal financial scenario, in comparison to the upgrades that are being done to the property, which the property would be paying these loans over a period of time, no matter who owns the property. That, colleagues, is why this concept is so unique and it's so important, in regards to addressing what we know is a lack of financing available to property owners when it comes to energy efficiency upgrades. My hope is that we can continue to provide...as you heard from the Nebraska Bankers Association, I really appreciate their candidness, their ability to work through the tough issue that really has plagued this concept in Nebraska for the last six years. And the fact that we've

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been able to get an organization which traditionally opposes a bill like this in a neutral capacity and to work with us to help find...to finesse this concept, in regards to the mortgage lien status and the priority lien status, I think speaks volumes in regards to what we've tried to do to build consensus around a concept that I hope the committee will look favorably on. If you do have any other questions, by all means, after the hearing please feel free to connect with me or direct them to Senator Crawford and the legal counsel, and we can try to get together and answering any questions the committee may have. [LB1012]

SENATOR CRAWFORD: Yes, Senator McCollister. [LB1012]

SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. Just one quick question. If a city elected to use some kind of bond financing, that would go before the voters just like any other bond, correct? [LB1012]

SENATOR MELLO: Correct. [LB1012]

SENATOR McCOLLISTER: Thank you. [LB1012]

SENATOR CRAWFORD: Any other questions? Thank you, Senator Mello. [LB1012]

SENATOR MELLO: Thank you. [LB1012]

SENATOR CRAWFORD: This will close the public hearing on LB1012, and that closes our morning public hearings. We will be going into Executive Session, so I encourage you to leave quietly if you can. [LB1012]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 9, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB719, LB1042, LR399CA, and LR394CA. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Colby Coash; Laura Ebke; Matt Hansen; Sara Howard; and Dan Hughes. Senators absent: None.

SENATOR CRAWFORD: Welcome to 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 the Chair of the Urban Affairs Committee. We will start off having members of the committee and committee staff do self-introductions, starting on my right, Senator Hughes.

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SENATOR HUGHES: Thank you. Dan Hughes, District 44; 10 counties in southwest Nebraska. In alphabetical order this time: Chase, Dundy, Frontier, Furnas, Gosper, Harlan, Hayes, Hitchcock, Perkins, and Red Willow.

SENATOR CRAWFORD: Thank you. And Senator Coash is introducing a bill in another committee, so he probably will be joining us later.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR HOWARD: Senator Sara Howard, I represent District 9 in midtown Omaha.

SENATOR CRAWFORD: Senator Hansen is also introducing a bill in another committee.

SENATOR EBKE: And I am Senator Laura Ebke, District 32: Jefferson, Thayer, Fillmore, and Saline County, and the southwest portion of Lancaster.

CHRIS TRIEBSCH: And I'm Chris Triebisch, and I am committee clerk.

SENATOR CRAWFORD: Also assisting the committee is out committee page, Kellie Wasikowski, from Omaha, who is a political science and sociology major from the University of Nebraska-Lincoln. This afternoon we will be hearing four bills and we will be taking them in the order listed outside the room. On each of the tables in the back of the room you will find blue testifier sheets. If you are planning on testifying today, please fill one out and hand it to Chris when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill you must testify during that bill's hearing. It's fine if you want to come up and say I testify in support for the reasons articulated in LB1042 previously. You can shorten it in that way, but we do want to make sure that the transcript and committee statement to reflect the supporters and opponents. It's critical that you come up and testify for each bill that for which you want to be represented. If you do not wish to testify, but would like to record your position on a bill, please fill out the pink sheets in the back of the room. We would ask that if you have any handouts that you please bring at least 10 copies and give them to one of the pages. If you need additional copies, the pages can help you make more. The testimony for each bill will begin with the introducer's opening statement. After the opening statement we would hear from supporters of the bill and then from 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 us your first and last name and please spell them for the record. We will be using a five-minute light system this afternoon. When you begin your

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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 will ask you to wrap up your final thoughts. I would remind everyone, including senators, to please turn off your cellphones or put them away on vibrate. Senator McCollister, would you like to introduce yourself?

SENATOR MCCOLLISTER: John McCollister, District 20, which is central Omaha.

SENATOR CRAWFORD: All right. With that, we will begin today's hearings with LB719. Welcome, Senator Groene.

SENATOR GROENE: Thank you, Chairman Crawford. Just start with a little history. In 1951, the Nebraska Legislature enacted the community development law, Nebraska Revenue Statutes 18-2101 through 18-2144...that was 1951...to allow municipalities to create community redevelopment authorities by ordinances and create development plans in order for the authorities to be able to purchase and develop property. Through development plans, the Legislature authorized the authorities to issue revenue bonds, Nebraska Revenue Statute 18-2124 through 18-2130, and asked municipalities for funding to support the development plans, those municipalities themselves being authorized to transfer general funds to the authorities, levee taxes, and sell bonds to fund the authority's request. Subsequently, in 1978, Nebraska voters enacted Article 8, Section 12 of the Nebraska Constitution, allowing for the purpose of rehabilitating, acquiring, or redeveloping substandard, and I emphasize and blighted property in a redevelopment project. A city may use tax increment financing, TIF, as I'll refer to it from now on, enabling the city to confiscate, for up to 15 years, all property taxes from all taxing bodies in excess of the previous year's assessed valuation prior to project's completion. The city has absolute authority to confiscate the taxes of the schools, the counties, the NRDs, and community colleges. LB719 seeks to clarify that TIF was never intended as a funding tool in association with Nebraska Statute 18-2123--enacted 1951--of the community development law, which allows that the acquisition and development of undeveloped, vacant land not within a substandard or blighted area. Or blighted. Development law is regulated by substandard or blighted, TIF is regulated by substandard and blighted. Big, big difference. Within a substandard or blighted area it is essential to the proper clearance or redevelopment of standard or blighted areas, or a necessary part of the general community redevelopment program of the city, or that the acquisition and development of land outside the city but within a radius of three miles; thereof is necessary or convenient to the proper clearance or redevelopment of one or more substandard or blighted areas within the city. The 18-2123 regulates development law passed in 1951. LB719, by amending 18-2123, clarifies that the language of the Constitutional Article 8, Section 12 never intended for TIF to be used for development of undeveloped land recently annexed or that lies outside city limits. This will redirect the municipality to use TIF for its intended purpose: substandard and blighted property in a redevelopment project. LB719 will cause cities and villages to follow the legislative intent to limit TIF to the definition of blighted

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in Nebraska Revenue Statute 18-2103, Section 2, which states including unimproved land...I mean, it's one of the three or four definitions in there is unimproved land, and it's in Nebraska Revenue Statute 18-2103 through 18-2111, Section 3, which states more than half of the platted and subdivided property in an area is unimproved land that has been within the city for 40 years and remained unimproved during that time. You may hear that they'll lose their funding mechanism. I remind you of the first section I read. They will still be accessible to bond, to create a taxing district that was originally given them power in 1951. Of they want it redeveloped or developed land outside the city limits, or something that's...open area that's been recently annexed. All we're doing is clarifying a law, the original intent. Everybody that's outside of the economic development area who reads it understands that. We are going to amend the law, we offered an amendment to clarify that in the first reading. And if anybody behind us wants to hark on that point, my aide has copies of the amendment and they can read it before they testify because it might alter their testimony. The amendment reads: tax increment financing, as provided in Section 18-2147, shall not be used for the acquisition, planning, and preparation for development or disposal of undeveloped, vacant land or land outside the city, as described in Subsection 1 of this Section. Nor shall any such land be declared or designated blighted and substandard to qualify for the use of tax increment financing. We clarified that we're only referring to 18-2123, not the definition of blighted, where it can be in the city for 40 years. So we clarified that. Why does this need to be done? You will probably hear slipping out of some of the testimony today about economic development. TIF was never meant to be economic development, it was urban renewal, that's why it's in this committee, Urban Affairs Committee. It's, the either or is, you're going to build it in town, you're going to build it out by the interstate on prime real estate and then the city comes in and says well, what about if you do it here, down by the old railroad tracks. We will give you new infrastructure, we'll put new streets in, curbs in, new water mains, new parking lots, widen the streets if you will build here. That's its intent. In the 1970s, we were coming out of the 1960s, where the inner cities, like a doughnut, were rotting and the cities were expanding on the outsides of the doughnut. The intent...I've looked up, back in the World Herald and the Lincoln Journal Star, the editorials in 1978, and that's what they said. They encouraged people to vote for it for urban renewal. They will tell you that they don't have economic development tools. They got LB840, they do have that. They have development law where they have special abilities to tax and bond, to create districts. They can do that and they still have that opportunity to do that. But to abuse the law because you claim you need economic development tools is not the way America works. We are ruled by laws, and to bend them for purposes other than their meaning, for me that's not acceptable. So what we're trying to do is clarify it so all the economic development folks out there can understand when they get pressure from a developer. And they do because now nobody will build without it. We're building housing developments now all across the state because it's there and they asked for it and it's pretty hard to turn them down. But we need as a Legislature to clarify and help those economic development and those mayors and city counselors to say no, we cannot do that, it's not correct interpretation of the law. So thank you, and any questions? [LB719]

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SENATOR CRAWFORD: Thank you, Senator Groene. Questions? Senator Howard. [LB719]

SENATOR HOWARD: Thank you, Senator Crawford. Thank you, Senator Groene, for bringing this bill to us today. I did have a question, and you'll have to forgive my ignorance. I'm new to the committee, my first TIF hearing. I've got snacks ready, I hear it's going to go late. Can you tell me, is there ever a time where urban renewal and economic development would occur at the same time? [LB719]

SENATOR GROENE: Economic development is a by-product of TIF. You could claim it's economic development to improve something, that's under the definition. But it is not supposed to be used for that purpose, it is supposed to be used for urban renewal. The economic development, in other words, is happening. The city is growing. It's growing out on the outer edges of the city--a doughnut. The tool is to try to attract it into the deteriorating inner city, that's the tool, that's what it was meant for. And it worked well--the Haymarket, the Old Market, Lincoln's used it well downtown, Omaha used it well downtown, Con Agra Campus. That's how it started and now it's being abused. It's become: I'm not building unless you give it to me. [LB719]

SENATOR HOWARD: Okay. Yeah, I think maybe I am just having a confusion because in my district we have an economic development district but it feels like an urban renewal district. It's really robust and it's turned around and it's really doing beautifully. [LB719]

SENATOR GROENE: Is it an older part of town? [LB719]

SENATOR HOWARD: It's at 48th and Farnam, in the Blackstone District. And we had had a lot of problems in my district with a bar, and there were some shootings a block away from where I live. Now it's completely turned around. [LB719]

SENATOR GROENE: But that isn't the purpose of TIF, clearly defined. But I mean...yes. [LB719]

SENATOR HOWARD: And it feels like urban renewal, but maybe it's a semantic argument? [LB719]

SENATOR GROENE: If it's urban renewal, it's urban renewal. I'm not against TIF, and most people aren't, if it's used correctly for urban renewal. [LB719]

SENATOR HOWARD: Okay, thank you. [LB719]

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SENATOR CRAWFORD: Other questions from committee members? Senator Ebke. [LB719]

SENATOR EBKE: Help me out here, Senator Groene. We talked a lot this morning, and you mentioned it, so I'm going to assume that you know a little bit about the LB840 Local Option Municipal Economic Development Act and the way that that's used. How is that different from TIF? [LB719]

SENATOR GROENE: It's economic development. They use sales tax funds, at least in North Platte we do. Every year, if you had \$100 collected, if you collect \$120 the next year, half of that goes into the LB840 funds. [LB719]

SENATOR EBKE: And where is that appropriate to use? [LB719]

SENATOR GROENE: I'll give you an example. It's usually used for city infrastructure too. They had a car dealership there that wanted to expand and then the city used the funds to widen the entrance off the street into their business--put new culverts in. They've used it for some grants for some businesses to try to get them to move to North Platte, but that's a whole different issue. [LB719]

SENATOR EBKE: Okay. So if a community has...are you telling me that TIF is not appropriately used out on the edges of town? [LB719]

SENATOR GROENE: It's supposed to be urban renewal. [LB719]

SENATOR EBKE: Like out in like a field. [LB719]

SENATOR GROENE: No, it's not supposed to be in an open field, it's not supposed to be in newly-annexed areas of open fields. It's supposed to be used in older parts of town where the infrastructure needs...you can use it to tear down and raze the old buildings, you can use it to clear the old concrete out, you can use it for putting new water mains in. You've got to remember...if you read the history of it, it's still tax dollars. These are tax dollars. The entity pays those taxes to the county assessor...to the county treasurer. The county treasurer then returns them to whoever bought the bonds, but the taxpayers of the schools and the counties, who are mostly the same taxpayers, said we are willing to take these tax dollars away from our schools, away from our county, or away from our NRD and our community college and let the city use it to improve their infrastructure. All the history on TIF that I've ever read, when it was started in California and Minnesota, is that is purpose of it. [LB719]

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SENATOR EBKE: So let's think hypothetically. What happens to property tax revenues when TIF is used say to fund or to help with development or economic development out on the edges of town, as opposed to the urban renewal... [LB719]

SENATOR GROENE: Well, first thing, if you abuse it...there's a reason we pay property taxes: we want good schools, we want good streets, we want good infrastructure. When you allow a certain segment of the population not to support their schools, not to support their public safety, you are putting a burden on those who do. Because when you get new business you get new individuals working at those business. They create a demand at the school, they create a demand at public safety. And what we're doing is distorting the natural growth matrix of...if its community grows you bring in more property tax. The old sales pitch was if we can get growth, everybody will pay less. That's the old sales pitch. If we get growth, property taxes would go down. TIF, if you look at it historically, what's been happening, the communities that use it, their property taxes are going up. Look at Omaha, look at Lincoln, their rates are going up. You have more cost because you have more people, more business, and more use of the streets. So the individuals who do pay their taxes end up paying more. [LB719]

SENATOR EBKE: Okay, thank you. [LB719]

SENATOR CRAWFORD: Other questions? Senator McCollister. [LB719]

SENATOR MCCOLLISTER: Thank you, Chairwoman Crawford. Senator Groene, has this been a widespread problem? [LB719]

SENATOR GROENE: \$61 million was TIFed last year, \$61 million was lost. I have the numbers here. It's not all communities. Kearney's a great example, they've really used it well. Lincoln, in most of their instances, they've used it well. I can't say the same for North Platte, we've had a few that were very good, but...oh, where is it? Excuse me...oh, here it is. Bear with me. No, that's not it. I was all organized at one time. Anyway, it was...oh, here it is--\$61 million, as of 2006 it was \$30 million. Less than 10 years ago it was \$30 million, it went to \$37 million in 2007, \$38 million, \$43 million, \$48 million, \$51 million, \$53 million in 2011, \$54 million in 2012, 2013 it was \$55 million. Now half of that...or more than half of that would normally go to your public schools, of those property taxes. So it's a good tool, as long as it's used for public needs, taxes paid, used by the city instead of by the school. That's the intent. [LB719]

SENATOR MCCOLLISTER: Well, the numbers you just gave us are the property tax that was not received because of TIF, is that correct? [LB719]

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SENATOR GROENE: Yes, it went to pay the bonds. [LB719]

SENATOR McCOLLISTER: Okay. You know, you indicated that TIF is a pretty good tool, but it's been abused. How many times has it been abused versus what you consider a legitimate usage? [LB719]

SENATOR GROENE: I don't want to start naming towns, but you go to the interstate, down the interstate towards Omaha, you'll see a huge housing development off to the north by an open field, by the factory outlets there. That was TIFed. They're talking about doing 60 acres on the outskirts of town with a developer out of Kansas. The developer out of Kansas that's been peddling this to midsize communities across the Midwest--you TIF it out there in this cornfield and then I will build. You can see it there's one been in Alliance, Senator Davis told me. It's really expanding. We did it on a Menards in North Platte, on the Interstate, in an open cornfield, where the developers made \$3 million on an open alfalfa field that was blighted. It is really...as younger economic development people come in and don't know the history of this...1970s, and why this...they just offer it as an economic development tool to most every developer. And we need to reign that in. [LB719]

SENATOR McCOLLISTER: As you enlisted proponents, does that include the school systems and the counties? [LB719]

SENATOR GROENE: Proponents? [LB719]

SENATOR McCOLLISTER: Proponents of this bill. [LB719]

SENATOR GROENE: I believe the school boards are going to testify for it today. [LB719]

SENATOR McCOLLISTER: Okay. [LB719]

SENATOR GROENE: They're starting to realize...originally in 1976, when they first tried to pass it, it was defeated by the people because the schools came out against it. So then the grand bargain in 1978 was we will make sure that the property taxes that you lose in the equalization aid, it will not be held against you, you will be made up those lost property taxes and equalization aid. So then it passed. But now the schools are realizing that that pie of money, between property taxes and state aid, is only so big. So that when we as a Legislature have more money to create for TEEOSA state aid, it is being bled off to replace lost property taxes which normally would have went to more aid for...and they're starting to understand the effect of TIF,

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how it's bleeding off state aid to replace property taxes that they would have normally received. [LB719]

SENATOR McCOLLISTER: Well, thank you, Senator. Thank you, Chairwoman. [LB719]

SENATOR CRAWFORD: Senator Hughes. [LB719]

SENATOR HUGHES: Thank you, Chairwoman Crawford. Thank you, Senator Groene, for coming in today. So you say that TIF is being abused. Is there not a state agency that has oversight to make sure that the law is being followed? [LB719]

SENATOR GROENE: There is absolutely no one they can go to--a mayor, a city council--can go to at a state level and say is this the correct way to use it? We have never...it's like a speed limit on the interstate without a...they're self-policing. The goal is you will hear that we police ourselves, but they don't. The pressure on a person who goes to a city council meeting twice a month and a mayor, who is not paid, pushed by the economic people is immense. That you cannot turn this down because they will not build here. Well, in order to say they will not build is to give complete loss of faith in the free enterprise system of supply and demand, especially with housing. If we create jobs...let's say they're correct, and TIF created a new factory and new jobs, people come for those jobs and now they're saying that that person will not find a place to live, will not build a house, that we also need to TIF that house. But there's no policing agency whatsoever but us right here. We are it. [LB719]

SENATOR HUGHES: Okay, thank you. [LB719]

SENATOR CRAWFORD: Other questions? So Senator Groene, just to clarify, your focus with this bill is really clarifying that some land that you can use for other community development purposes cannot be used for TIF. This vacant land outside of the city, right? [LB719]

SENATOR GROENE: Yes. There is confusion that when TIF was created the Legislature was instructed to create statutes to regulate it. So naturally, they looked and where would this fit under Section 18, development law that was in the 1950s. And so over the time, lines were pale and all of a sudden it was all one law, which it is not. One of them is a development law, blighted or substandard, and it's development law. The other one is tax increment financing, substandard and...and must be used on the project. It cannot be used on adjacent land outside the city. [LB719]

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SENATOR CRAWFORD: Okay. So also to clarify, when you were talking about the amount of property tax that had been TIFed, you meant that that was overall, not the amount of vacant land impacted by your bill. [LB719]

SENATOR GROENE: Yes, when Senator McCollister asked me about the \$60 million, yes. [LB719]

SENATOR CRAWFORD: Okay. [LB719]

SENATOR GROENE: I have not split that out, but I was looking at examples of where this has been occurring outside of the city when they...you know, a couple ethanol plants have been done, I mean, in the past. Two of them in my county. One of them went broke and the city suddenly got hung with the tax bill. But that doesn't make it right. [LB719]

SENATOR CRAWFORD: And is there...would there be a state oversight mechanism with this bill or is this also a local... [LB719]

SENATOR GROENE: No. This is just to start clarifying one of the more egregious abuses of it, and that's to start doing...housing is the big thing outside of the city limits or recently annexed areas around the edges of a community. But you know, we did last year put the auditor...that the auditor can now, thanks to you, Senator Crawford and the committee, put that the state auditor can audit a community redevelopment authority and make sure...and that's probably going to happen here pretty soon. [LB719]

SENATOR CRAWFORD: Thank you. Other questions? Yeah, Senator Hughes. [LB719]

SENATOR HUGHES: So if we were to adopt this bill, it's kind of the same place we were before. We're just changing the language and trusting everybody to follow what we say, don't you think? Or have you given any thought to if we should have assigned the duties to some state agency for oversight, to take a look at TIF projects to see if they are meeting the blighted and substandard or blighted or substandard and the what... [LB719]

SENATOR GROENE: I would love to see every project has to go to a state agency. Maybe the economic department, developmental department will state that every project has to be cleared through a panel that says this fits the description and you are correct to do this. That would be the correct way to do it, because we are dealing with property taxes. We have TERC that checks everybody's property tax rates. This is a problem and it's affecting the state because it affects state aid to education to the tune of \$30 million or \$40 million a year. It affects other parts of the

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state too because of the tax rates and things that happen because of TIF. So this is a state issue. A community might claim that it's local, but they are affecting other...the whole state because of loss of state aid. So I would like...it should be...I think for the...we do it with zoning. We do it with a lot of things where things come back to the state for clarification that what we are doing is correct. [LB719]

SENATOR HUGHES: Okay, thank you. [LB719]

SENATOR GROENE: But that is something we tried last year and we didn't get it out of committee. We tried the auditor route, but this thing is expanding so fast that it's starting to put a real effect into natural growth and property tax growth in the state of Nebraska. [LB719]

SENATOR CRAWFORD: Other questions? Thank you, Senator Groene. Are you planning to stay to close? [LB719]

SENATOR GROENE: Yes. [LB719]

SENATOR CRAWFORD: All right, great. [LB719]

SENATOR GROENE: This is very interesting, Education Committee. I missed the Governor to introduce his, but I'll stay. This is important. [LB719]

SENATOR CRAWFORD: Thank you. We will now move to those who wish to testify in support of LB719. Welcome. [LB719]

JOHN BONAIUTO: Thank you, Senator Crawford, members of the committee. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, representing Nebraska Association of School Boards. And we have talked about Senator Groene's bill in the school boards legislation committee, and this has been an issue that boards have been interested in for a number of years, but with school boards there's that fine line. You don't want to stand in the way of economic development, you want to support your community, but as Senator Groene has pointed out, there is a concern. And we're talking a lot about property taxes being too high and how are we funding schools and state aid, and so this bill is one that we felt we could support because what it does is make hopefully the language clearer, so that school boards won't be facing a situation where there's a housing development that is created through this type of a process. And school boards do not participate in the TIF process. They receive the information and deal with it after the fact, so it's not something that they participate in. So we know that Senator Groene has worked hard to make this language workable and not terribly punitive, he's just trying to make it more straightforward. And so we

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would hope that the committee would consider this in your deliberations and passing this out. Thank you. [LB719]

SENATOR CRAWFORD: Thank you. Questions? Senator Ebke. [LB719]

SENATOR EBKE: Thank you. Just for clarification, Dr. Bonaiuto, I...having served on a school board for a number of years, tell me how this works, from your perspective anyhow. So you get a big housing development out on the edge of town, say on the edge of Crete, for instance, and it's TIFed and it adds 50 students, you know, when everybody moves in and everything there. So is it the position or the opinion of the school board that there's no property tax involved in this...they get no property tax benefits from that and so to the extent that they get anything, it's through the TEEOSA formula after the fact? [LB719]

JOHN BONAIUTO: Yes. And the Department of Education would look at the valuation and how that would impact the school district's resources. [LB719]

SENATOR EBKE: Right. [LB719]

JOHN BONAIUTO: So it is difficult for the district. [LB719]

SENATOR EBKE: Okay, thank you. [LB719]

SENATOR CRAWFORD: Other questions by committee members? So the school boards are required to get a notice of tax increment finance hearings, correct? So they're involved in the process, in the sense of being asked to...you know, invited to come to the hearings and talk about what the impact may be for the schools. Is that correct? [LB719]

JOHN BONAIUTO: That's correct, Senator. They're not part of the decision process, but they do provide input. [LB719]

SENATOR CRAWFORD: Okay. And from the school board perspective, is the benefit of the bill because of some particular aspect...something particular about this land that's on the edge of the property or just clarifying an appropriate use of TIF? In terms of your support for LB719, is it something about the nature of that property outside of the urban area of the municipality? Is that what makes the bill attractive to you, or something else about the bill? [LB719]

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JOHN BONAIUTO: That, Senator, and just the timing. Knowing that property taxes and funding and the changes that will be taking place in the future in how we look at funding schools makes this bill more attractive. For clarifying the language and making sure that things are done the way the intent was originally put forth in law. [LB719]

SENATOR CRAWFORD: Thank you. Other questions by committee members? Thank you for your testimony. Other supporters of LB719? Anyone wishing to testify in opposition to LB719? [LB719]

ERVIN PORTIS: (Exhibit 1) Good afternoon, Senator Crawford, Madam Chairman and committee members. My name is Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s, the Plattsmouth city administrator, here in opposition to LB719. I'd like to talk about a little bit from the perspective of the small town, and perhaps even come back to some of the comments that I just heard. I'll tell you sustainability and growing a small town is really hard work, it's an everyday deal. Let's talk about Plattsmouth as a person-specific illustration. You know, we've had population loss, we got an aging population. We're close enough to Lincoln and Omaha, in particular Omaha, we got 70 percent retail leakage, 73 percent of the people commute out to work. We're a two-bedroom community. You know, our retail sales, because of that commuting out and spending dollars elsewhere, is about 50 percent of comparable cities. Add to that that a significant portion of Plattsmouth property, like probably most small towns, is tax-exempt: is churches, church-affiliated organizations, it's governmental, schools. Yet, we still have an obligation to provide services: police, fire, EMS, library, streets. Tell me a small town that has good streets, please. And in Plattsmouth, the last significant...before 2013, our first recent history TIF project, the last significant commercial housing investment in Plattsmouth occurred in 1992. That's 24 years ago. We've got LB840 and we've got a nice school district and we've got some nice amenities, but that's a long time ago to get any commercial investment, any housing investment. Our last significant housing subdivision was about that same time frame. So TIF has become important to us, and I'm going to argue that yes, there has been an expansion in the use of TIF since 2006. What happened in 2007, 2008? Significant economic collapse nationwide. And in the commercial lending industry, it's really, really hard to give a loan and to receive a loan. So we hear from developers that the tax becomes a critical piece of equity into a project and in the cost. Now in Plattsmouth, the developer assumes all costs for the blight and substandard, the redevelopment plan, the cost-benefit analysis, and the city's legal cost. And like most, if not every community I'm aware of, the developer has to secure private purchase of the TIF bond. The developer and his financiers, not the taxpayer, assume that financial risk, that financial obligation. In regards to whether or not the city has absolute authority, Senator Crawford, you asked are we obligated to give notice to the other taxing entities. In the last five years in Plattsmouth, we've contemplated, we've approved four TIF projects, we have mutually walked away from one application, so yes, cities do turn some down. But in those five projects, we published notice, sent certified letter, published public hearing meeting notices 64 times. Every

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time we had the statutory obligation to do so, we sent certified letters to all the taxing entities, we met with most of those...all of those, we fielded questions from them, we took advantage or the opportunity to say here's the application, here's the proposal, what's your input? And we collected and we used that input. And frankly, on all of the projects that we've approved we had letters of support from the other taxing entities. So we do exactly what the statute requires us to do, and we do it with full recognition that everything we do is subject to audit. Everything we do. In regards to undeveloped land, again there's two projects in Plattsmouth in recent years that I think are a perfect illustration. One of them a commercial project, where the base valuation was under \$350,000. Today, the current valuation is \$6.9 million, just under \$7 million, with the expected valuation at the end of the project \$15 million. Commercial project at the edge of town, most of it annexed into the city, 8 of 12 acres, 4 of it we had to annex in. But it all met the blight and substandard criteria. Out of that, we've got increase in valuation, we've got 100 full-time jobs, 200 part-time jobs, and those 200 part-time jobs that's high school teenagers who were driving, Senator Crawford, to Bellevue. We'd like to keep them in Plattsmouth, so we've done it. [LB719]

SENATOR CRAWFORD: I'll have you wrap up there. But that's great news. [LB719]

ERVIN PORTIS: Any questions? Any questions? [LB719]

SENATOR CRAWFORD: Thank you. Questions, committee members? Yes, Senator Hughes. [LB719]

SENATOR HUGHES: Yes, thank you, Chairwoman Crawford. Thank you for coming in today, Mr. Portis. You indicated there were four or five TIF projects that you had approved and there was one that you did not approve. What were the circumstances on the one that was not approved? [LB719]

ERVIN PORTIS: Yes, yes. On the one that did not approve we had a very hard time, even after a lot of conversation with the developer, simply proving that it was going to work and that it was worth the risk. [LB719]

SENATOR HUGHES: Okay, so you never had any negative input from any of the other taxing entities, even though you notified them all? [LB719]

ERVIN PORTIS: Yes. [LB719]

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SENATOR HUGHES: Nobody ever came and said this is going to affect us adversely, don't do it? [LB719]

ERVIN PORTIS: Even on the one where we walked away we had support from the other taxing entities. But I was looking at the pro formas and I just said it isn't going to work. [LB719]

SENATOR HUGHES: Thank you. [LB719]

SENATOR CRAWFORD: Senator McCollister. [LB719]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. So of the four projects that were approved, how many actually commenced? [LB719]

ERVIN PORTIS: All four. [LB719]

SENATOR McCollister: All four. And what was the amount of development for those four projects? [LB719]

ERVIN PORTIS: It's on the back of that sheet you have right there. When we started out on each one then the aggregate or the cumulative base valuation was \$717,000, today, it's \$10.7 million, the expected valuation when complete: \$32.8 million. [LB719]

SENATOR McCOLLISTER: I see. Thank you very much. [LB719]

ERVIN PORTIS: You're welcome. [LB719]

SENATOR CRAWFORD: Other questions? Were there any of those projects that you feel...that were on the land that you feel the bill itself describes, land that's outside of the blighted and substandard? Or these are all... [LB719]

ERVIN PORTIS: On the backside sheet here you see Westside commercial development, that was a little over 12.5-acre project. Eight of those acres were inside the city, four were adjacent to the city, with really challenging development costs. Immediately adjacent and necessary for the project. [LB719]

SENATOR CRAWFORD: Thank you. Yes, Senator Ebke? [LB719]

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SENATOR EBKE: Did I hear you say that there was one of the projects that was rejected? Or did I miss it? [LB719]

ERVIN PORTIS: We walked away from it. [LB719]

SENATOR EBKE: So it wasn't... [LB719]

ERVIN PORTIS: Nobody...there weren't any no votes, we simply, between us and the developer, said this isn't going to work, we can't go forward with it. [LB719]

SENATOR EBKE: So it wasn't built at all? [LB719]

ERVIN PORTIS: Correct. [LB719]

SENATOR EBKE: Okay, thank you. [LB719]

SENATOR CRAWFORD: So also, just to clarify from the sheet that we have in front of us, so as I understand it, the base valuation was \$717,000. [LB719]

ERVIN PORTIS: Yes. [LB719]

SENATOR CRAWFORD: The current valuation here is over \$10 million and then expected to be over \$32 million. [LB719]

ERVIN PORTIS: Yes. [LB719]

SENATOR CRAWFORD: So and then the total bonding is a little over \$5.5 million, is that right? [LB719]

ERVIN PORTIS: Correct. [LB719]

SENATOR CRAWFORD: So when people talk about the money that is directed from property tax revenues to pay the bond, that would be the \$5.5 million, is that correct? [LB719]

ERVIN PORTIS: The \$5.697, yes. [LB719]

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SENATOR CRAWFORD: All right. So the current valuation is \$10 million and the amount that was directed is that \$5.5 million for the bond, with the eventual valuation of \$32 million. [LB719]

ERVIN PORTIS: Yes. [LB719]

SENATOR CRAWFORD: Thank you. Yes, Senator McCollister? [LB719]

SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. Meadow Heights Estates, that was 60 single-family homes? [LB719]

ERVIN PORTIS: That is correct. [LB719]

SENATOR McCOLLISTER: Where...was that built outside the city? [LB719]

ERVIN PORTIS: No, it's inside the city. The property has been inside the city forever, but...you're familiar with Plattsmouth, Senator McCollister, that the topography is challenging. [LB719]

SENATOR McCOLLISTER: I am. Yes, sir, that is true. Did you utilize any other incentive or tax increment... [LB719]

ERVIN PORTIS: No, we did not. [LB719]

SENATOR McCOLLISTER: That clearly would fit the bill, wouldn't it? [LB719]

ERVIN PORTIS: It does. We believe it does. [LB719]

SENATOR McCOLLISTER: Okay. Thank you, sir. [LB719]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you, sir. [LB719]

ERVIN PORTIS: Thank you. [LB719]

SENATOR CRAWFORD: Anyone else wishing to testify in opposition? Yes, welcome. Sorry. [LB719]

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KARL ELM SHA EUSER: (Exhibit 2) Good afternoon. Thank you, Chairman Crawford and committee members. My name is Karl Elmshaeuser, K-a-r-l E-l-m-s-h-a-e-u-s-e-r. I'm the executive director for the West Central Nebraska Development District, WCNDD, that covers 18 counties and 58 incorporated communities. I am also here on behalf of the Nebraska Regional Officials Council, which is an organization representing all of the development districts in Nebraska. I have provided a card with a map of all the districts for your reference, it's being passed out. We believe that there is a lot of confusion about what tax increment financing, TIF, is and is not and how it can be properly utilized. We thank you for the opportunity to present our opposition to LB719. I have been personally involved with community redevelopment authority, a CRA, when the city manager of Ogallala asked me to initiate a CRA for Ogallala in 1994, while I was operating my own aviation company. I have served two terms on the Nebraska Rural Development Commission and I understand the challenges for development that rural communities in Nebraska are up against. I have served as the executive director for West Central Nebraska Development District for almost 10 years and have assisted communities in creating a CRA or CDA. I know firsthand the value of a CRA as a tool for development activities. For all intents and purposes, LB719 will effectively kill substantial development for rural Nebraska. Under this bill, projects like ethanol plants in Madrid, population 231, and Cambridge, population 1,063, would not have been able to happen. The ethanol plant in Cambridge led to a truck stop, hotel, and housing development. Projects like the grain storage facility in Benkelman, population 953, also would not have occurred. These are just a small sample of projects that were on undeveloped vacant land, that are currently allowed. These projects were a critical part of the community's ability to grow and control their own future. A CRA is a vital and an effective development tool for communities in western Nebraska. Please don't take away one of the key tools and elements needed for rural Nebraska communities to survive and grow. Thank you. [LB719]

SENATOR CRAWFORD: Thank you, sir. Questions? Yes, Senator Hughes? [LB719]

SENATOR HUGHES: Part of the issue that we're dealing with is whether or not the law is being followed as to developing land outside of city limits. In your job, is there any state agency that you know of that would have oversight over that? I mean, is there anybody that's looking at that and saying, you know, yes, you're following the rules to TIF this project or no, you're not? [LB719]

KARL ELM SHAEUSER: Not to my knowledge that there is any agency that does that. [LB719]

SENATOR HUGHES: Would you have any kind of idea how we should police that? I mean, do you have any thoughts there? [LB719]

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KARL ELMHAEUSER: I think...my opinion, that there is a lot of lack of communication and transparency. I think that's what we're talking about. I've heard a lot of, already this morning, misinformation. I don't think people intentionally are trying to mislead that, but again for me, I'm intricately familiar with this because I've been working on it for 22 years. So it's familiar for me. When we talk about notifications, actually the way the statute is written, it's only on their redevelopment plan, not per project. So some communities, like Plattsmouth, we were talking about being above and beyond for each project. So in that case, there are a lot of elements that are already in the law. When we talk about housing developments, there are only certain public things that you can do with the money. You can't actually build the house. You're talking about public infrastructure: water, sewer, streets, those types of elements that are only eligible under the law. Under the law currently also, you have to have what's called the but if/not for TIF. So everybody's looking at this pile of taxes over here and say well, look at what we're missing out on. And forgive me for a moment, but it's almost like the little red hen. We're seeing it after it's already done, saying I want a slice of that, not understanding that everybody agreed to begin with when it started that that was best for their communities. For example, in my 58 communities, only 7 in the last census have grown in population out of 58, and 4 of them are in the same county. So there's a lot of different challenges on it. So let me get back to that. In the law, the different criteria that has to happen also to meet that, which talks about is there any tax shift from a different entity that would be adversely affected. That's already in here. And the CRA is responsible to respond to that. So what I would propose, if they really were talking about a change, and I don't think it would have much opposition, I hope, would be that the CRA is required to have a hearing for each redevelopment project or contract. The notices are already required to go out to all the different entities. Currently, that's only for the redevelopment plan, some have gone above and beyond. And at that, then the items to be addressed would be how is but if/not for TIF...in other words, the project wouldn't have happened if tax increment financing had not occurred. That's one of the decisions a CRA has to make. That that would be presented at the hearing, the criteria that said we went through all of this about whether it would shift tax burden, you know, would it be adversely affecting one of the other entities. That's already required in the statute as well, but that would also be presented. So if those elements are presented at the time to all of those entities, I think that would help clear up communication and make it more transparent about what is going to occur, as well as what's actually in the redevelopment contract. I think there's a lot of misnomer too, that the developer is getting the money or someone is not paying their taxes. That is not the case. The taxes are being paid and, in the case of the project, what are those things going for that are public infrastructure. So in the case of Benkelman, they required additional power. The city of Benkelman was going to have to bring in additional power for the grain storage facility. So that transparency, if that were to occur, I would hope that that would alleviate a lot of people's concerns about what's happening. I know that's a long answer to your question. [LB719]

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SENATOR HUGHES: But you told me...so we did require the CRA to be involved and you said no, you're not meeting the rules, but the city council says to heck with that, we're going to do it anyway? There's no higher authority that can stop it? [LB719]

KARL ELMSHAEUSER: So a CRA or a CDA actually...so let's take a CRA. Let's take for example the Ogallala Community Redevelopment Authority. It's appointed by the city of Ogallala, it falls under the city, as well as their budget and their lid and the rest of it. The CRA is still responsible to that parent organization. The city is the one who appoints the people to the CRA as well, so inherently you already have local oversight above and beyond just the CRA. So there is control on that local level, there is someone that the CRA has to answer to. So if they're going way off course, then that entity above them, in the case of the city of Ogallala, has the ability to in essence police themselves--police that organization. Not a state agency. [LB719]

SENATOR HUGHES: Right. But...okay, thank you. [LB719]

SENATOR CRAWFORD: Senator McCollister. [LB719]

SENATOR McCOLLISTER: Thank you for your testimony. Thank you, Chairwoman Crawford. How many TIF projects have you been associated with in your career? [LB719]

KARL ELMSHAEUSER: More than I can remember to count. I don't have that number, sir, off the top of my head. But quite a few. [LB719]

SENATOR McCOLLISTER: How many are the kind outlined by Senator Groene? [LB719]

KARL ELMSHAEUSER: That's probably the exception and not the norm. Most of the projects are going to occur within the blighted, substandard area, which even for a blighted and substandard area to be determined, it's a separate report with a separate redevelopment plan that has to be approved prior to that. So they're not going to operate outside of that blighted and substandard area. [LB719]

SENATOR McCOLLISTER: As you look at the various tools you can employ for development, if this bill were to pass could you use the other tools in your toolkit to adequately take care of the projects that you would hope to work on? [LB719]

KARL ELMSHAEUSER: Because of the nature of a lot of the projects, it actually takes more than one particular tool sometimes to build it. So in the case...I'll use one locally where the project in Imperial, Nebraska. It took LB840, it took tax increment financing, it took private

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funds, it also took a tax credit in order for that project to occur. So it's a combination. Otherwise, that project would not have occurred as well. So it's not a one and done or that one program, a lot of times you'll see them used in conjunction with, in order for that project to be accomplished. [LB719]

SENATOR McCOLLISTER: You've done a lot of projects. Are most of the projects that you've worked on involving multiple tools or excess of cash? [LB719]

KARL ELM SHAEUSER: I would say more often than not it is more than one tool in a project, yes, sir. [LB719]

SENATOR McCOLLISTER: Okay, thank you very much. Thank you, Senator. [LB719]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you for your testimony. [LB719]

KARL ELM SHAEUSER: Thank you for your time. I appreciate it. [LB719]

SENATOR CRAWFORD: Welcome. [LB719]

MIKE JACOBSON: (Exhibit 3) Thank you. My name is Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n. I'm from North Platte, Nebraska, I chair the Community Redevelopment Authority, have been since its creation about 15 years ago. I'm also the president and CEO of NebraskaLand National Bank. First of all, Madam Chairman and committee, thank you for allowing me to present to you this morning. I think, as a previous presenter mentioned, there is a tremendous amount of misconception about what TIF does and TIF doesn't do. There's been a lot of information given about dollars taken off the tax revenue, and I'm here to submit to you today that there hasn't been any dollars taken off the tax rolls. There have only been dollars added to the tax rolls. I think that's an important distinction. I think we need to understand that in North Platte we formed our CRA about a little over 15 years ago. In that time frame, we've approved 11 projects as a CRA. The city did two projects prior to the CRA being formed, so there have been 13 projects. I would tell you that we strictly look at the if not/but for test in North Platte and we make certain that these are projects that we believe otherwise couldn't be built or would not be built in that location had we not used TIF. Now it's awfully difficult to prove a negative, but I can tell you that we've tried to make every effort to do just that. I would tell you that given the fact that a project otherwise wouldn't be built without TIF, then it's hard to believe that you're taking anything off the tax rolls when the taxes wouldn't have been created to begin with, would they? I mean, if I don't build a project, I'm not going to add any taxes to the tax roll. I'm not taking anything from

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the school district, I'm not taking anything from the city, or any of the municipalities. I can tell you that in all of our projects we've never had any of the taxing authorities testify against, and most have always showed up to testify in favor of the TIF projects, because they see the economic development benefit of TIF. As the earlier presenter mentioned as well, there is very clear oversight. The city council is the absolute authority. The city council appoints the CRA, the CRA looks at the projects and they make a recommendation for or opposed. The CRA then goes before the planning commission before public hearing and it's heard before the planning commission to make sure that it meets planning and zoning guidelines. Then it goes before the city council before a public hearing, after all of the taxing authorities have been notified by certified letter that there's going to be this public hearing, giving them the opportunity to show up and testify. Ultimately, the authority on this is the city council, and they're subject to the voters. And if the voters oppose them, they will vote them out of office. That's the checks and balances that we have today in the law. Let me quickly go to a project that I believe is the cornerstone of our project. A project that would not have occurred in North Platte, had the bill being proposed been law at the time. That project is the Walmart Food Distribution Center. The Walmart Food Distribution Center, when they were looking they came to North Platte. North Platte became the only Nebraska city that was a finalist--it was between North Platte, Nebraska and a city in eastern Colorado. North Platte was ultimately selected, but there was a caveat from the beginning: Walmart required that they would be able to select the site and that the city would have to give them that property. They chose a 120 acre site, just outside the city limits. That property was annexed into the city limits, but it was adjacent to the city, so there was no skip-annexation done. It was pasture and farmsteads that were out there, including older buildings, feedyard, etcetera. That property had to purchased for \$1 million. That was \$1 million that the city could not put out because they weren't legally allowed to buy this property and give it away to a private company, nor did the development corporation have. So what ended up happening is this property ultimately was TIFed. At the time it was built, it was a \$181,000 tax base, generating \$3,972 a year in taxes. After the project was built, the increment went to \$18,850,000, raising the tax base to \$411,000. That \$411,000 was used for the next 10 years to fully extinguish the bond, and today that tax base has grown to \$25 million for the valuation. We're now generating \$579,365 a year in new taxes that go to all the taxing authorities. I can tell you every taxing authority in North Platte is pleased as punch to be able to have that, not to mention the fact that we now have all of the build out that occurred at that east interchange: two truck stops; we've got a truck wash; we've got Inland Truck Parts, who built a new facility there; Crete Carrier as the outbound provider--they're taking over 100 loads a day outside of that distribution center. There are over 200 common carrier trucks that come to North Platte every day to deliver to that facility. We also are using property on the edge, right next to the Walmart, that has now been used as our development site. We have a Cabela's call center, we have a FedEx distribution center. So there has been tremendous growth as a result of us being able to do that. None of that would be possible today, had we not had TIF available to do on undeveloped land outside the city limits. [LB719]

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SENATOR CRAWFORD: Thank you, sir. Questions? Of those other projects you're talking about that have happened since then, have those been TIF projects or have those been projects that have just developed because the area was developing? [LB719]

MIKE JACOBSON: Cabela's was the only...was a TIF project that was done there. There was another truck wash that was also done, and let me just mention that...I think that's another success story. There were two truck washes built, one was built without TIF, one was built with TIF. The one that was built with TIF was a much higher-end truck wash. We weren't certain that it was going to work, but we approved the TIF project and the truck wash did indeed fail. But here's the beauty of TIF, is remember that the bond is generally purchased by the developer. And the reason it's purchased by the developer is just what happened here. The project failed, but what happened is the property was still there, the land was still there, the building was still there, so we got the benefit of the increased tax base and the building being there, even though the project failed. The ultimate buyer of the land continued to pay the property taxes, continued to pay off the TIF bond, which has been fully extinguished. And what happened since that time...it sat empty for a short period of time and then Bosselman's looked at it and said we don't think we can make our business work in North Platte, we don't think we want to come there. The owner of the building went to them and said look, we'll give you free rent for six months if you come in here, do the remodel and try it, and then we'll go on a percentage of your gross sales. They agreed to do that, five months in their gross sales were so good that they couldn't afford not to purchase the building. So they purchased the building, we got a new business in North Platte, that building is occupied today and now Peterbilt Trucks is also sharing part of...and then they're considering building a new building right next to this particular property. So I'm saying that you can make lemonade out of lemons, and the key here is that none of the personal property taxes were taken, none of the sales taxes were taken. Think about the economic development that has occurred, think about the tax receipts that North Platte has gotten as a result of that facility, a facility that couldn't be there today if the current bill were law at that time. [LB719]

SENATOR CRAWFORD: Thank you. Other questions? Thank you for your testimony. [LB719]

MIKE JACOBSON: Thank you. [LB719]

SENATOR CRAWFORD: Other opponents of LB719? Welcome. [LB719]

BROCK WURL: Thank you, Senator Crawford and the committee. My name is Brock Wurl, B-r-o-c-k W-u-r-l. I'm here as both a property owner and a taxpayer of District 42, in Lincoln County, Nebraska, and as the board chairman for the North Platte Chamber of Commerce and Economic Development Corporation. Obviously I'm here opposing this bill today. I think Mr. Jacobson just went through a number of projects that have been beneficial for our community

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and I don't mean to palaver that point at all. I think all of the examples he used however were great examples of how TIF was used in our community to create jobs, to create sales tax dollars, to create property tax dollars, and develop growth within our community. What's being asked here if LB719 is passed is it will remove a tool from the toolbox of communities and economic development corporations that's incredibly valuable. If that tool is removed it would have a detrimental effect, not only to my community, but also to the state and the other communities within the state. LB719 would limit growth and progress and would create a potential state of confusion for communities and economic development corporations throughout the state. There was an opinion in 1980 on this issue from then Nebraska Attorney General Paul L. Douglas, where he made note that community redevelopment initiatives are intended to have an area, rather than a structure by structure focus and impact. And I think he's absolutely right. When you look at an economic development project, you're looking at it from an area standpoint, as opposed to a, you know, we're going to do this building, we're going to do this building and piecemeal the whole thing together. When you're looking at developing something like this typically you're looking at an area. The statutes that are mentioned in Senator Groene's proposal here: Section 18-2123 of the Nebraska Statutes has been on the books for over 60 years, has been untouched since 1961. In 1979, Section 18-2147 was adopted--those two have worked together in conjunction since then. During that time, so that's 37 years now...since that time, they've worked in conjunction. There have been seven amendments to 18-2147, but none of those have been to limit TIF in this way. I think if there were an issue of clarification that needed to be made, that probably would have been done fairly early on in the process. At the time 18-2147 was passed, in 1979, the Legislature also introduced...or also passed, excuse me, Section 18-2153, and that section vests the power of control in the local government. It puts the local government in control as the authority on these issues. It also states in there that "the Community Development Law shall be liberally construed and all incidental powers necessary to carry into effect such sections are hereby expressly granted to and conferred upon a city or village...pursuant to the Community Development Law." That's what the Legislature put into place back in 1979. This is really a local control issue. Who is better to determine when TIF ought to be used than locally elected and appointed officials? They know their community better than a state agency would, they know their constituencies better than a state agency would. It's called the Community Development Law for that reason. They have the familiarity with what needs to be done. The Legislature specifically designated that they were to be governed by the local government. Neither the Unicameral nor the courts really want to get into deciding on a project by project basis which projects are permitted and which ones are not. And I think it's up to the cities to govern that. And whether a property has been previously developed or not, they're the ones that are going to know what ought to happen there. And so with all due respect to Senator Groene, but as a tax payer in, you know, the district where I live and as the board chairman of the North Platte area Chamber of Commerce and Economic Development, and speaking on behalf of the business and development community of North Platte, we oppose this bill and Senator Groene's...and other folks' other efforts to deconstruct TIF and take the process

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out of local control and into the hands of the state, whereas it was originally designed to be in local control. Thank you. [LB719]

SENATOR CRAWFORD: Thank you, sir. Questions? Thank you. [LB719]

BROCK WURL: Thank you. [LB719]

SENATOR CRAWFORD: Welcome. [LB719]

LARRY BURKS: Good afternoon, Senator Crawford, members of the committee. Thank you for hearing me today. I am 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 speak in opposition to the bill today. First, to cover the boundaries issue, the way it sounds and the way it's implied is that all the boundaries are either round circles or squares, whereas the city of Bellevue, if you've ever seen a map of the corporate city limits of Bellevue, it is multi-centric, so it would be very difficult to identify that. We have several nodes of development that are TIF eligible and we also have areas that may appear to be inside the city limits, when in fact they are outside the city limits. So that would be a difficult situation for the city of Bellevue in particular to deal with, and I'm sure we can find some other examples as well. In Nebraska Revised Statutes 18-2116, Subsection B, Article 3, it implies the long-term best interests of the community. And once again, it is the local representatives' determination of what is in the long-term best interest of the community. TIF is a very good tool to use for development, redevelopment, and that should be the focus. This committee produced LR155, an interim study to examine current and potential economic development tools available to municipalities in Nebraska. Thank you for this document, it's very useful. Item number four, related to TIF, it says "resist further restrictions on use of TIF." Not only are you hearing about this today, apparently there have been multiple hearings where it's been strongly opposed to impose new restrictions--additional restrictions on TIF. In fact, it states at hearings in Lincoln and Norfolk there was strong opposition, and it's been strong since 2012. I've been working in the economic development field for just over 10 years. I've been blessed to work on both sides of the river, in Iowa and Nebraska. Iowa has more tools and more options available to developers than Nebraska: TIF is one of those. It's a broader use, it does not need the word blighted in their definitions. So for the city of Bellevue, the if not/but for test is very simple--if not/but for TIF, it would likely be built in Iowa. Regarding the auditing of a TIF project, the way the legislation is written right now any one of us can go to any city and request the records for the TIF projects and audit them ourselves. There's no restriction against--it's open public documents, and if you find a violation you can report them and voice your opposition to the project. The process itself is numerous, numerous hearings, so the implication that there's not enough communication...me personally, I don't believe that. I think there's ample communication and we in the city of Bellevue have a very strong relationship with the school district. Which

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brings up another important point, is in the city of Bellevue we have four different school districts, so that creates another problem related to some other legislation that we'll talk about later. Finally, it would be very difficult for a bond to be issued to a developer if the TIF project or process was violated in any way. There are very skilled attorneys in the state of Nebraska that have gone through these processes and they do things the right way. There may be an isolated even here and there, but I would be willing to bet 99 out of 100 times it's done correctly and the process is vetted correctly. The control at the local level is the most important thing here. It speeds the process along, and the process as it is now is cumbersome enough for a developer. It takes several months, if not a year or better to get a TIF project approved. To add to that, to add more restrictions, that would really, really cripple the TIF process. [LB719]

SENATOR CRAWFORD: Thank you. Thank you, Mr. Burks, I appreciate your comments. I do just for the record, before we open up to questions, just want to clarify that our interim report listed what we had heard at hearings, so it was not necessarily a recommendation of the committee, but it was a summary of some of the different things that we had heard from the different hearings. So I just wanted to clarify that for the record. [LB719]

BROCK WURL: Certainly. I believe...it's not a recommendation, per se. [LB719]

SENATOR CRAWFORD: Right, it's something that was heard. So I will now open for questions. Yes, Senator McCollister? [LB719]

SENATOR MCCOLLISTER: Thank you, Chairwoman Crawford. You indicated that Iowa has more tools in the tool kit. Can you elaborate on that just a bit? [LB719]

BROCK WURL: Well, certainly, if you give me one moment, please. Specifically for TIF. The definition of slum and blight is included in both states, however, it is also used for an economic development tool in Iowa. The state of Nebraska requires that a TIF project be within the city limits. In Iowa it is within their jurisdictional territory or two-mile territory. The time period is limited to 15 years in Nebraska, whereas in Iowa it is dependent of project type. Is there a plan needed, yes, of course there's...make sure...eligible entities, cities, and CRAs in Nebraska. Cities and counties in Iowa can establish a TIF district. Cost-benefit analysis: yes, in Nebraska; no, in Iowa. The "but for" clause: in Nebraska, yes; and no, in Iowa. Public comment: yes, in both. And direct consultation with affected political subdivisions: no, in Nebraska; but yes, in Iowa. Iowa also has tax abatement, where you don't have to pay taxes for a certain period of time. It's something that Nebraska does not have, I mean, we can't do that in Nebraska. [LB719]

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SENATOR McCOLLISTER: When you've done your development work, have you found that our current tools...Nebraska's ability to finance these or initiate these projects is unduly restrictive, compared to Iowa? [LB719]

LARRY BURKS: Not just compared to Iowa, but to every state touching Nebraska on the borders, yes. And in fact...and the report I'm referencing is a MAPA Economic Development Tools for Municipalities report on a metropolitan area and planning association in Omaha. [LB719]

SENATOR McCOLLISTER: Yeah, forward that to me. Is it...okay. [LB719]

LARRY BURKS: I'm sorry? Tell you what, if you would like, I could just leave this copy. I'm sorry, I didn't bring copies, I was just going to use it for my own. But it's a September 2015 report, and since MAPA covers Iowa as well, they did this study and it's very useful information for me. But it also is valuable information for decision makers I think as well. [LB719]

SENATOR CRAWFORD: Committee members should have a copy of it from our September hearing as well, if you'd like to see that. Yes, he had copies then. We have that, yes. All right, any other questions? Thank you. Welcome. [LB719]

LYNN REX: (Exhibit 4) Senator Crawford, members of the committee, thank you. My name is Lynn Rex, representing the League of Nebraska Municipalities. I really appreciate the opportunity this afternoon to testify in strong opposition to LB719. Municipalities across the state of Nebraska, particularly mayors, councils, and others...village boards, strongly oppose this legislation, as we will be opposing other legislation this afternoon. TIF is the single most important tool that we have to try to do job creation, job retention, and some of the other important elements that are there. What I passed out for you is a league survey, it's an older one, we're going to do an updated one and get it to you. This was done in 2013, in conjunction with LR29CA. The question asked, I will tell you, is with the last five years. So the numbers that you have here, we asked the question: in the last five years, tell us the number of projects you have, the number of bond issues, and the payback provision. And the reason why then-Senator Greg Adams wanted this information was because he wanted at that time...he was considering extending the payback period from 15 to 20 years. And what this shows unequivocally is that most municipalities overwhelmingly don't even get to 10. They pay it back much sooner. In addition, you're going to see that there are not a whole lot of TIF projects per se. What you can see at the top, and I'll just read into the record the summary, the league received 71 responses to our survey, this was from 2008 to 2013. Of those 71 responses, 29 municipalities did not have any TIF projects, 42 had a total of 242 TIF projects. Of those 242 TIF projects, 79 of them resulted in bond issues for 29 municipalities. Of the 79 TIF projects with a bond issue, 75 used

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the maximum payback period of 10 to 15 years, 2 used 5 to 10 years, and 2 used 0 to 5 years. So what I can tell you is that TIF is very, very important to municipalities across the state. We strongly oppose this measure, because it would even make Nebraska more restrictive than we currently are, and Nebraska has one of the most restrictive TIF laws in the country. And in fact, the most restrictive law in the Midwest. And of course for our competition, this really matters. And after consulting with my colleagues as to whether or not to share this information I'm going to tell you right now, they said yeah, you ought to go ahead and do it. So I'm going to share this with you, and Senator Hughes, I already shared this with one of your staff members--with Jeni the other day. And that is that in preparation for this hearing I contacted city officials all across the state, and I can tell you...we just know three companies that are not going to be locating in Nebraska--their words, not mine--pending legislation. What you do here obviously matters. Not just what you pass, but what you introduce. And there are three companies that said, you know, even though our cities were very competitive, trying to get them to come and do a site view, look at everything, these three companies said, you know, no, we're not going to engage in this. Two went to Iowa, one went to Colorado. They're saying we're not going to deal with this, we're not going to deal with the uncertainty of dealing in Nebraska, to see if you're going to have a constitutional amendment that passes, to see if you're going to do some other things. We don't have to...we're not going to do that. And I think what Lance Hedquist said this morning, when he testified on some other measures dealing with transparency issues, as it applies to LB840 programs and Nebraska Advantage Act and others simply comes down to this: he's competing with two other states, plus the cities in Nebraska. He competes aggressively with South Dakota, Iowa...as of course our other border cities have to do with their municipalities too. So I come to you today with a unified voice from our 529 municipalities across the state, saying please don't put us in a position where we can't compete. And I want to underscore, especially for the schools, the schools are the biggest beneficiaries of tax increment financing. As Mr. Jacobson indicated, nobody loses money when it comes to tax increment financing, because in fact it is...as you know, that is what the whole increment is all about, that it goes back to pay off the bonds. Once the bonds are paid off, then all of that property, all that valuation goes on. Who is the primary beneficiary of that? Education and schools. And appropriately so. They typically have 75 to 80 percent of the tax dollars. Municipalities statewide average around 10 to 11 percent, counties about the same. So the primary beneficiaries is the education community. In addition, I would submit to you that we have literally economic drivers in this state--of which there are three: the university, agriculture, and municipalities. Municipalities are an economic engine. Why? Because we have the infrastructure, we have the people, we have a work force, we have what businesses want when they want to come locate in this state, and we need to be competitive. And with that, what I would also share with you is that as they're creating jobs, just like folks living within cities, so many families...including mine, when I grew up...my parents each had more than one job. Just like in agriculture we know that in most of our cities, they will tell you that a predominant amount of their work force comes from the rural area, where they come into the city. Norfolk is a great example, we have other cities too. So in closing, what I

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would suggest to you is that we are here today with a unified voice, we're asking you not to put us into an even more restrictive environment when we already are the most restrictive in this region. And others have commented on things like...I'm not going to be repetitive because of the time. I'm happy to respond to any questions that you might have. [LB719]

SENATOR CRAWFORD: Thank you. Yes, Senator Hughes. [LB719]

SENATOR HUGHES: Thank you, Chairwoman Crawford. Thank you, Ms. Rex, for coming in. Do you think it's possible that the level of property tax in the state of Nebraska being so much higher than our surrounding neighbors may play a role in companies choosing to locate outside our borders? [LB719]

LYNN REX: I think it may play a role, but let me underscore this very important point: the Nebraska Legislature has not paid once but twice for outside consultants to come in, that do not have dog in our fight, to objectively look at our tax structure and inform the Nebraska Legislature on what might be a way for you to address the property tax issue, how we stack up with sales tax, how we stack up with income tax. I refer you to page 15 of the executive summary of the Tax Modernization Committee, Item 9: the most effective way you can address property taxes in the state of Nebraska is more state aid. When I first started back in 1978, right out of law school, our tax base was this big. Senator it is now this big. Important exemptions, critical exemptions, one bill--LB518, an exemption for livestock, farm equipment, business inventory. All legitimate exemptions. The Legislature at that time promised local governments we will give you a dollar for dollar reimbursement so it doesn't shift onto property taxes. It never happened. Then Governor Exon said we can't afford that, we're going to cap it at \$70 million. The municipal amount of that, Senator Hughes, was \$17.9 million. That was a pittance to what it really was. All local governments lost \$250 million on day one, not in valuation, in actual dollars, from those three exemptions alone. And if you really have a hard time sleeping, sometime ask the Department of Revenue to give you their book yea thick on all of the exemptions. That is one bill. And so what I'm suggesting to you is when the Tax Modernization Commission looked at it again they cited the 1987 Syracuse Report, which said the same thing. And again, referencing the executive summary, page 15. And so in any event, we just think that property tax certainly is a mix in all of this, I'm sure it has a play, it has a role with everything. There's no questions about it, I think the whole thing comes together. The state of Nebraska ranks 47th in the aid that this Legislature...not just blaming you, your predecessors here...gives to local governments. And if Renee testifies today from OpenSky, she will also tell you that we rank 49th in the aid to schools. So there is a picture here, in terms of how we have to deal with property taxes, and I would submit to you the capacity-building in the state of Nebraska is in large part what we do have is because of TIF, to try to broaden and diversify. I really appreciate your question. [LB719]

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SENATOR CRAWFORD: Thank you. Other questions? Senator McCollister. [LB719]

SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. When we talk about exemptions, you're talking about sales tax. [LB719]

LYNN REX: No, those are property tax exemptions, Senator. LB518 was a property tax exemption on livestock, farm equipment, and business inventory. In 1972, I believe it was, the Legislature granted a tax exemption for households and intangibles that became the Governmental Subdivision Fund, roughly \$12.6 million. After LB518 passed, that's again just one bill for exempting livestock, farm equipment, and business inventory, they created Personal Property Tax Relief Fund, but they froze the class. Even though, then-Senator Cal Carsten, who was Chair of the Revenue Committee, from Nebraska City, begged the Revenue Committee to keep an indicator on, even if it was just a penny...just a penny, keep it on. So you know what the base should be, but there's a lot of folks that basically chose that they didn't want that: the New Car Dealers Association, the Farm Bureau, other folks that were beneficiaries of that. And I understand, because those exemptions needed to happen. But they basically said no, no, we don't want anything on there. Well, the Nebraska Supreme Court three times said okay, Legislature, you have created a frozen class. And because of that we're going to merge those, and John DeCamp...and I was sitting in the room when he came up with this...I was a Jr. Woodchuck, I might add, much younger then...just taking notes, and he just said we're going to call it state aid. The Nebraska Supreme Court says we can't call it Personal Property Tax Relief Fund because we have created a frozen class, so we don't know for example what Crete ought to get, Senator Ebke, because that was based on what happened in 1978. We don't know. So we're going to call it state aid. State aid for municipalities, counties, and NRDs was never a gift from the Nebraska Legislature to local governments. It was intended as a partial, though inadequate reimbursement for property tax relief. And that is what is very apparent with the Tax Modernization Committee study and the Syracuse study. [LB719]

SENATOR McCOLLISTER: Thank you. I need more of a history lesson, but we shouldn't do that today. Thank you, Ms. Rex. [LB719]

LYNN REX: I'm prepared to do that however. I would love to do that. [LB719]

SENATOR CRAWFORD: Thank you. Other questions from the committee? Thank you so much. [LB719]

LYNN REX: Thank you very much. Really appreciate it. [LB719]

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SENATOR CRAWFORD: Other opponents to LB719? [LB719]

DAVE ULFERTS: Good afternoon. [LB719]

SENATOR CRAWFORD: Good afternoon. [LB719]

DAVE ULFERTS: Thank you, Chairwoman Senator Crawford and other senators. My name is Dave Ulferts, that's D-a-v-e U-l-f-e-r-t-s. You've had an impressive group of speakers thus far. Sorry that run has to come down a notch. I'm here representing Omaha By Design and also myself. I am a developer, so I come at it with that lens. It's been very fascinating to hear today about the intricacies and what a challenging job you all have. What I will tell you is from my perspective, my capital, the dollars that I've earned and put to work in a lot of the benefits that have come through here. I will echo a lot of what Mike Jacobson said is it is amazing to see what happens when you take blighted property...in my instance, we call it Traver's Row. It was eleven buildings in the downtown Omaha, east of the Interstate 480, 26th and St. Mary--so 26th and Leavenworth Street if you're familiar with Omaha. Eleven buildings, ten of which had a demolition order in 2009. I bought them in 2012, since then put \$4 million--of which I do not have, had to borrow enormous amounts of money; multiple banks involved in the transactions. TIF was essential, not even close. Would not have happened, our project wouldn't have happened, we wouldn't have put dozens and dozens and dozens of folks to work, different contractors--all local, on our project. I will make my comments brief because I think the point of LB719, which I'm opposing, is vacant property. I thought the senator did a good job of laying out the case. What I will tell you is--and I'll try to combine a couple of things, so this would be...if you're going to listen, now would be a great time. Here's my take: the oversight, it's not a developer comes up and they hand you money, that's the last thing that happens. There are numerous checks and balances, not to mention the rigor it goes through. Does it fit within the strategic master plan of that community? Is it a high-need area, are there other factors involved? They have limited resources as well. They understand that it's got to be a strategic fit for the community, that city. And in this case, the city of Omaha, the planning commission...many layers are looking at this, not just from a viability, but does it spur other things that happened like Mike laid out. It's amazing to see the ripple effect, and I see it today. Because from 2012 to today, our last unit will come on-line here next month, it is really tangible to see the benefits. Next to my property, which we had to acquire more, were vacant lots. In the 1940s and 1950s there were homes that were there, they have since been demolished. I've got to have parking, I acquired additional land. Three different times I've had to acquire surrounding areas. Now fortunately, I didn't have to knock anything down, but you have to take care of storm water runoff, you've got all these other considerations. I won't bore you with the, you know, inner workings of what it takes to make a project happen. I will summarize it by saying throwing on additional restrictions does not seem to make strategic sense to me. Each deal is going to be different. Those in that community know the idiosyncrasies that are there. I would just highly

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encourage you to let the process work with the oversights that are there locally. TIF is essential. With that, I would open it up for questions. [LB719]

SENATOR CRAWFORD: Thank you. Questions? Senator Ebke. [LB719]

SENATOR EBKE: Just a quick one. Now the project you're talking about--26th and Leavenworth, that would fall under sort of the traditional TIF guidelines, right? I mean, a truly blighted or...what's the other term? [LB719]

SENATOR CRAWFORD: Substandard. [LB719]

SENATOR EBKE: Substandard property. [LB719]

DAVE ULFERTS: It absolutely would. So my comments would be a precursor to what's coming next, in terms of legislation. But I draw the distinction to...if my next development opportunity is outside town, vacant land very well may be a large consideration of that. So to say I couldn't develop outside of a city because there's vacant land next to it, or whatever it might be, I think is very restrictive. And it's going to limit...the cost benefit or the risk profile of that goes probably against it. So in my instance, I had vacant land inside the city, I'm not sure...I couldn't tell if that would be applicable to this, even though it is blighted and a high-need area, it was designated as such. So I don't know if I've answered your question. [LB719]

SENATOR EBKE: Well, sort of. I mean, I guess the questions I would have is...and I'm not from Omaha, let's look at the area south, out by Cabela's and that neighborhood, okay? [LB719]

DAVE ULFERTS: So southwest, okay. [LB719]

SENATOR EBKE: Southwest. And there's vacant land out there a ways, I guess, if you go far enough. Okay, so should something in that neighborhood, in that general area, be TIFed? In an area where there's new development already? And if there's vacant land adjacent or near it, should that area be TIFed? [LB719]

DAVE ULFERTS: I will...this is my perspective, my lens. I think any TIF is good TIF. Creating jobs, creating opportunities for additional development and additional housetops. Mine is for housing, so is it the working class citizens that move in there? So the risk profile of your example is to acquire the property, to help bring in streets, sewers, sidewalks, lighting, electrical, I had to dig new sewers, I had to put in a new gas line with MUD, I had to redo my street that I split with the city, in terms of expense. So there are many, many costs associated with, in your

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example, the dirt that would be out there. If it's going to push it over the edge and speed up development and may cause additional development, I would be a proponent of TIF for that example you gave, yes. [LB719]

SENATOR EBKE: Thank you. [LB719]

SENATOR CRAWFORD: So also, just to clarify for the record, I believe the vacant property, while it might be outside the blighted area, has to be related or connected to it. So it's not just any vacant property somewhere, in terms of... [LB719]

SENATOR EBKE: In terms of the definition. Right, yeah. [LB719]

SENATOR CRAWFORD: Right, right. [LB719]

DAVE ULFERTS: That's a good clarification. [LB719]

SENATOR CRAWFORD: Just to clarify. So, all right, thank you. Other questions? So I have a question, just in terms of your sense as the developer of oversight. Who holds you accountable? [LB719]

DAVE ULFERTS: I have...if you want actual names, I can give them to you. I've got probably 18 bosses, most of which are at the city of Omaha, city council members, planning board. Bridget runs a tight ship, in terms of the TIF--the dollar amount that's associated with it. So the layers of oversight, in my opinion, are endless. And it's very cumbersome to think about...so I'm the one on this side of the table who has sleepless nights. The folks behind me want...their sleepless nights are trying to encourage economic development. I have real money on the line, I have to...these bankers want to be paid back. So it's my money, it's got to happen. And when you're not in control of the timing, the dollar amount, is it going to qualify for TIF or isn't it? They want to know that I've got the financing to do it, so we're in this dance of are you going to give me...am I going to be eligible for TIF and then do I have the financing? So it's this constant dance. So my oversight is the city of Omaha, they've got an administrator that oversees it, they've got a planning board, they've got...I actually think they have a subcommittee out of that as well, and then you've got to go through the city council, all of which knows their area very well. And again, I say I think part of the oversight is also the strategic plan that went into which areas are blighted and which ones not. Omaha is fortunate enough to have an urban development department, they're a big player in this too. Yes, yet another boss. So I have worked hard to...and I believe in public/private partnerships, I think it's crucially important. I think there is plenty of oversight. Now others will disagree with me, but that's just my perspective. [LB719]

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SENATOR CRAWFORD: Thank you, sir. Thank you. [LB719]

DAVE ULFERTS: Thank you. [LB719]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB719? Welcome. [LB719]

JAY LUND: Hi, my name is Jay Lund, J-a-y L-u-n-d. Thank you for having me, Senator Crawford and the committee. I'm just going to thank Senator Howard for giving the Blackstone District a shout-out. I'm here with a couple different hats on. I'm an advisory board member to the Omaha By Design and then I also have a commercial real estate development company called GreenSlate Development, that has essentially developed the Blackstone District. So I thought that for today my testimony is a case study in general about the importance of TIF and what TIF has done for that district and my company and for the Blackstone District. I'd also...I have to leave after this, so I'd like my testimony to be on the record for the other three bills that the committee is going to hear today. So I thought I would start with just a quick background. I've been in the commercial real estate business for about 12 years, the first 10 of that were in the commercial brokerage world, and I've seen a trend towards urbanization and the focus on revitalizing old areas. So the Blackstone District I would say it would fall under maybe what you would...in reference to this bill, more traditional TIF revitalization and urban renewal. As Senator Howard asked earlier, I think that the connection between urban renewal and economic development is one and the same. This is our tool. TIF is the tool that makes these projects happen. But for TIF, and truly in every sense of the word...or the phrase but for TIF, the Blackstone District would not have occurred. So a quick kind of summary of what the Blackstone District is and what it was. It's a stretch of midtown Omaha that is approximately centered on the corner of 40th and Farnam, and the street had been somewhat destroyed by decades of one-way traffic, and white flight, and a trend towards urbanization. We came in and have now invested...there's been about a \$25 million total investment in the district, over 23 new businesses have been created, and 80,000 square feet of commercial space, 200-plus new residential housing units that but for TIF would not have occurred. And there has been little to no new housing product built in that neighborhood in the last...probably since the 1970s. Over \$8 million in new gross retail sales...and an unintended consequence when I kind of got into this venture and has kind of blown me away every time I say it is over 100 new jobs. It will be 150 new jobs this year, as a result of the creation of the Blackstone District. So this is a truly quantifiable way to see what I believe to be the importance of TIF. I would invite all the senators to the Blackstone District to...I know Senator Howard has been there, to come see for yourself, see what it has done. I think a huge part of it too is the catalyst effect. So when Mutual of Omaha, Midtown Crossing designed and built their project--\$300-plus million, 10 blocks to the east, that was a major catalyst project and it's had far-reaching implications. I think that maybe in a lesser way, but just as important of a way, the Blackstone District has done the same. There's

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been a lot of talk today about competing with different states and what are the tools and what aren't the tools. I look at it from a developer point of view and someone who is in their middle 30s that, you know, Omaha and the state of Nebraska we're competing against every other state and city within the region for our young people. And they're either going to choose to stay here or they're not. And I'd like to think that developments like the Blackstone District are one more reason for them to stay. And companies follow jobs and young people follow jobs too, and it's all sort of a circular reference here. So with that, I would open it up for questions. [LB719]

SENATOR CRAWFORD: All right, thank you, Mr. Lund. And before I turn to questions, let me just say for the record to be a verbal testifier, we do ask that people are here to speak on the bills. But if you have to go or other people have to go, another way to be on the record is to turn in a copy of the testimony, and it would be considered a letter of record. So you could do that for the other bills, if you would like to have your testimony be considered a part of the record on other bills. [LB719]

JAY LUND: Noted, thank you. [LB719]

SENATOR CRAWFORD: Questions? Senator Howard. [LB719]

SENATOR HOWARD: I'll actually just make a comment. I've been incredibly impressed by the work that the Blackstone group has done in that neighborhood. I don't think many people realize that I live about a block away from where a bar was where there were shootings and fights, and now it's completely renewed and it's wonderful. You can go there for dinner and you can go there for yoga and you can buy clothes and have wine and it's lovely. And it's completely night and day from what it used to be. I don't know if you'd like to give us an update on how things are going with the Colonial Hotel or the bank that's being built or some of the sort of derelict houses that are being taken down or things like that? [LB719]

JAY LUND: Sure, yeah. I mean, I think that expands on the idea that each one of these projects is building on the energy of the last. And I think that momentum is a huge factor in just the Blackstone District and urban renewal projects in general. So yeah. So we're not the only people down there doing new deals, and other developers now have projects that are in the works. There's hotel projects that have been announced, there's a new Dundee Bank branch that's going to be built, that they're doing a historic renovation on a building on 38th and Farnam. The Colonial Hotel is actually one of my projects that we're working through. It's a great example. TIF is an absolute essential component to that project, that's one of the tools that makes that project work, we're also utilizing state and federal historic tax credits. That particular property is incredibly expensive to acquire and incredibly expensive to rehab, and but for these tools we would not be able to do these types of projects. [LB719]

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SENATOR CRAWFORD: Thank you, Mr. Lund. Any other questions? Thank you for your testimony. Thank you. [LB719]

JAY LUND: Thank you. [LB719]

SENATOR CRAWFORD: Anyone else wishing to speak in opposition to LB719? Welcome. [LB719]

DAVID LEVY: (Exhibit 5) Thank you, Chairwoman Crawford, members of the committee. Good afternoon. David Levy, D-a-v-i-d L-e-v-y, Baird Holm Law Firm, appearing today before you in opposition to LB719, on behalf of Turner Park North. Turner Park North is a development subsidiary of Mutual of Omaha and of East Campus Realty. East Campus Realty developed and operates Midtown Crossing in Omaha. And the page is passing around a sheet that outlines the economic impact and economic benefits, including property tax benefits, of Midtown Crossing. Turner Park North is also evaluating and pursuing development in an approximately 20-block area east of Midtown Crossing. LB719 would prohibit using TIF to redevelop vacant or undeveloped property. I gather that the bill is primarily aimed at land on the outside of the cities, but as I read it, depending on how one defines the terms in the bill, LB719 would have prohibited using TIF for portions of Midtown Crossing and for portions of the future development plans to the east of Midtown Crossing. Yet, redevelopment of those types of areas is exactly what TIF was intended for. More broadly, TIF is a critical redevelopment tool and one of the few redevelopment tools available in Nebraska, as you've heard today. LB719 would undermine the benefits of TIF and the ability of TIF to drive investment, which ultimately results in increased property tax valuations, increased property tax revenues, job creation, and economic development. Taking TIF away from greenfield projects as well represents, in my view, a narrow view of the effects of redevelopment. For example, Midtown Crossing resulted in a 25 percent increase in valuation of properties outside of the project, but within a three-block radius. So you have to take a three-block radius around the project, valuations in that area immediately went up 25 percent with nothing being delayed or otherwise affected by the TIF award to Midtown Crossing. You heard Mr. Lund reference the benefits of Midtown Crossing on his project, 10 blocks away. Projects on the edges of cities can have similar effects, as you've heard from others who testified before me. TIF's benefits are far-reaching, and LB719, while perhaps trying to reign in TIF, I believe would seriously undermine its potential benefits. I also want to register the opposition of the Nebraska Association of Commercial Property Owners and Omaha By Design, both of which I am a board member of, and also the Eastern Nebraska Development Council as to LB719. I thank you for your time and I'm happy to answer any questions. [LB719]

SENATOR CRAWFORD: Thank you, Mr. Levy. Questions? Thank you. Thank you for your testimony. [LB719]

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DAVID LEVY: Thank you. [LB719]

SENATOR CRAWFORD: Anyone else wishing to testify in...okay, next one coming up.  
[LB719]

TOM HUSTON: Thank you, Madam Chairman. My name is Tom Huston, I'm with Cline Williams Law Firm. My address is 233 South 13th Street, here in Lincoln. I'm appearing before you today on behalf of the Lincoln Chamber of Commerce, the Omaha Chamber of Commerce, the Nebraska Chamber of Commerce, the Nebraska Bankers Association, and the approximately 25 municipalities that I represent across the the state of Nebraska in administering the Nebraska Community Development Law. The LB719 before you I think would hurt the development efforts of a lot of the communities across the state on several grounds. I just wanted to briefly review those. First of all, the blight determination. I get asked the question a lot whether property is "blightable," because it's a legal definition of whether property is "blightable." And I'm not sure "blightable" is actually a word, but if it's capable of being blighted, how about that? Oftentimes, communities don't make that decision because those decisions don't actually make it to the city council, those applications are cut off beforehand. But the U.S. Supreme Court has told us that the blight determination is not done on a parcel by parcel basis, it's done on an area as a whole, and that dates back to a 1954 decision that still stands. And that's why I think it's unwise to try to isolate one parcel that is maybe not even capable of being declared blighted and substandard. One of the principal reasons for that is because of the impediments to development. Oftentimes there's other government restrictions on a parcel that makes it incapable of being developed, whether it's wetlands in the area, whether it's flood plain area, whether it's habitat area, or if it's just an area that doesn't support infrastructure. That doesn't mean it can't be declared blighted and it doesn't mean that it should not be included within the analysis, because a lot of times that type of parcel is the exact impediment that needs to be overcome. If I understand correct the amendment before you, that would really try to limit the use of vacant parcels on the perimeter of cities, that would be very difficult to administer. I have worked with probably a dozen communities across the state where...they're villages, and the cap right now under the statute is that a village can declare 100 percent of its property to be blighted and substandard. And I think that's done with a purpose: to make it easier on villages to deal with decaying conditions and deal with urban renewal. Because they have the same issues, it's not on the same scale. One of the most...one of the best project I ever worked on was working with a small community that hadn't had a grocery store in 25 years. And they were able to use TIF to entice...there was a \$200,000 investment. Pales in comparison to some of the investments I've heard, but we were able to generate about \$40,000 of TIF that made a difference on whether or not we could bring a grocery store back to that small village. So...and it's one of the only tools that cities really have. I've heard mention that TIF should not be used for housing development. I think that should be up to the local decision makers on whether or not TIF should be used for housing. A lot of communities, I review with them, and in my representation of the communities,

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I review with them the options before them for housing development. Certainly you can create an SID, you can go through...create a special assessment district, you can issue general obligation bonds, but you also can use tax increment financing. And it is the tool that probably has the least transaction cost and it has a more segmented approach, so you can bring a phased approach to a housing development and not take huge risks. And I'm working with probably six communities right now on...they're not trying to create a 60-lot subdivision, they're trying to create a 12-lot subdivision, because they have people moving out of the town because there's no lots to build on. So I would encourage you to reject LB719. I think the caps that we really have in place on restricting the amount of property that can be declared blighted and substandard is working fine. I think that's the intent of it, so that municipalities have to be judicious in their determination of what properties can be declare blighted and substandard. So with that, I'd be happy to answer any questions that you might have. [LB719]

SENATOR CRAWFORD: Thank you, Mr. Huston. Questions? [LB719]

TOM HUSTON: Thank you. [LB719]

SENATOR CRAWFORD: Thank you. Welcome, begin when you're ready. [LB719]

JENNIFER TAYLOR: (Exhibit 6) Good afternoon, Senator Crawford, members of the committee. My name is Jennifer Taylor, and I represent the city of Omaha. It's J-e-n-n-i-f-e-r T-a-y-l-o-r. And in light of the time of the day and the length of what we had in front of us, I will try to be brief. I wanted to mainly explain the beginnings of the process the city of Omaha uses when it reviews TIF applications. It's been noted by several developers, and even Mr. Huston, that oftentimes there is a review process that occurs even before we get to the public hearing. In the city of Omaha, we require that an applicant for tax increment financing submit an extensive and detailed application. That application requires them to describe the project in detail: the ownership, the development team, their financing, their project costs, and their eligible expenses. So up front we have the ability to look at how much they're spending, scrutinize the reasonableness of that spending, and also we require them to outline what they think are their eligible costs. At that point in time our legal department and our planning department looked at those eligible expenses against the state community development law to make sure that they are actually eligible. Once that application is submitted, the planning department reviews it extensively and then it goes to committee. The committee is made up of the legal department, the finance department, the planning department, the public works department, and the Mayor's department, all of whom sit around and the developer makes a presentation to that subcommittee in which they explain the need for TIF, they explain the type of project, they explain whether or not it meets the master plan, they explain how it will benefit the community, they will explain the jobs that are being created, and they will explain their justification for the increased property tax

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value that they will create. If that application gets past the initial review by the planning department and is also then approved by the committee, then it goes to public hearing. So needless to say, there is an extensive amount of review within the city of Omaha to make sure that whatever applications we put forth, even to the public, have been thoroughly vetted. Some of the concerns expressed by LB719, and I think the other legislation today, are predicated on the fact that there is somehow an abuse of TIF. And that abuse represents lost tax dollars. But unfortunately, that assumption is based on the assumption that these projects would happen anyway. The local control and the local oversight that we exert over TIF projects is there for specifically that reason: to ensure that the projects that we put forth to our community are ones that not only do we know would not occur without the benefit of TIF, but they would need the benefit of TIF to create a benefit to our larger community. So...and in fact, it was mentioned earlier about the roll-off or the domino effect of certain TIF projects. Mr. Ulferts mentioned his project: Travers Row. And I'll explain to you just a small side note about that. Travers Row is actually located about half a block to a block from a public housing tower. The dilapidated buildings that he has rehabilitated were a source of, let's say attractive nuisance, to many of the residents of that public housing tower. It contained a grocery store that was a huge problem for that tower and its residents in some of the behaviors that they undertook. That redevelopment has eliminated that attractive nuisance from that tower and actually made that entire neighborhood better. So you have the development that's made and the increased property tax revenue that comes from that, and you also have the significant community roll-off that came from it. It's just a side note I thought I would share. With regard to the vacant property issues, the city of Omaha's primary concern would be the effect this bill could potentially have on large swaths of vacant property or small pieces of vacant property in north and south Omaha. For example, the Highlander development is a 20-acre development that's being done right now, it is the old Pleasant View housing development. That parcel has been vacant for over 10 years, it's taken this long to find someone with the ability to come in and undertake a 20-acre development with the utilities and infrastructure required to be put there. That project would not go forward without TIF, but it's a large piece of vacant land and the concern is that a bill like this would prevent our ability to utilize TIF on a piece of property like that. In addition, Habitat for Humanity assembles small pieces of vacant land throughout eastern Omaha into housing development projects. And finally, I think the last concern that we would have would be we have recently annexed Elkhorn. Olde Towne Elkhorn has much-aging infrastructure. Simply because we have annexed Elkhorn doesn't change the nature of that aging infrastructure, but a bill like LB719 could potentially cause us to not be able to utilize TIF to assist the aging infrastructure in Olde Towne Elkhorn. Thank you very much, I'm available for questions. [LB719]

SENATOR CRAWFORD: Thank you. Questions? Thank you. We are still on opposition testimony for LB719. [LB719]

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DAVID LANDIS: (Exhibit 7) Members of the Urban Affairs Committee, David Landis, Urban Development Department director, and here on behalf of the city of Lincoln, in opposition to the bill. This is a full-court press. The cities are very sensitive and very concerned about this issue. You wouldn't have this showing if it didn't mean very critical issues for us. We want our cities to succeed and we want them not only to beat the conditions of blight and substandard conditions, but we want them to succeed in the marketplace. So it is a sensitivity to us that there is no state on our border that has any of the provisions that are here today in any of these four bills. It is a concern to us, at least in the search that I've done, that I don't know of a state that has any of the provisions that are in any of these four bills today that I know of. And some...I don't know all 49 other states, but I do know a number of them and this doesn't occur. It is a source of concern to us that there are 49 states that have this tool, 46 of which are more generous than Nebraska. We are only one of three states that have only 15 years, 46 states have longer. In other words, we're in a marketplace of ideas in which this is a substantial problem for us when a developer looking to locate and set their sights on something looks at Nebraska. This places us behind the eight ball, which would explain why you see what you're seeing today. Why small towns are here, why Lincoln, and Omaha, and North Platte, and the others are here: we're sensitive about it. And in fact, we come from cities that not everybody agrees with everything, but I don't know of a recall for any local official about a TIF decision. It hasn't figured its way into the elections in my city, but it certainly could in others. And yet, really? I think it's about other issues that towns get torn apart. I don't see that there are a series of lawsuits. In my city, to create a TIF project from beginning to end, meaning creating a blighted, substandard district, a plan, a plan amendment, and a redevelopment agreement are seven public hearings and a 30-day right to go to court and stop the whole thing when it's done, by a petition process. And that hasn't happened. The percentage of yes votes from a divided city council--meaning four Republicans and three Democrats or four Democrats and three Republicans...because both of those have happened over the 9 years that I've been there. There have been about 400 individual council votes and 390 of them have been yes, across both political parties. Because this builds our city and we care about it. I have one that I think violates LB719, I'd like to tell you the story of it. We think it's good city building, but I think it throws us out. If I could ask for these to be distributed. As I do, let me say this: I, too, read the original intent of the Legislature, and it did over and over again refer to cities and core areas and parking and buildings and the like. That I do not dispute with Senator Groene. On the other hand, if you looked at the history of the second amendment and then described what was being protected, it would be flintlocks and muskets. I bet there was never in 1789, with the discussion of the Constitution, an automatic weapon with 15 clips...15 rounds in the clip, and yet guns protects both. The question is, is it blighted and substandard, not is it in the core or at the edge. Is it blighted and substandard, that's the working definition. And by the way, the tool to use here is a statutory definition, which means you can go to court. And there are lawsuits about them, but they don't come out of the city of Lincoln, even from people who don't like a particular project, because generally I think we have the support of the public. And this is an example, which I think would run afoul of LB719. This is a piece of land in an older area of town, but it's

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an area that's not at the very edge of the city now. It is...there's some land to the west of this. But, if you can see this section right here, this all green area, it's vacant, except for a building to the north, and this was part of a larger area. This is the project that is now in that location, it's \$35 million of investment, it's two large buildings, it's roads, it's parking, it's 10 soccer fields, and it's an indoor soccer field and a hospitality area, and about 4 businesses. About \$4 million of TIF, about \$35 million of those are public/private partnerships, and in a city that has a hard time keeping up with recreation needs. This is recreation. Here is the problem, this land is covered by a railroad, in which we can't build within 300 feet. It has a 500 feet limitation because of a levee around it, it has a transmission line that you can't build under, and it has a floodplain--which is blue. In other words, every piece of that land has serious impediments to construction...and they have to build a road to get there. It meets the definition of blighted and substandard, what it doesn't meet is the fact that for largely speaking, that parcel is vacant. And yet, it's good city building, we think. It probably runs afoul of Senator Groene's bill, but it is a blighted and substandard area, and how do you know? It has all those impediments to the use of the market for this land, and the developer said we need TIF to build, and we're doing what we think is good city building. And our citizens don't object, and we'd like to be able to continue to do that. [LB719]

SENATOR CRAWFORD: Thank you, Mr. Landis. Questions? Thank you. Anyone else wishing to testify in opposition to LB719? Welcome. [LB719]

KEN BUNGER: Thank you. Good afternoon, Chairman and members of the committee. My name is Ken Bunger, I'm an attorney in Omaha--former city attorney of Omaha, after retirement, bond counsel for a number of cities, and also I represent smaller cities around the state, and medium-sized cities, and some villages, and the occasional developer. And so I've kind of seen all sides of this and I've been before the committee several times. I've also had the good fortune to be involved in redevelopment activities and I've authored much of the current statutes that are under consideration. I think...I'm not going to reiterate what's been said about the uses of TIF, I don't know if there's a large argument for the committee that TIF is a bad idea or that it shouldn't be used. I just want to bring it back a little bit to the bill before you, LB719. It's an attempt I think to have somebody decide if this is a good TIF or a bad TIF, and I think that decision, as has been said, should be left up to elected officials. There's been some talk about the need for TIF on the edge of a city. Well, you know...I'll use one of my client's examples--city of Minden. Now the city of Minden has the same problems that larger cities have, the need to have affordable housing to attract businesses. It's one of the first things that a company asks: is there going to be somewhere to house my employees? Well, you know, as in most medium-sized cities of the state, that's a huge problem, for a lot of the reasons that we're going over today. Now the city of Minden, what it does not have is a Blackstone District, but what it does have about 50 feet across the road is a nice, vacant piece of land. And what it does have is a developer who just needs a little bit of a push, a little bit of incentive to go ahead and build those houses. The land was

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annexed, the developer went forward and there's a nice housing development now being built in the city of Minden. That's the type of thing that I think the bill initially...well, this bill would not allow, but it's certainly within the idea of originally TIF...which is, you know, not only an urban, downtown type development bill, but an urban development bill that would include all those areas that effect the core of a city and the entire growth of the city. So that's really about it. There's a couple minor points who said earlier that there's no single agency. Well, you know, there is. Anything can be audited, as was said. The State Auditor can and has gone and audited projects, but there should not be a state, you know, zoning board, which is I don't think probably even those that need more oversight would suggest. But that's essentially what you would have if somebody had the right to go to a board, you would remove that from local control. As a former bond counsel, I can assure you that if you're going to get a loan that the bank is going to talk to their lawyers and they're going to want to make sure that it, you know, meets the guidelines of the statutes that's done. Secondly, there was a comment that you didn't have a public hearing or notices go out before the CRA takes initial notice of it. Well, there's public hearings of the blight and substandard designation, planning boards, CRA, city counsel, the plan...which is, you know, the second step...three notices, three steps, notices to everybody, and then the project or the contract, and that goes through the same process. So as said before, there are a lot of notices that go out. And all my experience--30 years with the city of Omaha, almost, and since then with other cities, I do not recall...with one notable exception around Peony Park, years ago, the local school district doing anything but being very supportive of the growth that TIF provides. Any questions? [LB719]

SENATOR CRAWFORD: Thank you. Questions? So I would just like to follow up on one of the comments that you made. You said that the bond counsel were very concerned to check to make sure that the rules were followed. Why? What could happen to them? [LB719]

KEN BUNGER: The bond counsel or the city? [LB719]

SENATOR CRAWFORD: Both, but you were talking about the bond counsel. [LB719]

KEN BUNGER: Well, one of the things that you do is the bonds, if challenged and did not meet the statutory obligations, could be cancelled. And the bank or the purchaser of the bond would be unhappy about that. And that did occur once in Omaha, Scoular is what the name of that was. And that went up to the Supreme Court and there was huge financial ramifications to the issuer and to the lawyer. So I can assure you that all these projects get looked over by several layers of lawyers, those for the city, those for the purchaser, as well as developer's personal counsel. [LB719]

SENATOR CRAWFORD: Thank you. Other questions? Thank you for your testimony. [LB719]

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KEN BUNGER: Okay, thank you. [LB719]

SENATOR CRAWFORD: (Exhibit 8, 9, 10, 11, 12) So we are now taking...still taking opposition testimony to LB719. Anyone else wishing to testify in opposition? Anyone here wishing to testify in a neutral capacity on LB719? So for the letters for the record, we have letters in opposition from Mayor Rod Koch, city of South Sioux City; Nebraska Economic Developers Association; Nebraska Association of Commercial Property Owners; Nebraska State Chamber of Commerce; Greater Omaha Chamber of Commerce; Lincoln Chamber of Commerce; and a letter of opposition from Mayor Jean Stothert, city of Omaha. You're welcome to close, Senator Groene. [LB719]

SENATOR GROENE: Thank you, I don't know where to start. I'll start with...Mayor Stothert took \$104,000...no, \$78,000 from developers and some of the lawyers here for campaign contributions. In 2013, she took \$74,900 from the same group, so I understand why she wrote the letter for TIF. Where do I start? Mr. Karl Elmshaeuser explained development law. There's development law and then there's TIF, which a mechanism that you can use to pay for urban renewal projects within development law. TIF is became so prominent as a use they just forget development law and they call it TIF. I'll use Irish and German, I'm half Irish and half German. Imagine an Irishman...we passed a law that an Irishman got all free beer and a German had to pay 1.5 times for his beer because the Irishman got all his beer. We give the city free beer. They are here really mad because you want to take their free beer away from them. That's what's happening here. They have...they are a bully. They can take the money from the schools, the counties, the NRDs, the community colleges with no comment. They can comment as much as they want, but they have no veto power over the city. The taxpayers in 1978 wanted urban renewal with this. The Blackstone, this doesn't touch that, that is a correct TIF. Mr. Dave Ulferts, his Travers Row, correct TIF. Urban renewal to rebuild blighted and substandard areas. Remember, development law: substandard or blighted. So a vacant field is not substandard...you could say it was substandard because it didn't have streets, it didn't have sewers, it didn't have fire main plugs, but you could not claim that's blighted. It has to be both. And the people in 1978 put it in our constitution: TIF, it's a way to fund urban renewal, it is not the definition of redevelopment law. There is no redevelopment law, it's actually called Community Development Law, where it's blighted or substandard. City of Kearney, years ago, in their old downtown, how they did theirs was with development law. Kearney has very few TIFs, very low property tax rates too. They do it right. You want economic development in a city, concentrate on what you're supposed to do: good streets, good public safety, good schools, people will come to your community. It's an ideal that I heard...Madren, that's...a friend of mine owns that, he's the managing partner. He didn't ask for TIF for that alcohol plant, didn't even want it. He built there anyway. The city came in later and TIFed it. Now they could have took his property taxes and built the streets around it and widened the road. He didn't ask for it, and believe me, I know the man well, because he laughed about it. If/for, it's abused all the time. There was no if/for there.

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Menards in North Platte, it's being done for retail on the outskirts of town. Menards did a business study, all businesses do, is the customer base there? It was there, Menards started coming to town. Those who had a little bit political connections found out, they bought a field for \$500,000, two years later they had the city blighted, three years later they sold it to Menards with the blue sky of TIF. They made \$3 million on that piece of property. It is abused. It is abused. What you are being asked here is to say...what I'm asking you to do is clarify the difference between the development law and the use of TIF. I am sure Mr. Landis he said it was in the city. If it was in the city for 40 years, we have...what is this definition in law for, if we never use it. This definition, in law, in Section 18-2103, Section 11, where it says "more than half of the platted and subdivided property in an area is unimproved land that has been within the city for 40 years, and has remained unimproved during that time." I think it was the man from Plattsmouth. His area, if it was in the city for 40 years and needed a lot of development, it qualified. So is that definition meaningless? Is it meaningless? That it doesn't have to be in the city for 40 years? Why is that in law? As I said before, Senator Howard, your area would have been...I love that. [LB719]

SENATOR HOWARD: You're welcome to visit. [LB719]

SENATOR GROENE: Yeah, I mean, that's great, that's TIF. That's what the meaning of it is. To claim...when North Platte...I'll tell you, Mr. Wurl and Mr. Jacob (sic) didn't vote for me. The people I knocked on their doors, that were worried about their property taxes voted for me. The people who can't put two and two together why their property taxes are going up, why the real estate agent, the real estate speculator in North Platte makes money. Because we have a bleeding of our tax base and it's getting worse. And if you don't stop it here and you reject this bill, it's a green light. It's a green light that everything is going to be TIFed. The city of Omaha, 4.5 percent of their total area, 9 percent of OPS's area is blighted--of Omaha Public Schools. Now you think about that, that's total. So how much of that...if it creates 4.5 to 5 percent of the total, how much of new development, 50, 60, 70 percent of it? Because we're talking of things that were built in Omaha 200 years ago that's being paid taxes on. We are abusing this. Colorado, by the way, just in the last two to three years, did exactly this. They added the open field...took that away from TIF, that you couldn't use the TIF. Iowa's, that statute...ours is the constitutional amendment. It's in our constitution that describes what TIF can be used for. A city economic development person does not describe what it's used for, our constitution does. Different. Walmart in North Platte, distribution center, they didn't ask for it, they got LB875. They asked for some land, we had a development area, but they didn't offer that. The development company did 300 acres...250 acres. It's not a Walmart TIF, it's our development corporation TIF. They TIFed Walmart and bought 250 acres, gave 80 or so to Walmart and kept the rest. Walmart didn't ask for 250 acres. John Deere dealer in North Platte, that's a franchise. But/for, I'm going to implement businesses and equipment. John Deere has a mandate to all their dealers to upgrade their facilities. John Deere dealership in North Platte couldn't have moved to Cozad or Ogallala, they had their franchise in

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North Platte. They moved to the Interstate because certain people owned the land, it got TIFed. They created a blighted building down in the old part of town where they left. Now another implement dealer has moved into that, but they abandoned their building just down the street. This is what's happening with TIF. It's been taken over by real estate developers, real estate speculators, and law firms. That has not ever been the meaning of TIF. I called my local Home Builders Association, the average guy who builds two or three spec houses, we don't care about them. We bring these big developers in, that bring truckloads of materials in, bring crews in to roof and build the structures and we forget about the local developer. He's trying to build two, three houses a year. What happens to him, this guy puts in 12, 15, 20, 60 houses? He doesn't buy locally. Over the next 15 years, let's say, if we hire a principal for the new high school. He comes in, he thinks he bought this house and his property tax is going to support his school, he doesn't realize it's going to a developer in Kansas City for 15 years. He doesn't understand that. Meanwhile, the local contractor builds that house, he's got \$100,000 in it. He's competing with a developer that lives in Kansas City that's got \$70,000 in his after 15 years because of the property tax rebate, which is \$2 million-plus. Here is what happened in North Platte. Bloedorn Lumber built, didn't ask for TIF, those people live in town. Walgreens built, they didn't ask for TIF in their blighted area. Five banks built at least, they didn't ask for TIF, mainly because they would have lost half their clients if they did. Two or three hotels have been built without TIFs, a couple have been and did. My battery store, two truck stops, a large housing development out where I live. Economic development does still work, free enterprise still exists and is still alive in America. You know the difference? Most of these people are local, so they don't take TIF. They pay, they support their schools, they support their counties, their NRDs, and their community colleges. They pay it. And I'm glad that there's a lady that's a supporter of mine, built a printing place right on the edge of the old town. That's a good TIF. There's a couple of old houses there, they pushed them in, built a nice little strip mall coming right into the downtown. That is a good TIF. This isn't about do you agree with TIF or do you not. This isn't about you say we want to lower the Interstate speed limits from 75 to 70, and they stand up and say we're going to close the Interstate. That has nothing to do with that. We are just making sure that our tax base is not eroded, that cities do not abuse it. And we got to reign it in, because it is expanding exponentially...fast. It's offered to everybody. The Walgreens, the city manager is a friend of mine. They came to him and said we're going to build. The "dev co" guy comes in, I heard Walgreens is coming, I got to go offer them TIF. He said, well, they didn't ask for it. It's another thing on their resume, they got Walgreens come to town. So he said stay away from them, the building. This is about good tax policy. This is what we're responsible for that "Joe Sixpack" who pays his property taxes and can't figure out why Nebraska property taxes are so high. Well, I'm figuring it out for him and so are you. We got to protect him, we have to reign this in. We can't let the bully, the municipalities, keep taking the kid's lunch money. That's what they're doing. Who is for it: the real estate speculator, the banker, because he's got a guaranteed loan there. He's got tax dollars paying that loan. As far as jobs, are you telling me that economic development just stops? Is President Obama correct that you didn't build it unless the government's involved with a

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program? Is that what we're hearing from these folks? Nobody will build unless the government gives them something? Well, that's what I'm hearing. Out in the farm...aviaries, we don't get TIF, we're paying our property taxes. So nobody is trying to take TIF away from anybody, we're just trying to make sure it's done correctly. The lawyer who said Minden...President Clinton would be glad because he could describe what the definition of is is too...in a different way. But blighted? An open field next to the outskirts of town? That is not TIF. Remember, TIF and Economic Development Law are two separate things. Economic Development Law is supposed to be the big one here, TIF is just one mechanism in certain instances you can use to fund a project. And by the way, it isn't a plan. The constitution says project--individual project to...a blighted and substandard economic project. Not an economic project, but a redevelopment project. So plans versus project, TIF versus Economic Development Law is two different things. All we're doing here is correcting, clarifying existing law. Because if you don't do it, you opened the gates. And you think it's bad now, you wait, there will not be a house. If I was a developer, there isn't a way I'd spade a spade of dirt unless I got TIF, because then we have no limits now. They're doing it behind the back, but if we don't act, it's a green light. Thank you. [LB719]

SENATOR CRAWFORD: Thank you, Senator Groene. Questions? This closes... [LB719]

SENATOR GROENE: Oh, questions, all right. You're probably tired of me. [LB719]

SENATOR CRAWFORD: Are there any questions for Senator Groene? Thank you. This closes the hearing for LB719. All right, so we will now open on LB1042. Senator Friesen, welcome. [LB719]

SENATOR FRIESEN: Thank you, Chairwoman Crawford. My only original comment here will be that if you would have scheduled me first, I would have been glad to warm up the crowd. Good afternoon, members of the Urban Affairs Committee. I'm Curt Friesen, C-u-r-t F-r-i-e-s-e-n, and I represent Legislative District 34, and I'm here to introduce LB1042. LB1042 would add another layer of oversight to tax increment financing, TIF projects, by having a county board of equalization of the county affected by the financing project approved planned if it meets all statutory requirements imposed under the Community Development Law. This process would add more transparency to TIF projects by having another qualified entity review the proceedings. The county board of equalization is qualified to look at verifying that the statutory requirements are being met. Their duties include impartially equalizing the values of all items of real property in the county, so that all real properties are assessed uniformly and proportionately. They are familiar with issues that impact a county and I think counties would be supportive of most TIF projects. To recognize the importance of different economic development tools that the Legislature in 1979 gave cities the ability to use tax increment financing for those projects would not have been possible without financial help that this program provides. One of the

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requirements of using this program is that a hearing must be held, and at such hearing the governing body may approve redevelopment plan if it finds the plan is feasible and in conformity with the general plan for development of the city as a whole. That the plan is in conformity with the legislative declarations and determinations set forth in the Community Development Law. That it also finds that the plans use funds authorized in Section 18-2147, and that the development project in the plan would not be economically feasible without the use of tax increment financing and that the redevelopment project will not occur in the community redevelopment area without the use of tax increment financing. Recently, some municipalities have just stretched the definition and the intent of this program. This program is also designed that it would not harm state equalization aid for those school districts in which the projects will be located, by requiring the TEEOSA formula to use the base value of the property and the redevelopment area versus the actual full value. By using the lower base value, it lowers available resources that are available and thus raises the needs of the school district in the TEEOSA formula. And so the more projects you have, the higher the equalization dollars the school receives. Though I don't think the purpose of a high number of TIF projects in some cities is to garner more state aid for school districts, it is starting to have a major impact on where TEEOSA dollars are allocated. LB1042 would require the TEEOSA formula to use the full value of all property. And as you can see from the fiscal note, by using the full value of these projects versus the base value, this shows a \$21 million savings of equalization dollars needed in the next fiscal year. It is not my intent to cut state aid to schools, but rather to shift the savings towards property tax relief or to some other programs that would spread dollars to more schools in the state that would likely...that would maybe like different education programs, special needs programs that schools have. Something like that. Currently, over 64 percent of school districts receive no equalization aid under the current TEEOSA formula. I'm still a strong supporter of the TIF program, but I feel that it's being abused by more and more cities, and this may change or may help to slow down this trend. As a farmer, as a business man, and also on a previous city council where we implemented the first TIF project in our small community, I do understand how the project works. And when we talked...I'm kind of glad I got to sit in on some of the testimony, but you know, when we talk about oversight, we have many different levels of oversight, but they're all from the agency receiving the money. So I guess I don't look at them as a separate entity at all. And so when I look at the county board of equalization having oversight, they would be, so to speak, a separate entity that is losing funds, but yet I think they would look at each project as where it's beneficial to the area. So I look at them as a slightly impartial, but although, they are impacted because they are ones also losing funds. So I look at them as a way to keep that oversight local, but yet give it another layer of I guess oversight. The biggest part, I guess, when I see TIF projects, and I didn't like them being used for residential development. When you do a TIF project on residential development, you bring in more students into the school district, which puts more pressure on schools. And at the same time, you're not giving them any of the extra funding. When you do a TIF development project on a manufacturing plant that creates jobs you get people that move to the community, that build houses, that then pay

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taxes to the school district. It works in a nice economic development circle that makes sense. But when you start doing residential developments, you add more kids to the school, but at the same time, you're not giving them any more funds. So I don't like TIF being used on residential developments, I think it should be restricted there. And I think another area where sometimes it's been abused, in the smaller communities probably more so than anywhere, is if you start to do it on retail. And there's an example, and I won't name the community, but there were two grocery stores in town and one of them wanted to build a new grocery store, so they requested TIF funds. They received TIF funding to help build their new grocery store, the other store did not. They wanted to stay there. In the end, they went out of business, the new store stayed. So you kind of pick the winners and losers when you start doing it in retail development. So that's my main thing with TIF. I'm not opposed to it, I think it's...I like to look at it...in the bigger cities, I like to look at it should be used more as a redevelopment tool, and in the smaller communities out west, I look at it as economic development. Thank you, and I'll answer any questions. [LB1042]

SENATOR CRAWFORD: Thank you. Questions? So you were on the city council when you approved...you said one of the first TIF projects, is that what you said? [LB1042]

SENATOR FRIESEN: Yes. We had a bank that wanted to put up a new bank in town, take down some older buildings. And what they did was they...we used TIF financing, but they didn't ask for any of it back in infrastructure at all. Instead, they said if we would just help fix up Main Street, which goes down through town, that's where the funds could go. And so when we talked to the school, obviously they were okay with it, had no impact there. So it turned into a nice project, I thought. [LB1042]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you. We'll now hear testimony in support of LB1042. Welcome. Do you have a blue sheet? We'll get a blue sheet for you. Go ahead. You can go ahead and testify, we'll get it for you after. [LB1042]

JD SCHLUNTZ: It's J.D. Schluntz, I'm a supervisor from Harlan County. [LB1042]

SENATOR CRAWFORD: Could you spell your name for us? [LB1042]

JD SCHLUNTZ: S-c-h-l-u-n-t-z. [LB1042]

SENATOR CRAWFORD: Thank you. [LB1042]

JD SCHLUNTZ: I've been listening to some of the comments and it seems to me like it says this is working fine, please don't make it be the law because that will screw things up. But I'm

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coming back on this bill, so...I'm going to tell you the city of Holdrege, this was a long time ago, it was all-American city, number 35 in the nation. Two years later, 35 percent of it was blighted. I mean, really? And since then, anybody that's wanted to build anything they have given them tax increment financing. Most of the things have been on the outskirts of town, and now they're coming back and they want some money to revitalize the downtown. But as a supervisor, I guess I'd be willing to look some of these things over because I know in Harlan County some rather wealthy people have blighted a cornfield to build on. And we had one person quit, senior...whatever board it is, because I know them people can do that. They won't do it but for that. I wonder how many of these developers are sitting here saying I won't do it but for that. It's just like nothing will get done except for TIF. And I'm going to quit pretty fast, but I'll be back on his bill. But I got any questions if you want, as a county board member. [LB1042]

SENATOR CRAWFORD: Thank you for your testimony. Thank you. Anyone else wishing to speak in support of LB1042? Anyone wishing to speak in opposition to LB1042? [LB1042]

DAVID LANDIS: (Exhibit 1) Members of the Urban Affairs Committee, David Landis, Urban Development Department director for the city of Lincoln. Five minutes, I have the chance to screw it up twice in five minutes. The power of Google will tell me two things. First, I said that there were three states that were at 15 years. There's only one state, it's us. The other two states have changed since the last time I checked. And I have to confess there is a Colorado provision that allows for a negotiation between cities in other districts in the allocation of resources in TIF, and that is on our border. And that is a very recent change that I wasn't aware of. Since the last time I was in front of your committee, the laws have changed in other states and I wasn't aware of that change. Things that we're hearing today is that there is abuse in the system. And I want to talk about the money and I want to talk about what we've done in Lincoln in the last year. I spent time with this committee before, I won't talk about the things that happened before, but if you take a look, this is what we've done in the last 12 months. And the question is: does this constitute abuse? The first page is a parking lot, it is in an area that...you don't have to look at the parking lot and see blight, it has to be in a blighted area. Our downtown rests on an infrastructure that's 90 years old. There's a rather good deal of it that has substandard wiring, there are areas of depression. So most of our downtown is blighted and this is included in that, as well as a parking lot that doesn't meet design standards--it is substandard in that effect. And when you see later on the Wrap building, that's what took its place. In other words, the before is a blighted and substandard area and the after is, I think, a significant improvement in the city. Not too far away is the Aspen project, this was what was on that property before it occurred. Now you can see, on the bottom of the page, on the left-hand side, the construction of one of three buildings. That above is blighted and substandard, bottom you see what it's replaced. If you were to go to our north bottoms area, just north of the campus, you would see this land next to the railroad. Now there were also some houses on there, they were considerably older and a number of them had building and safety complaints against them, but in its place is the facility there now at 1100 Y

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Street. I think that's blighted and substandard property that's been replaced by significant contributions to the city. This is another parking lot, it was south of Gold's. It too was broken up, it was substandard according to our definitions of a parking lot, and this is the building that has taken its place. We've helped in each and every one of these projects. The developers asked us for that help and we were willing to do so. If you take a look at the next page, this is what used to be the railroad station, that included dirty dirt...that is to say soil that had to be moved out because of hazardous oils in it, oil that was deeply used buried in it, and 15 lines of unused track that were used for storage. That is, in the urban context, blight. It certainly wouldn't have been if this was an active railroad 50 years ago. It's not, and in this city, that's blight. What takes its place however, is the corporate headquarters of Olsson Associates. We helped with that project. The same land is now being used for the new corporate headquarters of Hudl, and we're going to help with that. This is a shopping center out in south Lincoln, the Piedmont shopping center, that didn't do maintenance for almost 30 years, it was down to under 50 percent occupancy. That was the back end of the building, what you see now is a TIF project, and the front of the building. And by the way, it's now 90 percent occupied. On the last of the examples is downtown, it's across the street from the children's museum. It's what we used to call the flophouse. You can take a look at what was in there. Only half of the units were habitable, seven units with one bathroom among them. Most of the concentrated sex offenders were in this area, across from the children's museum. It was taken over, at rather great expense to buy that building, which was on its face very problematic. And then this is where residents now live. You think that's blight and substandard replaced by good city building. By the way, this is back of the building, where syringes, medical waste, and human waste were quite often found in the alleyways. It's now protected by...and that's the front of the building and now that's gated. When I get a chance, I'll explain what this has meant economically. Let me cut to the chase, while my little yellow light is on, and tell you that this yellow piece of what I'm going to give you later on are the new taxes in the areas that have done TIF projects. New taxes in my city constitute \$56 million. The schools get about \$35 million of that, the counties and the cities share the rest. That's the growth in taxes that our projects have done so far. I'll come back and tell that story when I get another chance. [LB1042]

SENATOR CRAWFORD: Thank you. Questions. Thank you. We'll see you again. Welcome back, Mr. Burks. [LB1042]

LARRY BURKS: Hello again, Senator Crawford, members of the committee. Thank you for hearing me. I don't want to reiterate too much of the previous conversations. 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. There are two things that developers do not like and that is extended project times and uncertainties. LB1042, LR394CA, and LR399CA all do that. They all add time and they all add uncertainties to a project. The TIF legislation as written is binding enough, it takes enough time already. It has ample levels of control and transparency. Starting in Subsection 2 of the current legislation, the

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Mayor and governing body are repeatedly mentioned as the controlling mechanism for TIF, as it should be. Any amendments infringing on local control, in my opinion, not only will take more time and add uncertainties, it will create doubt in many of the local control minds. Previously, you've heard testimony about public meetings, you know, there are a number of them--notices and things of that nature. The county board of equalization is an important entity for the county, however, it makes little sense to have for us in Bellevue someone from Papillion or someone from Gretna or someone from Springfield approving a TIF project for us. The city of Bellevue...and I'm assuming all other cities, they go through the necessary steps and use the necessary expertise in determining a TIF project's viability and legality. More importantly, including anyone other than the local government and the governing officials, the elected officials of a community, within the decision-making process leads to the possibility of a conflict of interest. And as legislation is written right now, that is not supposed to happen. The...let's see here...I was going to give you a section, but I'll have to get back to you on that section. And then finally, once again, the auditing process. Any person can protest or question or engage with the city government, engage with the planning commission, engage with the Mayor, engage with the city administrator--they are empowered to do that with the legislation now. And if the county had any questions regarding a TIF project, they would certainly contact the city administrator, the city attorney, the Mayor, the council with any reservations that they may have. I'm not aware of any instance in my three years at the city of Bellevue; however, I'm sure it's happened in the past. But the reason that many don't realize it is because that's done behind the scenes in a regular, routine preparation for a TIF project in preparing it for the planning commission or the council's approval. [LB1042]

SENATOR CRAWFORD: Thank you, Mr. Burks. Questions? Senator Hughes. [LB1042]

SENATOR HUGHES: Thank you, Chairwoman Crawford. Mr. Burks, being a city administrator, are you familiar at all with how schools are funded--the TEEOSA formula? [LB1042]

LARRY BURKS: The TEEOSA formula for me is very confusing, so I would have to say no. [LB1042]

SENATOR HUGHES: You're in good company there. But I guess this bill that we're currently hearing now, basically the TEEOSA formula is a school district's resources minus their needs, what it costs them to run, equals state aid. And that's the problem that Senator Friesen pointed out in his initial opening statement, that almost two-thirds of the school districts in the state of Nebraska are not receiving state aid because their resources have been inflated. So I think the gist of what this bill does is it only asks for the resources that are currently being built and have been built be included in what a school district reports as their valuation of their district. Thus, hopefully letting a few more school districts have access to state aid dollars. It's not necessarily

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about TIF, but it is more about how school districts are funded and how TIF is skewing the resources of school districts. [LB1042]

LARRY BURKS: That makes perfect sense, but again, it's that time and uncertainties issue with, by adding another layer of process and another hoop to jump through for cities and developers, that creates a problem. In a field or in an environment where there are already too many problems, the fact that the school districts may have issues with a TIF project...we would like to know that. We certainly want to know that, and that's why we go through the processes that we do--the notifications and the certified letters and the hearings. My testimony is not only for LB1042. I have to leave and I wanted to include the other legislative bills before you later on this afternoon, so there may be some overlap there. Again, developers want quick projects and they want assurances. And that's where, you know, for an election or approval by another governing body or approval by a school district. In Bellevue, as I mentioned before, we have four school districts within our community. That creates additional confusion and delay, so that's why we're opposing. [LB1042]

SENATOR CRAWFORD: So just to clarify, I mean, the LB1042 has the two provisions: the county approval provision and the financing provision. I was hearing your testimony mostly about the county approval portion, is that correct? [LB1042]

LARRY BURKS: Right. [LB1042]

SENATOR CRAWFORD: Other questions? Yes, Senator Hughes. [LB1042]

SENATOR HUGHES: Okay, I guess I would like to follow up. I certainly do understand, I am a business man too. And all business wants clarity in what the rules are and then they learn, they adapt and follow those rules. The simpler they are, certainly the better it is. But the other side of that is the taxpayers, you know? And that's who we have to answer to, is the taxpayers, to make sure that those tax dollars are being spent appropriately and we are getting the best bang for our buck. Thank you. [LB1042]

SENATOR CRAWFORD: Other questions? So I just had a question. You were talking about conflict of interest concerns. Do you mean if the county has a role, there's competing cities in the county and that might be a conflict of interest? Is that what you meant? [LB1042]

LARRY BURKS: Certainly, yes. Yeah. [LB1042]

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SENATOR CRAWFORD: Okay, thank you. Any other questions? Thank you so much for your testimony. [LB1042]

JOHN LINDSAY: (Exhibit 2) Senator Crawford, members of the committee, for the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of Omaha Public Schools. Our school district has a concern with Section 2 of the bill and, Senator Hughes, your questions kind of segue into where our concern is. That the refresher on TEEOSA is of course needs minus resources equals aid. The effect of this, Section 2 of the bill, would be to have resources that don't reflect what the actual resources for the school district are. And that is because the school district does not have access to the full value that would be listed as a resource in the TEEOSA calculation, it has access only to the project value. So it would have a massive impact on...if I could get a page...massive impact on school districts. I have the school district taxable value report for Douglas County, I don't have it for all the counties of those of you sitting on the committee. But when that comes around, you take a look. Omaha is the one I'll talk about, because that's who I represent. And that's the first level there. We have...what's included in our resources right now and what the tax receipts actually come in to the school district on is that \$148 million...do it in my head, I have to count the commas...of base value. What this would include in TEEOSA is \$1.4 billion of base value. So when you take those numbers and run those through the TEEOSA calculations, it would have just simply a massive reduction in the amount of TEEOSA. Any district that has a significant amount of TIF, it would have an impact on any district that has a TIF project in it. That's simply going to cause...it's going to wreak havoc among school districts. Putting the responsibility for TIF on school districts doesn't seem fair when we look and realize school districts have no say in whether a TIF project is approved or not. So to say you're responsible, although you get no control over the effects of that decision, does not seem right to us. I would concur that I think OPS has kept well-informed by the city, when they are doing TIF projects. I do think there's a quite a bit of communication between the entities, but the fact remains we don't get a vote. So those are the objections of the schools. I think that you probably have a letter from the Greater Nebraska Schools Association, might be from Lincoln Public Schools, on their behalf. But that...and those are the more urban districts I would guess...urban, suburban districts. And while there's a big number of school districts that don't receive equalization aid, and I think the number, Senator Hughes, that you used was 60 percent, 80 percent of the kids in the state are educated by GNSA schools, which would be the larger school districts. Those are the ones, those 80 percent of the kids, are the ones who are going to be impacted most greatly by Section 2 of the LB1042. So if...we would oppose that Section of the bill, and I would be happy to try to evade any questions you might have. [LB1042]

SENATOR CRAWFORD: Thank you. Questions? Senator Hughes. [LB1042]

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SENATOR HUGHES: Yes, thank you, Chairwoman Crawford. Thank you for coming in today, Mr. Lindsay. I do agree, it would have a massive impact on a lot of school districts. There are TIF projects in virtually every school district in the state. I think the larger metropolitan areas have greater impact than others on their school districts. The school districts, you're saying they're being penalized because they haven't had any say in the TIF. Well, we've got a bill coming up that will give them say. And there's been a lot of talk that taxing entities are being notified and everybody's saying yeah, this is a good deal, nobody complains. Well, why would they complain? They don't have any type of veto power over that. And that last point is, you know, 80 percent of the students are being equalized, but 100 percent of the students are Nebraskans. Thank you. [LB1042]

JOHN LINDSAY: I don't disagree with that at all. [LB1042]

SENATOR CRAWFORD: Other questions? So just want to clarify what we have in front of us. The base value, compared to the excess value. These are projects that are currently in the TIF process, so this does not reflect say the projects that are already through or the projects that aren't being TIFed? [LB1042]

JOHN LINDSAY: My understanding is that when a project is completed, it returns to the market value. That would not be included in here. [LB1042]

SENATOR CRAWFORD: Right, right. These are just the ones that are still in process. [LB1042]

JOHN LINDSAY: Right. It does not reflect the increased value at the end of the project. [LB1042]

SENATOR CRAWFORD: Thank you. Other questions? Thank you. [LB1042]

MIKE JACOBSON: Once again, my name is Mike Jacobson, I'm from North Platte. I'm chairman of the North Platte Community Redevelopment Authority and president and CEO of NebraskaLand National Bank. I would say that I appreciate Senator...I am here to testify in opposition of the bill. I would, however, say that I understand Senator Friesen's rationale, and the only thing I would say to that impact...or in contrary to it, would be that remember again that when we use TIF, we're doing projects that otherwise would not have been built. Meaning, we're developing a tax base that otherwise would never exist, okay? So to me, it's a timing issue. The timing issue is is that if we build a TIF project, and will give you an example of the Menards project, because it was mentioned earlier. And I would tell you that I won't use the same imagination that was used previously on some of the projects in North Platte, I like to stick with

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facts. The fact is that Menards came to the CRA after purchasing a property...and they were interested in purchasing a property, this was in March of 2005. They purchased...the property was currently tax-assessed for \$505,000, and it was generating a property tax...and the property tax being paid on that property was \$10,846 a year. When Menards built their project, the interesting thing about their project is they bought 80 acres. They bought 80 acres of land and they were required to put in all the streets, all the sewer, all the public infrastructure, and they owned the entire track. And they created a significant amount of potential retail spots south of the Interstate, outside of the flood plain. They build their project and the project increased immediately in tax-assessed value by \$12,266,000, which generated an incremental increase in property tax of \$263,213 per year. The project prepaid, paid in full in May Of 2013, 8 years later--8 years, not 15. At the time, when the bonds were paid in full, the annual property tax value...the valuation had moved to \$17,494,000 and we were generating \$388,000 for the taxing authorities. Again, it's a timing issue. They built this project, that they otherwise wouldn't have built, because they had to put in all of the infrastructure--all of it, including acceleration and deceleration lanes out along the highway. They've made a significant development opportunity for North Platte, plus they brought in tremendous sales tax base. We drive by Menards, even today, and you see a lot of cars with out-of-country license plates and out-of-state license plates to shop at Menards. It moved the sales tax base significantly in North Platte, and that base has remained at a higher level. It brought new retail sales to other areas, other parts of North Platte, it hired people, it brought more people to town. So how does that impact our school district? Well, I would tell you that in North Platte, like so many other communities out west, many of the communities are seeing out-migration. In North Platte we have public schools that are under capacity and have been under capacity for quite some time, and the projections are that they will remain under capacity. So bringing new students simply adds to the capacity that we already have and better utilizes the overhead that's already in the school system. And that is the primary reason why they continue to support it. And they also know that once these projects mature, and we've been very diligent on the projects, and I mentioned before--11 of them. Eleven projects in 15 years, hardly the floodgates. And in that time frame, we've been able to move the increment by \$1.6 million a year in new property tax base. Okay, there's \$1 million, almost \$1.6 million, in additional property taxes being paid to the taxing authorities that otherwise would not be there. Now, if it didn't move the mill levy down, then I would tell you the mill levy would have gone up significantly more because this is new property tax base that came. This is a significant tool for us, and I would also tell you that when it comes to housing, if we can't find a way in communities like North Platte and smaller, or they're outstate, we don't have large expanses of property inside the city limits available for development. Menards had to be outside the city limits, so did Walmart. They had to be outside the city limits. There was no room for them inside the city limits, so we annexed it in. But it was adjacent to the city limits that we annexed in. It's provided significant economic development, the rising tide has lifted all boats, including the school district and all the taxing authorities. Again, thank you. [LB1042]

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SENATOR CRAWFORD: Thank you. Any questions? Yes, Senator McCollister. [LB1042]

SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. You indicated that, with regards to the Menards project, the buyer paid for all the infrastructure. Is that correct? [LB1042]

MIKE JACOBSON: That's correct. [LB1042]

SENATOR McCOLLISTER: Why was TIF necessary then? [LB1042]

MIKE JACOBSON: Well, the buyer...they used the TIF money to pay for that infrastructure. So they paid for the public infrastructure... [LB1042]

SENATOR McCOLLISTER: So they paid for that up front. [LB1042]

MIKE JACOBSON: Yeah, the 80 acres had originally been purchased by a grocery store chain, who actually technically bought it to block another chain from coming to North Platte. When they decided to sell and get out of the business, they liquidated their properties...and there was a divorce involved through all this too. They liquidated the property and they sold this land. The developers that bought that land owned a number of other properties in and around the city limits of North Platte. I would say much of the property that these developers own they've owned for 20 years or more and have not built on it, have not found a buyer for that property. So you can say that a blind hog finds an ear of corn every now and then. They did get pretty well paid for the property that they sold to Menards, but they've got a number of other properties that they're still sitting on. And that's the nature of economic development and development activity. I would also tell you...I mentioned before that Walmart, the property...the tax-assessed value of that land was \$181,000 base. The farmer that owned it sold it for \$1 million. The property that Menards had was \$500,000 property tax base, they sold it for around \$3 million. The numbers are about the same, wholesale to retail. Menards paid what they normally per square foot for this kind of property, but in order for them to put all the infrastructure in, it was a deal killer. They weren't going to come there unless they...because they needed to put the infrastructure in. So their payback would be on the back end, and I might add they have not sold one of the out lots since that time. So they're still on the hook with a bunch of infrastructure that they're paying property taxes on and they haven't found somebody else to come in and take the property yet. Over time, I think that will develop out because it's builder ready. But they're doing it on their dime, not the city's dime. [LB1042]

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SENATOR McCOLLISTER: When you say they, are you talking about Menards or the developer? [LB1042]

MIKE JACOBSON: Menards. No, Menards. And what I'm saying is Menards applied for the TIF. They were the developer, okay? Menards bought the land and then they came in and applied for the TIF and told us that they needed TIF, that they were going to go forward with the project. They had a contract to purchase the land, subject to TIF. If we didn't approve TIF, they were walking away from the deal. [LB1042]

SENATOR McCOLLISTER: I'm still trying to figure out why the Menards felt compelled to use TIF. Once you've completed the project, you have the infrastructure and the building in place, you can simply go out and get a mortgage or borrow the money in some other way. [LB1042]

MIKE JACOBSON: Well, of course Menards paid cash, but what they did was they looked at the property...Menards, like Hobby Lobby and a number of other major retailers, they have a number of places they can go, so they go down the Interstate or go to different locations and they look and they say is there a place here it can work? Does it make sense for us from a cost standpoint, can we be in the location we want to be in, will it be cost-effective for it? And if it's not, and you can't provide me the incentives to get there, I'm going on down to the next town and we just won't build here. And that's the nature of these larger retailers. But when you bring in those larger retailers, and Hobby Lobby is another one that we did in North Platte--that we just did, and it's same deal. You bring in those major retailers, all of sudden we don't have the out-migration of shoppers, we have people coming in to North Platte to shop. We raise the sales tax base, we keep more people wanting to live in North Platte because there's retail. If we look at the railroad that's there, that represents about one-third of our population base, most would tell you that one of the reasons they don't move their families to North Platte is because they don't have enough housing and because there's not sufficient retail. And we want to fix that. [LB1042]

SENATOR McCOLLISTER: Thank you. [LB1042]

SENATOR CRAWFORD: Any other questions? Thank you. [LB1042]

MIKE JACOBSON: Thank you. [LB1042]

TOM HUSTON: Thank you, Senator Crawford, members of the committee. Again, my name is Tom Huston, T-o-m H-u-s-t-o-n. I'm going to try to restrict my testimony to the two components of the bill. And the first one...before I start, I guess I should remind you I'm here testifying on behalf of the Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, the

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Nebraska Chamber of Commerce, and the Nebraska Bankers Association. The two concepts in the bill that I want to address, I have some insight or at least some input on the first component, we'll see on the second component. The first one, dealing with the proposal to require the county board of equalization to approve a redevelopment project, I think it's a redundant requirement and I think it's unnecessary. I think the Nebraska Community Development Law imposes certain obligations on the community redevelopment authorities, the community development agencies, and the municipalities to observe the law. It's no different than any other set of statutes that we have, such as the creation of special assessment districts, creation of occupation taxes, land use zoning statutes. All municipalities are required to follow the law, and part of my representation of 25-plus communities around the state entails advising them on what the law requires and all the protections that are built into the Nebraska Community Development Law. So I think it's a redundant requirement and I don't think it's necessary. The second component, I wish I had more expertise, but I was always under the understanding that the increased valuation was already included in the formula. The questions I had asked...luckily, I'm not an education lawyer, I didn't have to know the answer to that question, but the people that I asked the question I always understood it was. So to the extent it's not...I can see the adverse impact upon the school districts. The communities that I represent, I tell them number one, look, there's statutory requirements for notifying the school districts, but that's not enough. You got to go talk to them. And I think the city of Lincoln has taken good lead in that. And I represent developers in the city, and the city of Lincoln has had the conversation with the Lincoln Public School System about what they will support and what they will not support. And I think that's a valid discussion, I encourage all the communities that I represent to have that discussion with the school district, because it's a very valid argument. Under some circumstances, it depends upon the individual school district and whether or not they want to grow or whether they need other requirements, but a lot of school districts that are in the small towns that I represent, the superintendents a lot of times are working with the community redevelopment authority. And they tell me they want to grow the population in the school and they're supportive of the development in the community, understanding there's a long-term payback. There's a short-term cost, as required by the cost-benefit analysis. It's one of the protections, but there's a long-term payback. So with that, I'd be happy to answer any questions you may have. [LB1042]

SENATOR CRAWFORD: Questions? So I have one question. As you're advising municipalities and making sure they follow these laws, what happens if a municipality does not? Like, what is the risk, what is the oversight that you're making sure they comply because what could happen? [LB1042]

TOM HUSTON: There's procedural protections and there's substantive financial protections. I think the law makes it clear that the role of the communities is to serve as the conduit. So we have to make sure that we comply with all the statutory prerequisites, all the notice requirements, have all the hearings that are required. But the community, all they're doing is pledging the

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incremental taxes on the TIF note. And they're not guaranteeing, it's not general obligation. They're not guaranteeing any particular performance under the TIF indebtedness. But ultimately the risk is not on the community, the risk is on the developer. So the developer and the developer's lawyer are double checking every step of the process to make sure that compliance with the statute is achieved. The developer wants to be able to go finance it and the banks require an opinion of developer's counsel that everything has been met and all the statutory requirements have been satisfied. [LB1042]

SENATOR CRAWFORD: Thank you. [LB1042]

TOM HUSTON: Thank you. [LB1042]

SENATOR CRAWFORD: We're on testimony in opposition to LB1042. [LB1042]

ERVIN PORTIS: Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s, Plattsmouth city administrator. Look at just a couple points, particularly in regards to the county board of equalization. I think the points I would make is the very first part of this process is the city's approval of a comprehensive plan for redevelopment. Every committee that takes advantage of the community development authority has to have a comprehensive plan for development. That is a significant process and it's a significant plan. In our case, and in the case of any community in which I've worked in or lived, it's a months-long process that involves multiple stakeholders from all levels of government, from all levels of the private sector: citizens, residents, you name it. You work hard to make sure you're including everybody in that process so that when you articulate and you adopt a comprehensive plan it is reflective of the comprehensive input of the community, including the school district, including the employers, including the businesses, including those who live, work, and play in the community. That's the first step, you have to have that. But then also remember you have a planning commission and that planning commission is generally citizens appointed by a mayor and council, who may or may not agree with mayor and city council, but they have a statutory obligation to follow the law. And generally, they do. And in some cases, you know, in first class cities I know at least, some of those...in our case, two of those planning commission members live outside the city, but within the zoning jurisdiction. Two people who live outside the city are on our planning commission, and I think that's the case in, you know, first class cities. And all of them you've got mayors and city councils, they're elected. Let's not nullify elections. Let me switch hats a little bit. You know, I'm the city administrator in Plattsmouth, but I'm...you know, the mayor and city council were very, very understanding of my personal needs and so I have a family member with significant medical needs, access to medical services, so I live in downtown Omaha. I live in a TIF development, SoMA, the Rows at SoMA. I pay a whole lot of taxes, but before I purchased that property, I read the covenants, so I fully understood. The one I can't protest, valuations through the duration of the TIF period...can't

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protest it, even if I disagree with it or even if I think it's too high. And I understand where those taxes are going, the baseline and above the baseline. I also understand that when the TIF period is done that those taxes are going outside. But as a resident of Omaha, I also pay attention very, very carefully to what the Omaha Planning Commission, you know, Mayor Stothert and the city council do. A good example is a project in downtown Omaha along Farnam Street. I'm paying very careful attention, my city council members heard from me a number of times. That's my role as a citizen, so that opportunity exists for all of us. With that, any questions you...I'll answer any questions you might have. [LB1042]

SENATOR CRAWFORD: Thank you. Questions? So in relation to the other component, if we're think about school aid. As someone working with a municipality, I would say one of your areas that you work on is increasing property valuation. So when we're talking about the formula being needs minus resources equal aid, one impact overall in the TIF project is to try to increase those resources over time, by the investment of the TIF project. Is that correct? [LB1042]

ERVIN PORTIS: Well, I'll admit I know absolutely nothing, and maybe even less than that, about the school aid formula. [LB1042]

SENATOR CRAWFORD: Okay, that's fine. That's all right. [LB1042]

ERVIN PORTIS: What I do know is we, and every city I know, works very, very hard to include the school district in our decision making process. [LB1042]

SENATOR CRAWFORD: Thank you. Thank you. Anyone else wishing to testify in opposition to LB1042? Welcome. [LB1042]

JENNIFER TAYLOR: Good afternoon, Senator. Again, my name is Jennifer Taylor, J-e-n-n-i-f-e-r T-a-y-l-o-r, and I represent the city of Omaha, in opposition to LB1042. You know, I'll again try and be brief. It was pointed out that the purpose of LB1042 was to add another layer of oversight, obviously implying that oversight does exist. When I was here previously, I discussed the initial efforts the city of Omaha undertakes when entertaining TIF applications. So once we've gone through that process of evaluation the application, vetting it, sending it through committee, we then go to our planning commission. Our planning board has a full public hearing with full notice to neighborhood associations, NRDs, county boards, school districts are all notified and there's a full-fledged public hearing. Our planning board also includes one member from outside the city's jurisdiction that represents Douglas County, so in that respect this county does have representation in the process. Not only that, but also their offices are located right down the hall from where we hold these hearings. So if there was a need for the county to object to a TIF project, it's obviously very easy for them to do so. It just, to my knowledge, never

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happened. Not only do we go into the planning board, but then that plan goes to the city council for a full public hearing. And then once we direct a redevelopment agreement, that redevelopment agreement between the city of Omaha and the developer also has a full public hearing in front of the city council. So the ability for the public, the county, the school board to voice concerns, objections, or any sort of issues with a redevelopment project, redevelopment plan, there's a multitude of opportunities for that to happen. What we'd be asking for in the first part of this bill was simply to add yet another public hearing to the three, four, five that already exist. And it would be to add a public hearing before a body that would have what I would suggest maybe conflicting goals and interests. The city of Omaha has two primary goals in undertaking TIF projects: one, it's community development, it's dealing with blight and substandard areas and redeveloping them into more productive uses; also, in doing that, we eliminate what we would call problems that the city of Omaha has to deal with on a regular basis. By eliminating blighted and substandard areas, we no longer have to take care of weeds, and litter, demolition, we don't have increased cost for first responders. Those are costs the city incurs, that are a direct result of these types of areas that are redeveloped through TIF. The county board has a goal of...has different and possibly diverging goals. The school districts I think would probably have some of the similar issues. By asking for additional oversight, through entities that have competing interests, you're asking them to put their specific short-term interests in competition with the city's long-term...as noted much earlier today, that the statutes actually say that we are supposed to, through TIF, further the long-term development goals of the city. That's what the city has in mind. Other entities may not have those goals, so you would be, by adding that layer of additional oversight, you would be granting one political subdivision essentially veto power over...a certain power specifically delegated to another political subdivision. It would give an entity like the county board of equalization, with possibly conflicting goals and priorities, the ability to veto something that the city wants to do. So it would be putting those conflicting, possibly, and opposing goals immediately against each other. And I think that is through a layer of oversight that is unnecessary, based on what we already have in place. It would only create an extended and more difficult process than the one that already exists. Any questions? [LB1042]

SENATOR CRAWFORD: Questions? Thank you. [LB1042]

DAVID LEVY: Chair Crawford, members of the committee, good afternoon...almost good evening. David Levy, D-a-v-i-d L-e-v-y, in opposition to LB1042, as registered lobbyist for Turner Park North, as a board member of Omaha By Design, and the Nebraska Association of Commercial Property Owners, and saving you a testifier by also registering the opposition of the Eastern Nebraska Development Council. Just a few points, very briefly. You know, a board of equalization traditionally has had really no role in land use planning, urban renewal, or economic development. And adding their oversight of TIF approvals would be thrusting them into all of those roles, which I think would really be inconsistent with their historical role. It would also

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create or take away from local control of substantive zoning matters, which is not something traditionally that this Legislature or many other states I've worked on land use projects in have done. State law deals with zoning, with procedures, but we don't tell our cities typically in state law whether to approve retail or commercial or how to set building heights. This wouldn't be the state doing it, it would be the county doing it, but it would be very inconsistent with that local control of substantive land use decisions. In sum on that part of the bill, I think it would burden local government and burden the developers, really without corresponding benefit. I will join the club of not being an expert, by any stretch, on TEEOSA, but I will tell you a couple of things...my thoughts as I observe and as I work here in the Legislature on behalf of clients and on behalf of developers. I don't think TIF is the TEEOSA problem, it's not the property tax problem. TIF helps us grow the base. Ultimately, the way to solve the property tax problem and the school funding problem in the state in my opinion is to grow the base. And TIF, in time, helps us do that. There is a little bit of short-term pain, although, as you heard some of the numbers today, not all of the incremental benefit of the new development is reserved over time to the TIF project. Some of it...much of it hits immediately. It's only a portion of it that comes on over time as the TIF bonds are paid off. I want to make one other point, just to clarify something that I've heard and I think there may be confusion on. TIF proceeds do not go into the developer's pocket, they don't go into the development project per se, they go into public infrastructure and public improvements that benefit and support the project. Certainly, they indirectly and directly benefit the project, but those proceeds do not go to the developer. They go to fund public improvements and public infrastructure, and I think that's really a critical thing to keep in mind. Where does the money go? The money goes into public improvements that benefit not only the project, but the areas in which the project is located in the city. So with that, I'd be happy to answer any questions. [LB1042]

SENATOR CRAWFORD: Thank you. Questions? Thank you. [LB1042]

DAVID LEVY: Thank you. [LB1042]

SENATOR CRAWFORD: Anyone else wishing to testify in opposition to LB1042? [LB1042]

LYNN REX: Senator Crawford, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. Again, we appear before you today in strong opposition and united opposition from municipalities across the state on this measure. And I do think that there are a couple things that are worth pointing out. I think we're dealing here with counties and municipalities, two different types of political subdivisions, with two distinct roles. It would be with all due respect that I would suggest that having counties approve redevelopment plans would be not unlike having municipalities approve design standards for bridges, corrections facilities, something of that nature. Two different roles that they would have. In addition, as

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Larry Burke pointed out, and I believe Jennifer Taylor did as well, from the city of Omaha, there are conflicting issues that do occur periodically between municipalities and other municipalities, and certainly between municipalities and counties from time to time. So it would be very problematic to have county approval of these types of plans. Now that is much different than the requirements that we now have to make sure that other political subdivisions are aware of the TIF redevelopment plan, of TIF projects, and what should occur with that. The second part of the bill relates to TEEOSA, and I do also join the long line of those who do not understand...I don't understand the school finance formula, so I would appreciate your respect of that. But I would like to share with you what I suggested earlier, which is basically...on Page 15 of the Tax Modernization Committee Executive Summary, Item 9. And I did bring it up so I could actually read it to you--very, very short, just a couple sentences. And this was the 2013 Tax Modernization Committee Report, quoting the 1987 Syracuse Report. "The primary policy option for reducing property tax use recommended by the Syracuse Tax Study was increased aid to local governments, emphasizing equalization aid for local governments. This was to supplement the then existing aid programs, which had been implemented to offset..." and I will insert inadequately and in part "...the loss of property tax capacity, due to prior exemptions granted. The recommendation was implemented in part. The preexisting aid programs, which Syracuse recommended retaining, have been repealed." So we went backwards from what actually the Syracuse Report and the Tax Modernization Committee suggested. With that, I think TEEOSA and the issues with TEEOSA...really, I think it's the elephant in the room. And I agree with David Levy, I don't think in any way, shape, or form that the TEEOSA issues are the result...not that there's not an impact, Senator Hughes, but I don't think the TIF itself is what's causing problems when it comes to the school aid formula. I think it's something far more fundamental and broad-reaching than that. And I wish I had an answer for you other than what I think the Legislature has paid two independent consultants to come back to and that is you need to increase state aid to local governments. At the sake of being redundant, the state of Nebraska is 47th on the list of providing aid to local governments of all local governments, and 49th specifically as it relates to schools. I do think it's important to look at what can be done to address that issue, but I don't think that this is the answer. And again, with all due respect, I don't think that the counties really are the governmental entity to be dealing with this. I think it's also important to understand the state auditor has go authority to come in, and he does...or she, but so far it has been individuals that...Mike Foley, and now State Auditor Jansen, they've got authority to come in and audit local governments, they've got authority to look at TIF proposals. They've got authority to do that now. And I think the overwhelming enforcement mechanism and the hammer on municipalities is, Senator Crawford, what your back and forth and Q&A has been with David Levy and others, which is that if bond counsel does not do his or her job, there are consequences. There are consequences for the attorney, there are long-term consequences also for the municipality. So everything is in the incentive, if you will, to make sure that there is compliance. With that, I'd be happy to answer any questions that you might have. [LB1042]

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SENATOR CRAWFORD: Questions? Thank you, Ms. Rex. [LB1042]

LYNN REX: Thank you. I was hoping for questions, but I understand it's late. Thank you very much. [LB1042]

SENATOR CRAWFORD: Anyone else wishing to testify in opposition to LB1042? Anyone wishing to testify in a neutral capacity to LB1042? Welcome. [LB1042]

RENEE FRY: (Exhibit 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, I'm the executive director of OpenSky Policy Institute. I'm here in a neutral capacity, as we support the county board approval portion of LB1042, but not the TEEOSA component. OpenSky has supported legislative bills that improve transparency and better reporting and analysis of TIF and tax incentives. Given the use of both state and local taxpayer dollars to offset TIF projects, and the implications for other local governments that lose revenue as a result, we believe that the county board approval portion of LB1042 would improve transparency and go farther to ensure that TIF projects benefit the broader community. Since there was an article about the HDR TIF request, which I understand the hearing is going on now, in the paper yesterday, I'll use that as an example. HDR is requesting \$20.9 million in TIF to help pay for a \$152 million headquarters that they propose to build in downtown Omaha. TIF would represent 14 percent of the project cost. The approval of TIF ultimately rests with the Omaha city council, but the city's share of TIF is only 22 percent. The way TIF works, they are able to obligate the property taxes of other local governments. The county's share of this \$20.9 million is 12.6 percent, and the majority, 56 percent, would have gone to OPS and the learning community. We've heard today that counties, schools, and other local governments don't lose revenue, but that assumes nothing else would have been developed at that site, and that's also assuming that HDR wouldn't build there or somewhere else in the county without the TIF. Furthermore, if this space currently occupied by HDR is purchased by Methodist, for example, which is property tax exempt, the county will lose the property tax revenue HDR is currently paying and will not realize property tax revenue on the new construction until the term of TIF is over. And of course this means that other property tax payers are left to foot the bill. Given the loss of revenue for counties, we believe that they should have a greater role in the TIF approval and review process. LB1042 wouldn't stop the use of TIF, but it would give counties the opportunity to weigh in. This additional check can only serve to provide greater assurances that TIF projects benefit the broader community. Given how much TIF impacts them, this seems to be a reasonable requirement. Furthermore, the cities could at any time appropriate dollars to pay for the improvements that would otherwise be paid for by TIF, greatly improving transparency without obligating the property tax revenue of other government entities. Our opposition of LB1042 is regarding the reduction of TEEOSA for school districts. Currently, 97 percent of lost property tax revenue due to TIF is currently replaced by state aid for equalized school districts. LB1042 would require that the TIF excess

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valuation be included in the assessed valuation of school districts for state aid purposes, so that school districts with TIF property will have decreased state aid. Those equalized districts at their levy limit would be unable to replace the lost revenue, but unlike the counties in this bill, they would have no say in the approval of the projects. Therefore, we support the county board approval component of LB1042 because we believe it will increase transparency and lead to a broader community benefit without taking away the use of TIF, but we don't support the inclusion of the excess valuation in assessed valuation for school districts for state aid purposes. Since Lynn Rex mentioned my name, regarding state aid, she's right, we rank very low in state aid for local governments--47th and 49th--as she said. And I did plan to mention in a later hearing today that there was a 2014 Revenue Committee report that estimated the impact of TIF to increase, in 2013, state aid by over \$22 million. This is state aid that is used to offset local lost property tax value, rather than being used to advance K-12 education. The conclusion of the report...the first paragraph in the conclusion said: "over time the state aid to schools program has become an indirect subsidy to development projects which require TIF." I will say there's been a lot of talk that other local governments have a say in this process. We have been told privately by school districts, by counties, by community colleges that they do not feel like they can object to a TIF project. Finally, I would...the auditor has been brought up and the ability of the auditor to review TIF projects. We have met with the auditor's office twice, they have told us that they feel like their jurisdiction is only to look at the letter of the law and whether that's being followed. So whether the 15-year provision is being followed, they don't have the authority to make any sort of subjective determination about whether a project is in a blighted or substandard area or anything like that. So they believe that the scope of what they can do regarding TIF is very limited. With that, I would be happy to answer any questions. [LB1042]

SENATOR CRAWFORD: Thank you. Questions? Senator McCollister. [LB1042]

SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. You indicated that the other taxing bodies--school districts, Metro Tech, and the host of others--don't feel as though they have any input in the process, correct? [LB1042]

RENEE FRY: Yes. [LB1042]

SENATOR McCOLLISTER: Would the county board of equalization satisfy that? [LB1042]

RENEE FRY: I am sure that there would still be concerns. We've supported legislation in the past that actually would have expanded the scope of the committee that approves TIF projects to include representatives from other local governing boards, which did not pass committee. But there has been legislation in the past that has proposed to expand representation. [LB1042]

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SENATOR McCOLLISTER: Would that be better than using the county board of equalization? [LB1042]

RENEE FRY: I think there would definitely be some merit to that, yes. [LB1042]

SENATOR McCOLLISTER: Thank you. [LB1042]

SENATOR CRAWFORD: Other questions? So I have a couple of questions. One, I believe what I heard you say is that when there's a TIF project before a community that county officials or school officials feel pressured to support it. Is that what I heard you say? [LB1042]

RENEE FRY: Yes. [LB1042]

SENATOR CRAWFORD: So I guess one question would be if that is the case, if there is a lot of peer pressure, social pressure to support it, wouldn't that mean that the county board of equalization would feel that same pressure to approve it? So would they really have an impact on whether the project goes forward? [LB1042]

RENEE FRY: Yeah, it's a great question. I don't know, they still may feel that pressure. But they would have more of the information, they would be able...they'd have a formal role in the process, which may, you know, liberate them to some extent. But I can't answer that for sure. [LB1042]

SENATOR CRAWFORD: Sure. So then the other issue, as we're looking at impact on state aid, again the fiscal note talks about the money that's in that increment right now, that \$21 million--the money that's in that increment. But I think what we have been hearing from many of the municipalities is that what they're doing with the tax increment financing is increasing that base, which would be: if you have needs minus resources equal aid, they're really using TIF to bump up the resources part. So the \$21 million might not be here this year, but you're getting a return on your investment in terms of increasing the other money that's available. Different cities have different amounts that they've seen increases in their valuations. So that money then, the project that just came out bumps up those valuations, and so that then has...less load is being put on the TEEOSA formula because that valuation has come up. [LB1042]

RENEE FRY: So the research on that is really mixed. So the research does not find that TIF projects necessarily improve the base or increase the base or broaden the base, however you want to say it. We had Dr. Merriman, from the University of Illinois in Chicago, here in January, and he spoke to the fact that there's a lot of evidence that TIF simply moves development from one

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place to another. So like the example with HDR, so maybe they wouldn't move in that location, we don't know. Maybe they would move there without TIF. Certainly it could be that the property taxes that they're currently paying now may not be replaced. And we don't know if they would move to somewhere else in the county, right? So if projects are just being moved within a county or within a jurisdiction, we're not growing the base, right? So there may be a benefit to the city to have it in a particular area, but that doesn't benefit the school district or the county because it's really not expanding the base for them. And that's what the research has found, is that it's really just moving projects that would have happened anyway from one location to another. So you're not growing that base for the other jurisdictions, and it's the majority of revenue that's being lost is from them. So that's part of our concern, is that you have maybe a purpose that the city is trying to accomplish, but they're obligating revenue of other local governments, where they could do it as an outright appropriation. If they want to make improvements on 11th Street, the city has the ability to do that now just using their general fund appropriations budget. So they're obligating these benefits, or you know, the revenue of these other local governments, who aren't necessarily getting a benefit from that. And the research is really mixed on that. And Dr. Merriman himself actually found in his own research that in TIF districts that there's actually less development than before. So clear evidence that TIF tends to move projects around from one place to another within the same jurisdiction, but there's also evidence...it's mixed. I mean, his has found a negative impact of TIF on development, some other researchers have found mixed and some have found a positive result, but it's not conclusive. So I don't think it's fair to say absolutely this grows the base, because the evidence doesn't support that. [LB1042]

SENATOR CRAWFORD: And was that a study in Nebraska or... [LB1042]

RENEE FRY: No. [LB1042]

SENATOR CRAWFORD: That was a Magneta study, I think, if I remember that from earlier. Right. And most of what we have seen here have been examples or analyses from some of our municipalities, looking at how it's used here. [LB1042]

RENEE FRY: Right. But again, the assumption that's being made is that that area wouldn't have been developed, right? And I don't think we can say that with certainty. Can we say that the area, for example where HDR is going, is going to sit vacant for the next 20 years? Or is it likely at some point that that would be developed? And if it's going to be developed at some point, then those local governments are losing that revenue. [LB1042]

SENATOR CRAWFORD: Thank you. Questions? Senator McCollister. [LB1042]

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SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. So what you're saying, in answer to Chairwoman Crawford's question, is that it's a zero-sum game. That the development may move some retail outlets to one part of the city and as a result the other part of the city will suffer? [LB1042]

RENEE FRY: Yeah. And actually, I'm glad you mentioned that. Dr. John Anderson is a professor at UNL, he did do a study specifically in Nebraska. It's been quite some time now, it's pretty outdated, but he did find that exactly was happening, particularly with respect to retail. [LB1042]

SENATOR McCOLLISTER: Okay. With regard to the school aid formula, the way the bill is drafted it would simply increase the value...or the base in that TIF area to the projected amount. Is that correct? [LB1042]

RENEE FRY: Say that again. [LB1042]

SENATOR McCOLLISTER: Would it increase the real estate value of that TIF area to the projected value, rather than allowing a...did I read that incorrectly? [LB1042]

RENEE FRY: Not to the projected value, but to the excess value. Right. [LB1042]

SENATOR McCOLLISTER: To the excess value. Isn't that the same thing? [LB1042]

RENEE FRY: No, because the excess value is going to grow each year. Whereas the projected value I assume you're referring to is the projected value at the end of the construction. So for HDR, for example, the projected value would be \$152 million, but it's going to incrementally increase that excess value. [LB1042]

SENATOR McCOLLISTER: Whether they use the projected value or the excess value, isn't it difficult to estimate that number? Isn't it simply a plug kind of mechanism, there's no real way to know what that number is at the beginning of the period, is it? [LB1042]

RENEE FRY: I don't know how to answer that. I'm not sure how the assessment works, in terms of assessing a project that's in construction. But our concern with this bill is the way that it effects TEEOSA by using a value that the school districts can't capture. [LB1042]

SENATOR McCOLLISTER: Well, maybe Senator Friesen in his closing could help me with that. Thank you. [LB1042]

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SENATOR CRAWFORD: (Exhibit 4, 5, 6, 7, 8) Any other questions? Thank you, Ms. Fry. Anyone else wishing to testify in a neutral capacity on LB1042? All right. Letters for the record...in opposition LB1042--Nebraska Economic Developers Association; letter from the Nebraska Association of Commercial Property Owners; a letter from the Nebraska State Chamber of Commerce, Greater Omaha Chamber of Commerce, Lincoln Chamber of Commerce; a letter from Lincoln Public Schools; letter of opposition from Mayor Jean Stothert, city of Omaha. And we will...oh, Senator Friesen, please close. [LB1042]

SENATOR FRIESEN: Thank you, Chairwoman Crawford. I want to just go try to go through a list of things here that I heard in testimony, and very little of it seemed to be applicable to my bill. So I'm assuming it was meant for the bill following. The main portion of my bill I guess was the county oversight. And to suggest that a county would not have the same goals as a city, I mean, obviously a county...commissioners of counties want to grow their value, grow their business, grow the economy of the area. Why would they in any way, shape, or form I guess oppose it because of competing interest? County's tax revenue comes from all property located in the county, not just from that located on the outside the city limits. You pay a county levy on everything. What it says here in the...I'll just read what the county is expected to do. "In connection with approval of any redevelopment plan which includes the use of tax increment financing, further authorized in this section, the governing body may approve the redevelopment plan, if such plan has been approved by the county board of equalization of the county that would be directly affected by the tax increment financing. The county board of equalization may approve this plan if it meets all statutory requirements for tax increment financing imposed under the community development law." They wouldn't look at anything else. If it meets all the statutory requirements, they should approve it. If everyone is afraid of them looking at it, then I think we have a problem. I don't see, if all the requirements are met...county boards meet weekly or biweekly. I don't see that it's a long-term delay in a project, not when you've been working on something for a year, year and a half, I don't see that. I don't understand that portion as what you're afraid of for somebody else, especially whose money you're taking, in a way, because of that redevelopment. The biggest question I guess always when we talk about TIF projects is the but/for clause. And I would maintain that that is probably the biggest portion of what I would call the abuse that happens in TIF financing. And I didn't come here to try to tear down TIF projects, I like TIF. I don't have a beef with it, I think it's a useful tool, I don't want it eliminated. Data may show that it doesn't do what some people are thinking it does, I won't argue with that, I wasn't here to discuss that. I was looking here more at the oversight and making sure that the statutes are required are met. That's all I'm looking for. And as we go through and look at the different things, I mean, if a business can only come locate because of tax increment financing...yes, there are some cases of that, but I think more by and large, when I've talked to CEOs and anybody else that wants to locate somewhere, their number one concern is qualified individuals to work. Tax increment financing or any kind of tax incentives to locate here are way down the list. All they want is stable tax policy, they don't even really complain so much about

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taxes so much as they do stable tax policy that they can build into their model. Yes, there are places for tax increment financing to work, and especially in redevelopment, where you have to tear down buildings in order to put something new up. There's costs involved there where if you're developing clean property, it's a whole different aspect of development. So I guess when I hear that, you know, in North Platte where they came in, developed a property, but then they put in infrastructure into other property that's for sale now, and I look at that and I'm saying that the counties, the school districts, the NRD they paid for that infrastructure. You know, it wasn't Menards or someone else. It's that tax revenue that could have gone to the county and the NRDs and all those locations, and it put in infrastructure for some more future development. Great, if that's that way they want to do it, but let's follow the rules and regs that we've set up and make sure it meets those then, and let them do it. I think economic development need all the tools we can get, but let's follow the statutes that were created and make sure we're doing it correctly. One of the comments made was, you know, none of the money goes to a developer, and that's not true. I mean, there is money can go into a developer's pocket, there's no doubt about it. TIF can be used to create the facade of a building, they can help with infrastructure that they ordinarily would have had to pay for themselves in order to develop property. So don't say that. I mean, it's a miniscule amount, but don't say that no money goes to the developer because otherwise I think most communities would make developers of projects put in their own infrastructure. We've done that numerous times in Henderson, we had residential developments, that developer had to put in the sewer, streets, and water, he did not receive any TIF financing. And there was no cost to the city, and that was borne by the lots that were sold. And so, you know, dev structure was put in by the developer. So I guess, you know, when we look at...right now there's \$2.899 billion of excess value in the state that is currently in TIF projects. That's a lot of dollars. There's \$485 million that are in residential, \$1.9 billion is in commercial, which is...that's where I'd like to see it. I like the thought we're creating jobs or bringing in businesses, creating economic development. I don't know how they label commercial and industrial--industrial's at \$61 million, I don't know what the difference would be there. And then they have some other \$899,000...but those are base values, excess values are...you know, the majority of it has been used for commercial development and I think that's where it belongs. I have no problem with that at all. And my bill does nothing about doing a residential project, I just have stated the fact that I don't like to see it being used there. With that, I'll answer any questions. [LB1042]

SENATOR CRAWFORD: Thank you. Questions? Senator McCollister. [LB1042]

SENATOR MCCOLLISTER: Thank you, Senator Friesen. Thank you, Senator Crawford. Most of the testifiers we've heard today say that Nebraska's TIF laws are the most restrictive in the Midwest. If that is the case, the fact that we don't follow the statutes precisely, and Senator Groene is absolutely correct about that, maybe that's beside the point. Would you wish to comment on that? [LB1042]

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SENATOR FRIESEN: I think if we need to develop some tools, let's develop them. Let's come up with the tools that we need, let's not just look past the rules and regs of the current law and say that we can just do whatever we want, without any oversight. Let's develop those tools that we need. If you listen to the research, when I sat in on the meeting that OpenSky had, TIF in itself did not really do much for economic development. If you looked at their data, it was very inconclusive that it accomplished anything. So maybe there's better tools we need to be looking at, instead of relying on TIF. I don't know that. I'm open to any suggestions. I mean, I've always felt that our current tax policy in Nebraska is skewed towards the bigger cities, and therefore, that's why we're having the problem out west in rural Nebraska of attracting businesses and keeping our kids out there. And in the end, it creates a more inefficient school system and everything else. We have the capacity out there also, but our kids are not moving there. And if we would take our tax policy and direct it more towards rural Nebraska, maybe we could get that turned around. But so far, we have not done that. And TIF does not help with that at all. [LB1042]

SENATOR McCOLLISTER: Thank you, Senator Friesen. Thank you, Chairwoman Crawford. [LB1042]

SENATOR CRAWFORD: Thank you. Other questions? So the question, sort of technical, but also intent question on the county language. So the county language talks about the fact that the county board of equalization may approve such a plan if it meets all the statutory requirements. So by using the word "may," that implies a project could meet the statutory requirements, but the county may still say no, this isn't an appropriate project. Or did you mean that if it...basically the county's role is just to check. And in that case, we probably want to use the word "shall." [LB1042]

SENATOR FRIESEN: We could change language there if we needed to. [LB1042]

SENATOR CRAWFORD: To "shall." I mean, but I just want to know which is your intent? Is it that the county is just a check? [LB1042]

SENATOR FRIESEN: My intent was "may" because I don't know what they may be looking at down the road that might change their minds on something. Whether it's "may" or "shall," that wouldn't make or break my bill. I like the idea of oversight. [LB1042]

SENATOR CRAWFORD: But your original...just to clarify what you're saying, your original intent is "may," because you think there are things other than statutory compliance that they may consider. [LB1042]

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SENATOR FRIESEN: We don't know that. I don't know that, so I was leaving it open in that respect. But if they want to narrow it up, if committee felt that way, I'd be open to that. [LB1042]

SENATOR CRAWFORD: And then just also the sense is that the county board of equalization has a different set of perspectives than the bond counsel and the municipality. [LB1042]

SENATOR FRIESEN: Well, when you look at anybody else they all brought up here, they all were with the entity directly related to the one getting all the money. And yes, they want to follow all the correct statutes, because if they don't do something right, you're right, the bonds are a problem. But to have oversight by...it's like having the fox watch the henhouse. It's...the county is just one step away from as local a control as you can get, but yet it's a little bit of oversight over something that's happening on a very local level. Now who best would understand it? I mean, you could give it to some state division, but I would much rather see it stay at the local level, what I would call the local level. I don't necessarily think that the state needs to have oversight in it directly like that, that's why I preferred the county. [LB1042]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you. [LB1042]

SENATOR FRIESEN: Thank you. [LB1042]

SENATOR CRAWFORD: So this will end our public hearing of LB1042. We will take a break until 5:30. [LB1042]

BREAK

SENATOR CRAWFORD: Welcome back, everyone. So we are going to open the hearing on LR399CA. Welcome, Senator Davis. [LR399CA]

SENATOR DAVIS: Good afternoon, Senator Crawford. You guys have had a long afternoon and now you are moving into the evening. I appreciate your hard work and your enthusiasm and interest. So I am Senator Al Davis, A-l D-a-v-i-s, and I represent District 43. Today, I'd like to visit with you briefly about LR399CA, a legislative resolution that if passed and placed on the ballot would give an opportunity for registered voters to authorize the total dollar amount of potential TIF projects over a predetermined time frame. LR399CA would first place on the ballot, in November of 2016, the question of whether the constitution would be amended. The amendment would require cities or villages to place before the voters a total amount of potential dollars earmarked for TIF projects over a certain period of time. The voters would be those voters in the city or village and the county and school district whose taxes are pledged for the

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TIF project. If the ballot initiative was passed, then going forward cities or villages interested in using TIF would then identify a potential dollar amount and time frame and put that question before the taxpayers in the city or village and the county and school districts whose taxes are being pledged. In this way, taxpayers would be informed of future potential obligations that would affect their property taxes. The vote would be on a total dollar amount and not about any individual TIF projects. LR399CA does not require each TIF project to be voter-approved, rather it would allow the community affected by these types of projects to cap the total dollar amount and identify the number of years TIF projects could be developed before another vote of the people. LR399CA provides another equally important opportunity, because it not only requires not only the vote of the people of the issuing city or village, but also a vote of the people of county and school district of whose funds may be pledged. In summary, this is the real crux of the challenge LR399CA is trying to correct. Today, the city or village can enter into TIF projects and do so with full transparency, but only the city weighs in on a project. And yet, funding for the school district is compromised and this in turn places pressure on the county and property taxes. Therefore, it just seems fair that entities affected by a TIF project should be able to weigh in and have a say in whether the city or village should be involved in TIF financing. With that, I am available for questions. I do have a meeting that began at 5:00 on my Spencer Dam bill, which will be heard tomorrow in the Natural Resources Committee, so I will probably leave. And my staff, Catherine Larsen, will be here to take some notes for me. We probably will waive closing. [LR399CA]

SENATOR CRAWFORD: Okay, thank you. Questions for Senator Davis? Yes, Senator Hansen. [LR399CA]

SENATOR HANSEN: Thank you, Chair Crawford. And thank you, Senator Davis. And you might have mentioned this already, but why did you choose to bring this as a constitutional amendment? [LR399CA]

SENATOR DAVIS: I hear from...in rural parts of Nebraska, where the school districts are quite large and the counties are affected, I hear from constituents there that, you know, we don't have a say when the city decides to TIF a project. And so specifically it's dealt with housing developments that are going in, where TIF is being used. It imposes burdens on the school system, but the taxpayers in that school district who may lie outside the boundaries of the city don't have a say in the decisions that are made. So it just seems to me that it's a fair treatment for them to have a stake in the decision that's going to be made for the city. [LR399CA]

SENATOR HANSEN: Okay, thank you. [LR399CA]

SENATOR CRAWFORD: Senator McCollister. [LR399CA]

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SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. Isn't this really, Senator Davis, a TEEOSA problem, rather than a TIF problem? I mean, if the school funding formula was different in some way, we wouldn't have this issue. Isn't that correct? [LR399CA]

SENATOR DAVIS: Well, I think it's a property tax problem, Senator McCollister. Which in large part, with regard to the schools, is centered around the TEEOSA funding formula, yes. Now counties are also impacted, because they're locked into an expending limit or a levy lid, so when their tax base is compromised in some way, they have a...there's a result there. But it is certainly more about TEEOSA and school funding. [LR399CA]

SENATOR McCOLLISTER: Well, I think it was Senator Hughes indicated it's primarily a tool for urban areas, so the rural areas don't utilize TIF nearly to the extent the urban areas does them. I still contend it's more of a school aid formula or the way we generally support schools in the state. [LR399CA]

SENATOR DAVIS: Well, I think that's true. You know, we've seen an explosion in the number of TIF projects in Nebraska over the last several years. So when I talk to...you know, I've got city managers in my district that are upset with my positions on these bills. And I talked to one of my city managers yesterday and he said we have to have this in order to get housing developments here, we can't do them without TIF. I said well, why can't you? Well, the developers won't come to do that unless we have TIF. So to a point, it seems to me that we are...all tax exemptions and all tax credit drive some sort of economic activity towards the result of that. So if you have competitive cities offering different developers differing TIF projects, they're going to go to the place that offers them the best deal. And now if you've got a community that's not offering TIF, they're probably going to bypass that community. [LR399CA]

SENATOR McCOLLISTER: And by the same token, the states have that same competition. [LR399CA]

SENATOR DAVIS: Yes, sir, it's true. You heard Renee talk about economic development and moving things around, and I think that's in essence what I'm talking about here. Is...so if Chadron is going to do a housing development and Alliance is going to do a housing development and Scottsbluff is going to do a housing development and North Platte, we're all competing against each other. I'm not sure who's benefiting. It's the landowner maybe, who owns the land, who can sell it for more money, or it's the developer who's able to develop the lots for less money, sell them for market. [LR399CA]

SENATOR McCOLLISTER: It's a TIF arms race, isn't it? [LR399CA]

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SENATOR DAVIS: It is. [LR399CA]

SENATOR McCOLLISTER: Thank you, Senator Davis. [LR399CA]

SENATOR CRAWFORD: Other questions? So just to clarify, as I understand from your testimony, you wouldn't be expecting voter approval of specific projects, but instead someone would say in the next 10 years we want to be able to TIF \$1 million. And that's the nature of what would be on the ballot, not for a specific project, but just an amount and a time frame. Is that your understanding? [LR399CA]

SENATOR DAVIS: Yes. But you know, there could be an individual case where a project showed up and the city just said okay, let's take that to the ballot. You know, and it's going to be a \$5 million project and it will go on for the 15 years. You know, I've heard some of the testimony that took place here today and people talk about the 15 years as not a significant amount of time. But as I said to my wife the other day, if you think about 15 years, it's one-fifth of your life. So it is a fairly significant amount of time that that property can be off the tax rolls. Retail I think is a problem. You know, when we TIF retail, we're moving dollars from one place to the other. Cities have an incentive to do retail TIFing because they're going to generate sales tax off those properties, but there's no benefit to the school and the county. [LR399CA]

SENATOR CRAWFORD: But in this case, that wouldn't necessarily be part of the ballot, just the amount and the time frame. Just to clarify. [LR399CA]

SENATOR DAVIS: Correct. [LR399CA]

SENATOR CRAWFORD: Any other questions? Thank you. [LR399CA]

SENATOR DAVIS: Thank you. As I said, I'll be waiving closing. [LR399CA]

SENATOR CRAWFORD: Thank you. So now we'll hear testimony in support of LR399CA. Welcome. [LR399CA]

RENEE FRY: (Exhibit 1) Thank you. Hello again, 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. In 2014, TIF reduced taxable property in Nebraska by \$2.9 billion and reduced property tax revenues by almost \$61 million, yet there is a lack of transparency and citizen engagement in the approval of TIF projects that is often discussed on a national level and has been a concern of both Jack Dunn and Dr. Ken Kriz, both of whom have studied TIF in Nebraska

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at length. Dr. Kriz found little if any opposition to TIF projects, even where projects were dubious and required documentation was lacking. At OpenSky's January symposium, as I mentioned earlier, Dr. David Merriman, professor at the University of Illinois in Chicago, shared his research on TIF and his findings that TIF contributes interjurisdictional competition, undermines government transparency, and that TIF simply moves development from one place to another. He explained that there is also mixed evidence about the degree to which TIF promotes development. In fact, some studies, including his own, actually find less development after TIF than before. In other words, there's no academic consensus that TIF has been successful at achieving its basic goals. I stepped out and didn't hear the beginning of Senator Davis' testimony. I don't know if he had talked...if he mentioned about the number of projects that we have here in Nebraska, as Dr. Merriman did touch on this. And he finds that Nebraska actually has a very large number of TIFed districts for a state its size. So I would wonder if it's...you know, we heard that it's the most restrictive in the area. If that's the case, I would wonder why we have so many districts relative to other states. I would just throw that out. Another point I would raise, in terms of this bill specifically, other local governments are subject to voting requirements for bonds, I would just make that point. I think there was a question about a constitutional amendment. If the question was why a constitutional amendment instead of a bill, the answer...as I understand, TIF is in the constitution and so to require voter approval, at least there is a suggestion that it would have to be a constitutional amendment. I suggest advice from legal counsel on whether that would need to be a constitutional amendment or a bill, but my understanding is that's why this has been drafted as a constitutional amendment. And with that, I would be happy to answer any questions. [LR399CA]

SENATOR CRAWFORD: Thank you. Questions? Yes, Senator Hansen. [LR399CA]

SENATOR HANSEN: Thank you, Chair Crawford. Ms. Fry, I had a question about...you referenced Dr. Kriz and his study saying there was no opposition to TIF projects. Opposition from who in that instance? [LR399CA]

RENEE FRY: From the public. [LR399CA]

SENATOR HANSEN: From the public, okay. And so is that interpreted to be that there's not enough transparency, the public should be opposed to TIF projects? [LR399CA]

RENEE FRY: There was a concern about the public's...how well the public is informed about such projects. Even when he went and he researched specific projects and looked to see whether statutory requirements were being met, and even in instances where statutory requirements weren't being met or there were other issues...in one project in particular, there was a conflict of interest issue where someone who voted on the TIF project had a financial interest in it. But even

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in cases like that, he wasn't finding that the public was really weighing-in or very engaged in these issues. [LR399CA]

SENATOR HANSEN: Were they not engaged in either direction, or just that they weren't opposed? [LR399CA]

RENEE FRY: Nope, just not engaged. [LR399CA]

SENATOR HANSEN: Thank you. [LR399CA]

SENATOR CRAWFORD: Other questions? Thank you. [LR399CA]

RENEE FRY: Thank you. [LR399CA]

SENATOR CRAWFORD: Other testifiers in support of LR399CA. [LR399CA]

RICHARD HALVORSON: Good evening, Senator. [LR399CA]

SENATOR CRAWFORD: Good evening. [LR399CA]

RICHARD HALVORSEN: I actually did not come here with the idea of testimony. My name is Richard Halvorsen, R-i-c-h-a-r-d H-a-l-v-o-r-s-e-n. But I sat after hearing all these lobbyists or whatever seemed to predict economic, you know, doom...if TIF has messed with any way, I felt I had to come forward. And plus this bill would give me as a citizen something...part of the process. And I say to TIF, it's been brought up, it's supposedly supposed to be for a deal that would not happen if it wasn't for TIF. And it's kind of hard to say, because like playing poker, the developer's got their cards and the city has, you know...look at them, they're part of the deal and of course the public has no idea what's happening, it looks at none of the cards. But sometimes it's kind of hard to believe that you would have site acquisition, plans drawn up, in some cases demolition, and they're going to say we're going to walk away if we don't get x number of dollars of TIF. You know, that's what they're kind of saying. And we've bought this...tore down these buildings, bought this site. Like for example, Innovation Campus has TIF, and I find it had to believe, you know, that they were going to walk away from Innovation Campus. I can't remember how many million dollar TIF, but hard to believe that, you know, they will walk away from that. In fact, I don't believe they would have walked away if they didn't get TIF. But they have TIF. And I say, so...in fact there's one case here in Lincoln, it's in the Haymarket, the deal was done. And the city went to the developer and said can we tack TIF onto this because they wanted the funds for the bike way or something like that. In other words, I'm going to do this. So

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the city goes to him or them and they tack TIF on it. And I think their argument was well, a city project wouldn't get done if it wasn't for TIF, you know. That was their argument. I say again...actually I can't think of any of them that have been turned down in Lincoln in the last 20 years. Again, I think it's a case of developers know it's there, so they're going to ask for it, and they probably know they're going to get it. And again, there's not...I suppose a citizen maybe could dig in to it more, they might give you some more information, but basically you just, you know, go up there and...like I said, there's usually token opposition sometimes, for some of these TIF projects. But I cannot think of one that's been turned down in 20 years. And plus there's another aspect. If the TIF, say \$2 million or \$2.5 million, for a project, and then we only spent \$2 million, well the city doesn't give that money back to the taxpayers. Now I don't know, maybe there is not a mechanism, you know, maybe they can't give it back. But like I say, what they do is they put it in a fund and then they, well, build something that's not directly related to the project. But it goes to the city and they keep...I forget how many they spent...\$3 million or \$4 million last year on excess funds--TIF, it was for city projects. But again, I kind of think that you'd think there would be some way they could go to the taxpayers and say well, guess what, we're only going to TIF this much. But they don't. Again, TIF, like the (inaudible), and they said well, it's all spent on public improvements. Well, like the senator said, no it's not, not all of it. Not all the time anyway. TIF has been used for land acquisition. In one case here in Lincoln it was used to help pay the insurance, you know, for the building project. So it's somewhat, you know, it's not really what you call public. I mean, I suppose they could argue well they need the insurance to do the deal, I guess. But I say again, some of it does "go to the developer's project." Again, I think some think this is the best tool we have for development, and maybe it is. In that case, maybe this body ought to think of a different tool. Because like I said, I think that's the law. In fact, in one case--Hudl, he said this is what we can offer you, you know, it's through TIF, but unfortunately this is all we can offer you. And I think the implication was we would like to offer more, but according to what we can give you, this TIF is all we can offer. So again I say as a citizen I guess I would like to have maybe the final say. I could look at it and say I think they're going to do it without the TIF. And this bill would give me as a citizen the opportunity to do that. So thank you for your time. [LR399CA]

SENATOR CRAWFORD: Thank you. Any questions? Thank for feeling welcome to come testify. I appreciate that. Anyone else wishing to speak in support of LR399CA? Anyone wishing to speak in opposition to LR399CA? [LR399CA]

MIKE JACOBSON: Thank you, Madam Chair and committee. Thank you again for giving me the opportunity to speak. My name again is Mike Jacobson, from North Platte, Nebraska. I am chairman of the North Platte Community Redevelopment Authority and president and CEO of NebraskaLand National Bank. I would like to maybe mention first that my opposition to the LR399CA, is really focused on the fact that this is just another barrier to approval. I mean, imagine if you will, I think of probably one case where I look at state senator salaries, and in my

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opinion they're quite low, but it seems that we've had a hard time getting voters to raise it. I think to try to put this on the vote of the people to set a number, where would you set the number? In the case of Walmart, that was almost a \$20 million TIF project. What number do you put out there that the voters would say yeah, I like this, let's go for it, when we don't have a project in mind? I just think it would be very confusing, it would be another barrier to getting these things done when we have the adequate checks and balances in place today. Let me also just tell you a little bit about how the real world is working in our part of the state. North Platte is 225 miles west of here on the interstate, where our population is 25,000. It was 25,000 in 1980, it dropped down very low and has come back to 25,000--we seem to be kind of stuck there. I would tell you, as you look at Scottsbluff and North Platte and Kearney and Grand Island and then come on up in the fishhook, those are your regional trade centers. As we look at the aging population in the rural communities, if we don't have retail, if we don't have educational facilities, if we don't have medical facilities, and if we don't have housing in our regional trade centers, when we have people who retire from the farms and ranches they're not coming to our county. And guess where they're going? Where most of them have been going: Lincoln and Omaha. Is that really what we want going on in the state of Nebraska? So the point is, is that how do we create...and I like the testimony from the last presenter, about if you want to create a better mousetrap, I would invite you to create it. But I would invite you to create it before you take away the only lifeline we have, which is TIF. We talk about, OpenSky talks about the 30,000 foot aerial view of TIF, but if you zero in to North Platte, I can assure you that if we had not TIFed Walmart it would be in Colorado. That didn't move elsewhere in the county, it didn't move elsewhere in the city, it didn't even move elsewhere in the state, it would have gone to Colorado. We would have lost that major economic development benefit. There is no doubt that the truck stop, the truck wash, and a lot of the other businesses that came to North Platte, including Inland Truck Parts, wouldn't have come there if Walmart wasn't there and they brought all that truck traffic in. I think that's prima facie evidence that there is a spin off effect and that TIF does indeed work. And I can show you that it's different when you try to look at...and one of the challenges I think you have is you look at Omaha and Lincoln, then you go to the regional trade centers, then you go to the smallest communities. And we're trying to make TIF law that fits all of them. That's why I think you have to leave it in the hands of the local municipalities and let them make the decisions that work for their particular communities. You guys don't go to the federal government for rubber stamping of the decisions you make. You should allow the local communities to do those decisions that help move their communities forward. I can assure you that without TIF, North Platte would be much smaller in population than it is today. And I really get concerned about...when you look at housing, housing in North Platte...I've had developer after developer come to North Platte and they said two things. Number one, the cost to build in North Platte is 25 percent higher than it is in Lincoln or Omaha. So first of all, why do you come there and build if you're a developer, if it's going to cost you 25 percent more? The other thing is that we don't have big open spaces within the city confines to build subdivisions. And I would tell you every developer tells me that if I'm going to build housing, I can't build one house at a time and make it cost-effective. If we want

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housing for workers and make affordable housing, it isn't going to happen one house at a time. And if you're going to go out and build a subdivision, the developer has to put in all of the infrastructure. Let me tell you how that worked out in 2008, before the housing crisis. I can tell you developers and banks lost a ton of money in that process, when they weren't able to sell those subdivisions. If it was caustic before, it's very caustic today to try to get people to...encourage people to come in and build absolute necessary housing for the work force. So I would just implore you again to not allow these impediments to come into statute or into the constitution. And if you want to build a better mousetrap, bring it, but let's keep this one in place until we got something better. Thank you. [LR399CA]

SENATOR CRAWFORD: Thank you. Questions? Thank you. [LR399CA]

DAVE ULFERTS: Good afternoon, good evening. [LR399CA]

SENATOR CRAWFORD: Good evening. [LR399CA]

DAVE ULFERTS: Dave Ulferts, D-a-v-e U-l-f-e-r-t-s, here with Omaha By Design, I'm on their subcommittee. I'm also representing myself as an independent developer. I will tell you I appreciate everything that you do. It has been an awesome experience to sit here and listen and try to understand and really get to the root of the issue, so I applaud your efforts. I will say three things, and in an effort...this is...I feel a little bit like I'm the villain. I'm the bad guy because I'm the developer. I get up at four in the morning to do work, so I can do my day job and invest in real estate. It's a passion of mine. I have put dozens and dozens and dozens of people to work, I have created homes that are affordable. My homes, 20 in the urban core, 26 in Leavenworth, are at a \$1.05 per square foot. I'm not gouging anybody. I'm giving 1,500 square feet of high-end product at a reasonable price. My project absolutely...Travers Row needed TIF. We were the third or fourth developer who took a crack at it. We went through six banks to get the seventh to lend to us, I've had nine banking institutions that I've given tours to in my three and a half years. It is not easy. TIF is essential. Voter approval, what about the small guy? They're going to go for bigger is better, let's not forget the little projects. My project happened because no other developer wanted it, it was too hairy. What about the small guy, what about the store front in...maybe not North Platte, but Beatrice or somewhere else where these store fronts are hard? So let's not set a voter cap on something somebody doesn't even understand. It just...it seems it doesn't pass the smell test, in terms of logical. Let's empower the people that are local to make the right decisions for their community based on the tax base that they want too. You've heard counties and cities want the same thing, they're not giving it away. There are processes, procedures, protocols to get through. The rigor is intense. I'm the developer, I'm telling you it is a learning curve that's just huge. It's very long and it's very intensive. I want to touch on transparency. I don't know that I've heard of OpenSky, I don't know the very professional gal

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here who referenced a couple studies that had no conclusion. I don't know what they're looking at. I can understand no conclusion and I can understand shifting, there are macroeconomics that are happening. Retail stores are changing. It's hard to invest and grow and grow and grow because this little thing called the internet, that is not a fad, is having a material effect. People are working from home more. There are macro things that are going on, so I can understand a study that doesn't have necessarily the conclusions. What I will leave you with is urban redevelopment, it's good in my situation. I am a proponent of public/private partnerships, that's what I believe TIF has done. I have put my own money, my own time, my own sweat, my own equity into this project. I needed public assistance to invest in streets, sidewalks, lighting, improving an area that could have been and should have been knocked down, putting in new sewers...that's sexy, let me tell you. That's a quarter of a million dollars that's fun. I had to help...now that money, the city helped through TIF, was an essential part of that. What I...as I begin to ramble here, I better focus. What I will tell you is what I've heard today...and I'm imagining myself sitting in your seats, and again I applaud you for your efforts, I take a lot of what Mike has said about North Platte. Wow, there's a lot going on in North Platte, in terms of politics, let me tell you, it must be. But what I will tell you is here is what TIF does...TIF is not the school system problem for funding. What TIF is a tool for is the drop. It makes the first initial drop in an area that is needed. The ripple effect is immense. I see it, I got a food truck next to me. I mean, there is just cool things that are happening around, and I think that's hard to quantify, it's hard to do a study. I think you just have to use good Nebraska common sense. TIF works, TIF is effective, you can see it, you can feel it. You really can. And then you get the ripple effect--15 years is a long time. My property taxes were \$4,000 a month for the properties that I bought, that tells you the condition they were in. When this project is done, it will be \$48,000 that I have to pay. Yeah, it's a public/private partnership. I'm proud to pay the \$48,000, I took the risk to do it, I'm the guy working really, really hard to make it happen. And I appreciate those that have supported TIF. TIF is an incredible tool that developers need. It helps people. Thank you. [LR399CA]

SENATOR CRAWFORD: Thank you. Questions? Yes, Senator McCollister. [LR399CA]

SENATOR McCOLLISTER: Yeah, thank you for your testimony. Thank you, Chairwoman Crawford. You do infill kinds of housing, is that correct? [LR399CA]

DAVE ULFERTS: That is correct. [LR399CA]

SENATOR McCOLLISTER: Okay, how many units do you do at a time? [LR399CA]

DAVE ULFERTS: This project was 25. [LR399CA]

SENATOR McCOLLISTER: Twenty-five? [LR399CA]

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DAVE ULFERTS: I'm sorry, 24 residential, 1 commercial this project. I have 19 additional rental homes, but this project that I've been referencing is Travers Row, is 24 front doors. Make sense? [LR399CA]

SENATOR McCOLLISTER: Okay. Since it's infill, how is it that you have to pay money for sidewalks and sewers? Aren't those already there? [LR399CA]

DAVE ULFERTS: Not when they are dilapidated, sat empty for many, many years, decay, didn't meet the width requirements, didn't meet the setback requirements, didn't meet a lot of the things that are to code, weren't wide enough sidewalks for ADA accessible. The list goes on and on. Setbacks and different things that came up with that. Sewers, back in the day, if you had a row house...this is technical, but this will answer your question. If you had a row house with two doors but separated with a firewall, it shared a sewer. To code, that doesn't work, you have to have individual sewers so you don't backup your neighbor. Which is just good public policy. But I got to put in the new sewers to make it work. So to answer your question, that infrastructure was needed to...it was just old and dilapidated. It was unsafe. [LR399CA]

SENATOR McCOLLISTER: I understand. So you'll package, put the 25 housing units together and then you go to the city and ask for the TIF financing. Is that correct? [LR399CA]

DAVE ULFERTS: I'll tell you, our project was hairy. It had lots of issues: multiple owners; we had to buy something from a bank in New York from a foreclosure; we had another individual there that was running a commercial bay, we had to buy it in three different blocks. And each time, to the last gentleman's point, there's the risk. Welcome to the real deal. Had we not got TIF, we would have knocked everything down, it would have been a flat, vacant lot so we could lower our property taxes and hold it, because we had no choice. If we couldn't go forward with this, the project was dead. And that is the absolute truth. Absolutely. [LR399CA]

SENATOR McCOLLISTER: Thank you very much. [LR399CA]

SENATOR CRAWFORD: Yes, Senator Hughes. [LR399CA]

SENATOR HUGHES: Thank you, Chairwoman Crawford. I just want to take a moment to thank you for coming and sticking out with this and compliment you on your enthusiasm for what you do as an entrepreneur. You know, that's what makes Nebraska great. Thank you very much. [LR399CA]

DAVE ULFERTS: I appreciate that. [LR399CA]

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SENATOR CRAWFORD: Any other questions, comments? Okay, thank you very much.  
[LR399CA]

DAVE ULFERTS: Thank you. [LR399CA]

SENATOR CRAWFORD: So come on up. We're still hearing testimony on LR399CA.  
[LR399CA]

JENNIFER TAYLOR: Good evening, Senator Crawford and committee. I'm sorry we moved into that. My name is Jennifer Taylor, J-e-n-n-i-f-e-r T-a-y-l-o-r, and I represent the city of Omaha. First, I would just like to share with you that I've met Mr. Ulferts before, and I see gentlemen or I see developers like him in my office and in my building every day. And I can only strongly encourage you to listen to the words he said because the things that Mr. Ulferts said are repeated to me by developers on a regular basis. Infill urban development is extremely challenging for exactly the reasons he just said. And that is why TIF is imperative to particularly the eastern part of Omaha. We would not have the development, the growth, and the great things happening in the eastern part of Omaha without TIF. Absolutely would not. And he is right, I don't think there's a study that can really quantify when you walk downtown, when you walk to Blackstone, Midtown Crossing, Benson, you see the effects. And not just the effect of the TIF project itself, but the ripple effect that comes from that. But speaking of specific TIF projects, since one was brought up earlier, I'd like to share with you that in 1996, city of Omaha undertook a redevelopment plan for northeast downtown. At the time, northeast downtown was primarily industrial, it contained the Campbell's soup plant, there was several large blocks covered with industrial plants. At that point in time, that redevelopment plan in 1996, identified a vacant parking lot that would be ideal for a large office building x'd right there on the plan. Perfect for an office tower in 1996. In 2015, plans for that office tower finally were brought to the city. That lot sat vacant, that lot would be between 11th and 12th and Capital and Dodge, and is now the future site of HDR. So to that end, that lot has been vacant, waiting for someone to come along and build the office tower it was designed for and meant for and intended under our redevelopment plans for over 20 years. It needs TIF and they need TIF, because in order to put a 15, 16 story building on that site, you're going to have to drop footings down into the water table. That means that you have to have specific, specialized kinds of footings in order to build a building that tall on something that's that close to the water table. And in addition, there is far more excruciating engineering requirements for a building of that size. To go out to west Omaha and build a campus of four-story buildings would be much simpler, much easier, and wouldn't require TIF. But what we have done is encouraged HDR to bring 900 employees into the urban core of our city and build the 16-story office tower we've been hoping someone would build for over 20 years. Now when HDR brought those plans to the city of Omaha and they said, you know, here's our plans, here's what we would like to do, we could use some additional city assistance because not only is it going to take us extra money to engineer and design and drop

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footings into the water table and design this kind of building on that parking lot, but we're also going to do some additional public improvements that the city has no money to do: streetscapes, sidewalks, additional on-street parking, pedestrian plazas. You're going to create something that's actually a focal point of downtown. Not only are we going to do that and bring all these people downtown, but that's going to contribute to the success of the Capital District, which is the two square block area...across the street that's being developed was the site of the old Campbell's soup plant. So that all contributes and all plays off each other as to how downtown Omaha becomes more vibrant. So they have agreed to do this and we agreed to work with them on providing some additional financing. Now if at that point in time we had to stop and then say unfortunately we have maxed out our statutorily authorized, public approved amount of tax increment financing for this particular year, or how it was come to, that would have put an end to that project. They would have said well, at that point we don't have time for you to go to a special election, we don't have time for you to go forward and try and get another city vote. If you don't have that money, we'll just go somewhere else, because we need to start moving. So to add an additional level of the public vote can actually cause some severe problems for people with the city of Omaha. From what I understand, you would have either an annual vote or a biannual vote, if you did it on a primary or an annual election basis. For us to understand how much our TIF needs would be on that large of a lead time would be almost impossible. You wouldn't be able to account for possible great big projects that might come along your way or if you use up all of your money for that great big project then the small ones that come along after that are out of luck. So then your other option is to have special elections. At that point in time, you have to invest \$100,000, \$200,000, \$300,000, \$400,000 of city money to have a special election. So in addition to that, then you also have to ask the developer or the city to go through the effort of funding a public education campaign to get people to understand what they're voting for. It's another layer of approvals that is unnecessary and an additional cost to both the developer and to the city, to further a process where those approvals and those checks and balances already exist. Every single city councilman in our city, if they've got a constituent who objects to something, they get emails, they get phone calls. I see them in public records requests. So the public does object, the public will share their issues and concerns with their councilman and then they will ask their councilman to vote accordingly. So I guess really what I would say is the city of Omaha would ask you not to add this additional layer of I guess public approval request, when it's already existing today. [LR399CA]

SENATOR CRAWFORD: Thank you. Questions? Senator McCollister. [LR399CA]

SENATOR MCCOLLISTER: Thank you, Chairwoman Crawford. Ms. Taylor, you handle all the TIF projects that come to the city of Omaha? [LR399CA]

JENNIFER TAYLOR: I am generally the city attorney in the city attorney's office that handles TIF, yes. [LR399CA]

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SENATOR McCOLLISTER: How many projects have you looked at this year? Or let's say in 2015? [LR399CA]

JENNIFER TAYLOR: In 2015, probably say 15 or 20. [LR399CA]

SENATOR McCOLLISTER: Fifteen or twenty. And how many went forward after your inspection? [LR399CA]

JENNIFER TAYLOR: Well, I would probably have to clarify that. I do not sit on the TIF committee, the city attorney sits on the TIF committee. So as far as how many applications came into the city, I cannot tell you. I see them after they probably end up going to the planning board and the city council. So all the projects that I looked at did go forward. [LR399CA]

SENATOR McCOLLISTER: Do they ever reject any? [LR399CA]

JENNIFER TAYLOR: Does the city of Omaha reject TIF projects? They do. [LR399CA]

SENATOR McCOLLISTER: I mean, what percentage of the projects that come to the city are ultimately rejected? [LR399CA]

JENNIFER TAYLOR: We receive TIF applications that are rejected and sent back. I cannot give you an exact percentage, but I know probably at least four or five last year that we received applications for were denied before they even went to TIF committee or at TIF committee. [LR399CA]

SENATOR McCOLLISTER: Berkshire Hathaway, TIF did a project at about 78th Street, just north of Pacific, for a new office building. It's across the creek from Nebraska Furniture Mart, are you familiar with that one? [LR399CA]

JENNIFER TAYLOR: 70th Street and Pacific? No. [LR399CA]

SENATOR McCOLLISTER: Okay. And they, with a vote of the city council, they TIFed that project. And Warren Buffett and Berkshire Hathaway did not need TIF financing for that project. [LR399CA]

JENNIFER TAYLOR: When was that project done? [LR399CA]

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SENATOR McCOLLISTER: 78th and Pacific. [LR399CA]

JENNIFER TAYLOR: When? I'm sorry. [LR399CA]

SENATOR McCOLLISTER: Two years ago, three years ago. So it was just a curious thing to me. I just wondered how many projects are actually ever denied from the city of Omaha or any other...the gentleman from North Platte said there was one out of five or something like that, which would indicate a 20 percent rate. So I'd be interested to know for what reasons projects don't move forward. [LR399CA]

JENNIFER TAYLOR: We will reject projects for any number of reasons. Either it does not meet our master plan, it does not need TIF financing. We have a general, I would call it an unwritten, rule that we don't entertain TIF west of 72nd Street because in the city of Omaha TIF is mainly intended for urban redevelopment of the eastern part of the city. [LR399CA]

SENATOR McCOLLISTER: Well, the project that I just spoke of is in fact west of 72nd Street. [LR399CA]

JENNIFER TAYLOR: I know. It's just I'm not familiar with that project, so I'd have to go look that up. And I'd be happy to do so and let you know what I find. [LR399CA]

SENATOR McCOLLISTER: Thanks, Ms. Taylor. Thanks, Chairwoman Crawford. [LR399CA]

SENATOR CRAWFORD: Thank you. Other questions? Senator Howard. [LR399CA]

SENATOR HOWARD: Just to pay you back on the west of 72nd, does that include the Crossroads Development? Is there any intention to TIF that? [LR399CA]

JENNIFER TAYLOR: The Crossroads development is actually within a community redevelopment area and so it was designated blighted and substandard. And it is one of the few areas that we do have that's west of 72nd street. But because of the nature of that project and some of the surrounding areas it was deemed to fit the definition of blighted and substandard. But that's actually an interesting question because when that area was originally designated as blighted and substandard and it had an entire community redevelopment area, there was a public hearing and it was put before the public. And there was objection and there was disagreement with the area that was done, particularly the Westside Community Schools objected to portions of their school district being included. As a result of that public opposition...that public input, several sections of that community redevelopment area were removed and it was reduced to a

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much smaller, and primarily to the Crossroads area. So Westside schools voiced their objection and their objection was listened to and adhered to. [LR399CA]

SENATOR HOWARD: Thank you. [LR399CA]

SENATOR CRAWFORD: Other questions? Thank you for your testimony. [LR399CA]

JENNIFER TAYLOR: Thank you. [LR399CA]

DAVID LEVY: Good evening, Chairwoman Crawford, members of the committee. David Levy, D-a-v-i-d L-e-v-y, Baird Holm law firm, appearing in opposition to LR399CA as registered lobbyist for Turner Park North, board member for Nebraska Association of Commercial Property Owners, Omaha By Design, and again saving you a testifier for the Eastern Nebraska Development Council. I'll show you I've crossed out about two-thirds of my testimony, so I'll try to keep it extra brief. East Campus Realty and Turner Park North commissioned Professor Ernie Goss, of Creighton University, to conduct economic impact analyses and development feasibility analyses of both Midtown Crossing and the area between Midtown Crossing and Interstate 480. Those studies confirmed it is critical to maintain TIF as a viable redevelopment tool in Nebraska. Those studies also found...and the handout I sent around, I believe with respect to LB719, much earlier today, goes into detail, so I will not. But just in summary, those studies found that Midtown Crossing will in the short-term, so before it all comes back on-line, generate more than twice as much tax revenue as it received in TIF support on an annual basis. As I explained when we talked about it earlier, Midtown Crossing also resulted in significant increases in valuations in the blocks surrounding the project, which were not delayed in their appearance on the tax rolls or to the benefit of OPS, where I have three kids, by any TIF financing. So those benefits to the tax rolls were immediate. And ultimately, Midtown Crossing will result in hundreds of millions of dollars in evaluation in the city of Omaha. There was nothing like and there is nothing like Midtown Crossing in Omaha, so it is truly growing the base. It is not shifting a use from one place to the other, it really is unique, so I wanted to address that. LR399CA would insert such cost and uncertainty into the TIF process as to effectively kill TIF really probably for all but the biggest projects, as Ms. Taylor explained better than I can. It would be those very biggest projects that would have the wherewithal to wait and fund a special election, if this were done on an annual basis...or it could end up being on a project basis. So again, TIF is incredibly valuable, you've heard that from many. And LR399CA would put such a crimp in the process and such a process on the process as to effectively render TIF unusable. So thank you. [LR399CA]

SENATOR CRAWFORD: Questions? Thank you. Welcome. [LR399CA]

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TOM HUSTON: Thank you, Senator Crawford, members of the committee. My name is Tom Huston, T-o-m H-u-s-t-o-n, appearing before you today on behalf of the Nebraska Chamber of Commerce, Lincoln Chamber of Commerce, the Greater Omaha Chamber of Commerce, and the Nebraska Bankers Association. I'm going to try to restrict my testimony just to a couple of things. First of all, we oppose LR399CA, primarily because I've read it and I've read it and I'm still not certain how to advise any client to undertake putting this type of ballot before the public. If it's on a project by project basis, I think that would eliminate TIF in the state of Nebraska, but otherwise, I don't think our crystal balls are clear enough to be able to forecast what projects may be coming a year from now, next month, two years from now, and to be able to forecast on some periodic basis what the amount that the city is willing to capture and, for tax increment financing purposes, would really crimp the ability to use the project funding as an option. I wanted to address one other thing. In my experience in working with the small towns around the state, the reason that we're not having new housing built is, A: for home ownership opportunities, the cost of infrastructure exceeds lot prices. Next week I'm going out to Arapahoe, Nebraska to try to address the problem. One answer, one portion of the solution is to be able to use tax increment financing. They have a portion of the property inside the city limits that's been there for 50 years and hasn't been developed. It lacks sewer and water, it lacks streets, the cost of the infrastructure is roughly \$750,000 for like 15 lots. Under normal circumstances, I'd advise my client don't do it, you cannot recover that cost as a part of the selling of the lots. It's their only option to be able to have some home sites within the community, and this tool is one way that we're going to at least try to get something done in the small towns. The other observation that I would have is that I'm working with some other communities where they're trying to address rental housing issues. And the fact of the matter exists: developers are not going to the other communities because the rents are not...really, the cost of constructions are not supported by the rents, and it's cost prohibitive for any developer to go in, for example, Lexington, Nebraska to build new housing, because the rents are not supportive of the cost of construction. So tax increment financing really aids that process, it helps level the playing field, it allows communities to have a tool to level the playing field. And I would encourage you to reject LR399CA because of the added uncertainty that it would bring to the equation. The one last thing I wanted to mention is whether communities turn down TIF projects. It usually happens at the application stage, it doesn't happen at the public hearing stage in my estimation. I've seen it happen for...I've seen requests made for declaring areas blighted and substandard and the community just says no, that isn't going to be blighted and substandard. Don't spend the money on hiring a consultant for the blight study because we're not going to approve it, that is not appropriate. I've seen it for...and sometimes communities do not trust the numbers that the developer brings forward or they don't really appreciate or support the kind of use that the developers bring to the table. I've researched this question enough, I know communities have discretion on whether or not to approve a tax increment financing project. They can reject it and I think they are immune from any type of lawsuit against those decisions. So I think communities do exercise that discretion that is set forth in the statute, and it is not a free for all, I think there is a very structured process...at least

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the communities that I advise, I think there is a very structured process and it's used in a very introspective and targeted method. So I'd be happy to answer any questions that you may have. [LR399CA]

SENATOR CRAWFORD: Thank you. Questions? Thank you. Welcome back. [LR399CA]

LYNN REX: Good evening, Senator Crawford, members of the committee. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appear before you this evening in strong opposition to this measure as well. I would also like to incorporate my testimony from the other two bills, LB719 and LB1042. With that, I would just like to share, just quickly, a couple of issues relative to this. As I was talking to J.D. Cox, who is the city manager of Alliance, Nebraska, one of the concerns he raised is basically if you're living in a county outside of the corporate limits of a municipality, what real incentive do you have to go vote on something of this nature? To see whether or not this municipality, i.e. Alliance, should be able to go ahead and have this type of a cap, assuming they can come up with that kind of a number? As we all know, if you live within an incorporated city or village, you pay county taxes. If you live outside of a city or village, you don't. So then the issue becomes what incentive do they really have? It's hard enough to get voters to come vote for state senators and mayors and county officials and others, so that's one concern. Secondly, how would you decide what the number should be? Norfolk, Nebraska is recently looking at a huge, huge company coming to Norfolk, and this is after they've invested every dime of their LB840 funds for 10 years to work in partnership with Black Hills to expand their natural gas pipeline. So they're in the process right now of having this huge company come. Well, so what if they had their vote two years ago, they wouldn't be in a position...they may have exceeded that limit. One of the other issues is why is it that municipalities, at least in the state of Nebraska...I think Renee made the comment, of that that there's so many TIF projects in such a small state. There's a really good reason for that, because other than LB840, of which of we only have 64 municipalities...pardon me, 68 municipalities with LB840, the rest of them and all of the cities of the state that is their primary tool, that is their only tool. So of course you're going to have a lot of TIF projects, because unlike other states, we don't have a plethora of economic or redevelopment tools at our disposal. And finally, the issue of well, isn't it true that basically it just moves around? I think that was one comment, it just moves from one city to the next. As I indicated I think in my first testimony on the first bill, unfortunately, in trying to prepare for this hearing and contacting many, many city manager administrators, it doesn't always just move from city to city. We've lost three--two to Iowa, one to Colorado, because of "pending legislation." These bills. And they're just saying we're not messing with it, we can go to Iowa right now, we can go to Colorado right now, and they did. And so we've got at least three cities that are pretty heartsick over the fact they're not even...they can't even attract them to come in and look at some sites right now. So with that, we do oppose this. We respect the fact that senators are working hard on these issues. I respect the TEEOSA issues that senators are facing, and I wish I had a solution for that, other than what the

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tax modernization committee and the Syracuse study has already presented to you. With that, I'd be happy to answer any questions that you might have. [LR399CA]

SENATOR CRAWFORD: Thank you. Questions? So one question I have. When we talk about the challenge of having other tools at our disposal, one of those is our uniform proportionate clause of the constitution. Is that correct? What impact does that have? [LR399CA]

LYNN REX: Yes. Well, I mean frankly right now, because of the uniformity clause, there are certain kinds of things that we would actually have to go in with a constitutional amendment to get the kind of tools that other states do have. So it is true that that is one of the impediments that we have in the state. But if you look at what Kansas and Colorado and other states have...in fact, Lance Hedquist told me, this was a couple years ago, when he was working on a project, whereas he has to go through a very laborious process...and I'm not saying that's good or bad, but he does, in order to be able to work with a company on certain things, one of the states with which he was competing just simply said to them, to the company, how much money do you need, wrote them out the check. We don't do that. I'm not suggesting that we should be able to do that, but I am telling you that that is the competition. And we do, again to underscore this, at the sake of being totally redundant, absolutely one of the most restrictive, if not the most restrictive TIF laws in the country and certainly without a doubt in this region. With that, I'd be happy to answer any other questions you might have. [LR399CA]

SENATOR CRAWFORD: Any other questions? I wondered if you'd care to respond to a point that was made that a city...municipalities have to have votes for other kinds of bonds. So why would the TIF, you know, the bonding that happens with TIF projects be different than other kinds of bonds that municipalities are required to have votes for? [LR399CA]

LYNN REX: Those bonds are for GO, those are against the general obligation of the city. That's not what these are. I guess an analogy, and perhaps it's not the best analogy, but the analogy would be if you're going to have a street improvement project on your street, Senator Hansen. And so you submit that to the city of Lincoln, they put together a special assessment district, you're paying that off, okay? So it's an area that is limited just to your street. In fact, last Thursday we opposed, with great respect, the Governor's bill, introduced by Senator Gloor, LB958. That particular bill would in fact require everyone in the city of Lincoln to vote on whether or not your street gets to be developed or not. We opposed that bill, that's one of many, many reasons why we did. But the point being, when it comes to votes, there's a difference in terms of the types of bonds we're talking about. These are bonds that are being paid off by this increment, if you will. And again, I don't know how else to say it, especially to the education community, if any of them are still listening, and that is simply that the cities are generating revenue and the primary beneficiary are those school districts. That's who gets the bulk of the

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money once those bonds are paid off. And again, you have three economic drivers in the state of Nebraska: the University, agriculture, and municipalities; and not necessarily in that order. I probably would put agriculture first, frankly. But at the end of the day, those are the three economic drivers. And for municipalities, those that are gross cities...and I think that Mike Jacobson from North Platte mentioned the fishhook theory, and there's a lot of truth to what's happened with that, because location, location, location by infrastructure and roads and that sort of thing. So those communities, if they don't do well, the state of Nebraska and the state's economy doesn't do well, and your state budget doesn't do well. These municipalities that are generating and are economic drivers are economic drivers not just for their local economy, for the state economy. Because again, that's where the businesses locate, that's where the people are, that's where the infrastructure is. And other than ethanol plants, quite frankly, that's where it happens when it's involving municipalities in the state of Nebraska. [LR399CA]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you very much. [LR399CA]

LYNN REX: Thank you very much. And thanks for your patience this afternoon. [LR399CA]

SENATOR CRAWFORD: Anyone else wishing to testify in opposition to LR399CA? Welcome. [LR399CA]

ERIC GERRARD: Chairwoman Crawford, members of the Urban Affairs Committee, my name is Eric Gerrard, that's E-r-i-c, last name G-e-r-r-a-r-d. I'm here on behalf of the city of Lincoln, in opposition to LR399CA. First of all, thank you all for your patience this afternoon and into the evening, I promise I will be brief. Three quick points. We generally think it's a beneficial tool in Lincoln, I think Mr. Landis laid that out. We think this is another barrier that restricts that use. Second point, responding to Senator McCollister, we have rejected projects in the city of Lincoln. As Mr. Huston pointed out, oftentimes that's early on in the process. I will see if I can get numbers for you or at least some more evidence of that and present that to the committee after the hearing. Third point, as much as I try, I'm not Dave Landis. I try to be, so I'm sorry you got me instead of him. And with that, I'll close my testimony. [LR399CA]

SENATOR McCOLLISTER: That's both good and bad. [LR399CA]

SENATOR CRAWFORD: (Exhibit 2, 3, 4, 5) Any questions? Thank you very much. Anyone else wishing to testify in opposition to LR399CA? Anyone wishing to testify in a neutral capacity? We have some letters for the record. Letters in opposition: Nebraska Economic Developers Association; letter from the Nebraska Association of Commercial Property Owners; a letter of opposition from the Nebraska State Chamber of Commerce, Greater Omaha Chamber of Commerce, Lincoln Chamber of Commerce; and a letter of opposition from Mayor Jean

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Stothert, city of Omaha. And I'll just note for the record, Senator Davis had waived closing, so we will end the public hearing on LR399CA and move to LR394CA. Welcome, Senator Hughes. [LR399CA]

SENATOR HUGHES: Thank you, Chairwoman Crawford. Good evening, members of the Urban Affairs Committee. It is my pleasure to be the opening and closing act of the committee hearings today. I will be brief. For the record, my name is Senator Dan Hughes, that is D-a-n H-u-g-h-e-s, and I represent the 44th Legislative District. I am here today to introduce LR394CA. LR394CA would put a proposed amendment to the Nebraska constitution on the November 2016 ballot, changing provisions relating to tax increment financing. LR394CA would add language under Article 8, Section 12 that would read "a taxing body may, with respect to any redevelopment project, elect to have its taxes excluded from any pledge made by a city or village. If such election is made, the taxing body shall notify the city or village of its election and the city or village shall not pledge the taxes of such taxing body for the payment of any indebtedness related to such redevelopment projects." An example of a situation where this might come into play would be if a city were to offer a TIF to a small manufacturing plant that wanted to locate close to the community. The impact to the local school district would be minimal because not many jobs would be added, and consequently, not many new children would be attending the school. Therefore, little or no added expense to the school district. If, on the other hand, the city wanted to put a housing subdivision, and 50 new families were moving into the local school district, the school's expenses would rise significantly, due to the increased number of students. The latter example might be a cause where a school district would want to opt out of the TIF program and use the increased tax base to help pay for the additional students. I am reasonably confident there would be many opponents to this bill when the time comes during the committee process. All I am trying to do with this bill is to provide that we have some sort of checks and balances when it comes to TIF. Last week, during the Executive Committee hearing on Senator Davis' bill dealing with TIF, we had an attorney who stated he handled many TIF programs with several cities and towns in Nebraska. I asked him directly: can you think of any state agency that has any kind of oversight over TIF projects in the state of Nebraska. And his answer was, and I quote, I cannot think of any. Thank you for your time. I'll be happy to try and answer any questions. [LR394CA]

SENATOR CRAWFORD: Thank you. Questions? So...oh, go ahead. Yes, Senator McCollister. [LR394CA]

SENATOR MCCOLLISTER: Yeah, thank you, Chairwoman Crawford. You cited the example of a school district that would opt out of a project. Can you think of any other instances where a taxing body would want to opt out of the TIF project? [LR394CA]

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SENATOR HUGHES: This bill only deals with school districts, but depending on county or NRD or, you know, fire department, depending on how it effects them, whether it would or would not. [LR394CA]

SENATOR McCOLLISTER: Well, the example of a school district is rather unique in that it...you know, if a housing development increasing the school population. But I can't think of many other instances where some taxing body wouldn't want the increase in the base that would result with a TIF project. [LR394CA]

SENATOR HUGHES: Well, the school districts, you know, on average take 60 or 65 percent of the property tax revenue that is generated. So therefore they do have the biggest dog in the fight, and that's why I targeted this LR394CA in that direction. [LR394CA]

SENATOR McCOLLISTER: Thank you, Senator Hughes, Madam Chair. [LR394CA]

SENATOR CRAWFORD: Other questions? Yes, Senator Hansen. [LR394CA]

SENATOR HANSEN: Thank you, Chair Crawford. Senator Hughes, just for a point of clarification. In your...right before you closed, you referenced a lack of state oversight over TIF projects. Is there anything in this proposal that is state oversight or is this more kind of intergovernmental oversight at a lower political subdivision? [LR394CA]

SENATOR HUGHES: This would be more oversight of the people who have skin in the game, I guess would be the best way to put it. Yeah, I'm not proposing we give oversight to a state agency on this, in this bill. [LR394CA]

SENATOR HANSEN: Okay, thank you. I just wanted to clarify that because I was looking forward. Thank you, Chair. [LR394CA]

SENATOR CRAWFORD: Other questions? Thank you. So you mentioned it was about schools. Is that some part of the language or just what you had in mind? I'm just seeing a taxing body. Did you mean to restrict it to schools? [LR394CA]

SENATOR HUGHES: Yeah, schools were the primary taxing body that I was headed for. [LR394CA]

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SENATOR CRAWFORD: Okay. I believe, as I read it, it looks like it would be any taxing body. [LR394CA]

SENATOR HUGHES: That is the way that it looks. [LR394CA]

SENATOR CRAWFORD: So it's one of the challenges often with putting something in the constitution is the language has to be short enough to fit on a ballot. So one of my concerns here is when would they have to say yes or no? I mean, if it's some time early in the process, when the decision is made whether or not to offer TIF and they're deciding whether or not they're willing to pledge, then one could imagine a process that they would decide and then the decision could be made whether or not to offer TIF, based on how many taxing entities are on board. As the language is right now, I worry that someone...some taxing entity could, after the project gets rolling, say hey no, no thanks. [LR394CA]

SENATOR HUGHES: I guess my intent is that the school district would have an opportunity to have a say in whether or not they approve TIF projects. I would...you know, it just provides more transparency. If there's discussion of having a large housing development come in, then I mean, the district would be informed of that and an election would be called in order to let the voters, the taxpayers, the people who are being affected by that, have a say in whether it moves forward or not. [LR394CA]

SENATOR CRAWFORD: As I understand your bill, that would not take it to the taxpayers, it would be say the school board would vote and say we don't want our money pledged. Am I on the right...LR394CA. "A taxing body may elect to have its taxes excluded." So it would be like the school board or the county commissioners would have a vote. [LR394CA]

SENATOR HUGHES: I'm sorry. That is correct, I misspoke. Yes, you're correct. I apologize, it's been a long day. [LR394CA]

SENATOR CRAWFORD: That's all right. I just want to make sure we are all literally on the same page. [LR394CA]

SENATOR HUGHES: Yes, you are correct. I apologize. [LR394CA]

SENATOR CRAWFORD: Okay. All right, and so again, I think one of the key considerations that you'd have to have is some time line or some way in which determining when that choice was made, as opposed to leaving it open. Because there would be no way of having someone try a project or... [LR394CA]

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SENATOR HUGHES: Right. Well, apparently, you know, during all the testimony we've heard today that there are numerous hearings that go on when TIF projects are proposed. This would just give when the school board or the taxing entity is notified, that it gives them some veto power over a project. I mean, the time line is probably already in place because of the notifications, so it just gives the taxing entity that's going to potentially lose revenue because of this have a say, rather than just have a rubber stamp. [LR394CA]

SENATOR CRAWFORD: Okay. So if a taxing entity chose not to be involved, should they still get any increase in valuation, or should only those taxing entities that put their taxing authority on the line get the benefit? So if they say no, and tax revenues increase, should the school then not get that increment and it just goes to the entities that put their increment on the line? [LR394CA]

SENATOR HUGHES: I guess I don't...I'm not quite tracking. [LR394CA]

SENATOR CRAWFORD: Okay. So if there is a TIF project and then you do see an increase in property valuation in that community, right, but the school said hey, we don't want our tax increment at risk, we don't want our tax increment involved in that. When the bond is paid off and the new higher valuation is there and the money flows back into property taxes, should the school, if the school said they didn't want to take that risk, should they get any of that added property value? Or should that added property value only go to those taxing entities that were willing to put their increment at risk? [LR394CA]

SENATOR HUGHES: Well, once the bond...once the TIF project is completed and is paid off, then I would assume everything would go back to the way it was before. That all property would be assessed and parcelled out to the subdivisions as it was previously, as it was in the beginning. [LR394CA]

SENATOR CRAWFORD: So the school would still get the benefit, even though they didn't step up to share the risk in that case? [LR394CA]

SENATOR HUGHES: I don't know that there is any additional benefit to them if they are...I mean, if it takes 10 years to complete the project, they are getting their increase in value they're being taxed. So once it hits the top end, I mean, the number should be the same. Or am I not following? [LR394CA]

SENATOR CRAWFORD: So in most cases, the idea behind the tax increment financing is that you have this increment, this added value that happened because of the development, right? So

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while they are paying off the bond, that increment is going to pay off the bond. As soon as the bond is paid off, that added valuation goes back to all the people who get that property tax value. So my concern is that...so the question was if any taxing entity elects not to have their taxes pledged for the increment, should they get the benefit of the added property value after the bond is paid off? Or should it only go to those taxing entities that were willing to pledge their increment? [LR394CA]

SENATOR HUGHES: I think once the bonds are paid off, the proportions should go back to the way it was before the beginning of the bond. [LR394CA]

SENATOR CRAWFORD: Okay. So then in that case there would not be...the incentive for everybody else would be to say no because they get all of the benefit and have none of the risk. [LR394CA]

SENATOR HUGHES: And that's part of the problem I have with the system we currently have, because if you are...all of these entities are notified--the NRDs and the school districts, and you want to come in and complain, that's kind of like arguing against apple pie and motherhood. The no, we don't like, you know, economic development. No, it's going to be bad for us. But they don't have any veto power, so they're arguing from a position of disadvantage. If the school district is going to be adversely affected and if they're going to have a huge influx of students because of that development, you know, there is a cost to that taxing entity, so they should have opportunity to not just sign off because economic development is good for everybody. [LR394CA]

SENATOR CRAWFORD: But still be in the same place as everybody else if it happens? [LR394CA]

SENATOR HUGHES: At the end of the project. I think that would create a bookkeeping nightmare that the county assessors would not like. [LR394CA]

SENATOR CRAWFORD: Yes. Questions? Senator McCollister. [LR394CA]

SENATOR McCOLLISTER: Yeah, thank you, Chairwoman Crawford. You indicated that there is some potential for a school system to actually lose money with the issuance of a TIF project. Is that correct? [LR394CA]

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SENATOR HUGHES: I don't recall that I said that. They're losing the revenue that would be generated from the increase in the tax base, yes, until the TIF bond is paid off...or until the TIF project is finished, I'm sorry. [LR394CA]

SENATOR McCOLLISTER: Okay. But you know, when the TIF occurs, they maintain the current property tax and that continues to flow to the school systems, isn't that correct? [LR394CA]

SENATOR HUGHES: Yes. [LR394CA]

SENATOR McCOLLISTER: Okay. So I guess that takes care of me. Thank you, Senator. [LR394CA]

SENATOR CRAWFORD: Okay. Other questions? Thank you, Senator Hughes. So we will now hear testimony in support of LR394CA. We appreciate your patience. Welcome. [LR394CA]

JD SCHLUNTZ: (Exhibit 1) Thank you. J.D. Schluntz, supervisor in Harlan County, District 1. I'm also a member of Nebraska Cattlemen. I've heard a lot about how TIF works in the big cities. [LR394CA]

SENATOR CRAWFORD: Could I have you spell your name one more time, just so we have it... [LR394CA]

JD SCHLUNTZ: S-c-h-l-u-n-t-z. [LR394CA]

SENATOR CRAWFORD: Thank you, sir. [LR394CA]

JD SCHLUNTZ: I'm kind of new at this, I didn't get paid. We've heard how it is in the big cities, but out where I come from, the cities of Holdrege and Alma, if you want to build something, the city fathers will blight it and give you TIF. It doesn't make a difference where it's at in the city. At that point, the value the assessor has on the property will be frozen for 15 years, regardless of if inflation goes up. I mean, if it's a narrow piece of ground or whatever, could increase in value. I mean, if they'd have froze my farm when I put a pivot on it for 15 years, that would have been nice if the value went up. And the treasurer will send you a tax statement in two parts, one for the taxes due on the frozen value and one for the taxes due on the improvement value. When the property owner pays the taxes, the treasurer will send the amount of taxes on the improvement to the city, which will in turn send it right back to the property owner. Every parcel in the city Alma and Holdrege has been done this way. And we got this deal, it's supposed to be blighted and

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substandard, then you won't build it unless you get TIF. Well, in 2004, the Veterans Administration hospital in Grand Island decided they wanted a clinic in Holdrege. They contracted with a builder in Kearney to build it and the Veterans Administration leases it from the builder. About the same time the lease was signed, the city of Holdrege granted TIF. I do believe the Veterans Administration in Holdrege regardless of whether they got TIF or not. In 2014, the taxes on the original amount were \$1,180.12, the taxes on the improvements were \$14,888.38. If it were not for TIF, the county would have got an additional \$1,400 in taxes and the school district would have got approximately \$7,500 in additional taxes. Those taxes were made up in the state financing. Now for my cattlemen's part. The cattlemen have got a resolution against TIF. I think I got time. Whereas lowering property tax and leveling the playing field in tax generation creates an incentive to promote and develop expansion of business in Nebraska; and whereas allowing your property taxes for only specified business raises property taxes for other business; whereas the Nebraska Cattlemen, whose tax increment financing has gone beyond its original intent, where it is unfair to allow cities to restrict the ability of school districts, counties...I don't want to miss municipalities in there...they're the ones, natural resources districts, fire districts, education service units, community colleges, cemetery districts, health districts, among others to collect property taxes within their respective boundaries on new constructions within the city limits, due to tax increment financing. We kind of believe that's wrong. And we've talked about the county is supposed to get notice, well, we have got notices. We look at it, so what we do--nothing, throw it in the trash. I mean, we have no recourse with a notice, we know what's going on. And I guess I got to officiate the people (inaudible) pay you by the hour. [LR394CA]

SENATOR CRAWFORD: Any questions? So you receive the notice, but you haven't gone to a hearing? [LR394CA]

JD SCHLUNTZ: I have been to a hearing on nonpartisan ballots for county officials. I got a little problem with my voice right now, I had cancer in my mouth. I'm sorry. [LR394CA]

SENATOR CRAWFORD: That's all right. Thank you for being here and thank you for your patience. I appreciate your testimony. [LR394CA]

JD SCHLUNTZ: I think I've learned a little how it works and I hope you have too. [LR394CA]

SENATOR CRAWFORD: Thank you. Other testimony is support of LR394CA? Welcome back. [LR394CA]

RENEE FRY: (Exhibit 2) Thank you. Good evening, 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

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Institute. We support LR394CA because 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 rely more heavily on property tax dollars as a share of their total budgets than do cities, yet they don't have a say in the process. For fiscal year 2015, K-12 property tax revenues were reduced by about \$30 million due to TIF. About \$22 million of which was offset through increased state aid, reducing the overall funding for K-12 by about \$8 million. For other local subdivisions, property tax revenues are reduced with no offsetting compensation from the state. We estimate the losses for these subdivisions to total nearly \$30 million, including approximately \$8 million for counties. As you heard earlier, under the current system, state aid offsets approximately 97 percent of lost property revenue due to TIF. Non-equalized districts and other local government entities must rely on other taxpayers to make up the loss of revenue or cut services. Given the loss of revenue to these localities, we believe that they should be able to opt out. I want to correct a statement that was made earlier about...that I said that there is no conclusion about whether TIF grows the tax base. I would reiterate that the research on this point is really mixed, not that there's no conclusion. There's a fair amount of evidence that TIF simply moves development from one place to another and mixed evidence about the degree to which TIF promotes development, with some research finding less development after TIF than before. So some of that research finds that TIF does promote growth; some of it finds that TIF does not promote growth, but actually results in negative growth in a district with TIF; and some research is mixed. Take the study done by the Neighborhood Capital Budget Group, a coalition of 200 Chicago organizations that studies local public investment. They looked at 36 of the city's TIF districts and found that property values were rising, and all of them during the five years before they were designated as TIF. The NCBG projected that the city of Chicago would have captured \$1.6 billion in second stream property tax revenue used to pay off the bonds that subsidize private businesses over the 23-year lifespans of these TIF districts. But it also found that \$1.3 billion of that revenue would have been raised anyway, assuming the areas continued growing at their pre-TIF rates. Chicago invested \$1.6 billion in TIF, even though \$1.3 billion in economic development would have occurred anyway. So the bottom line is that the city invested \$1.6 billion for \$300 million in revenue growth. The study also found for instance that TIF districts cost Chicago public schools \$632 million in property tax revenue, based on development that would have occurred anyway. Since TIF diverts tax dollars that otherwise would have been used for government services, we support the ability of these entities to opt out. As I said earlier, there is nothing that prevents cities now from appropriating tax dollars to fund improvements sought through TIF without impacting the property tax revenue of other government entities. Ultimately, we support LR394CA, as we believe it will raise the bar for TIF projects, ensuring that they benefit the broader community. I do want to comment on a couple of other things. There was a comment about Walmart moving to North Platte. The reality is that Walmart wouldn't have gone to North Platte unless there was a business case to do so. Furthermore, I suspect that Walmart is now competing with other businesses in North Platte who did not get the benefit of TIF. In terms of the timing question that you asked, my understanding or my recollection from a long time ago

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when I used to work here, the way that this would work is that if the constitutional amendment passed, then it would be up to the Legislature to implement through statute. So the timing issues would be addressed at a later date, through the legislative process, through statute is my recollection. One final point. There was a comment made about my comments about HDR and the person from Omaha certainly made a very compelling reason for why the city would want them to locate in that particular area. But again, there's no net benefit to the community or those other local governments. So there is a reason the city would want them to be there, but if they were to move...she made a comment or reference that maybe they would have moved to a different part of the city, in which case then the school districts and county would still be receiving that revenue, but by moving to this particular area they would be giving up that revenue. So again, I would reiterate that if the city wants a business to locate in a particular area and want to provide support for infrastructure, they can do that in other ways, such as appropriations. With that, I'd be happy to answer any questions. [LR394CA]

SENATOR CRAWFORD: Questions? Yes, Senator Hansen. [LR394CA]

SENATOR HANSEN: Thank you, Senator Crawford. Ms. Fry, I wanted to address your point about in the instances of just moving things around. I'm going to talk a little bit about my area. So I live in northeast Lincoln--I live in University Place. University Place has been blighted, been frankly and unfortunately, justifiably so. You know, we have a large department store that burnt down 15 years ago and it's still a gravel lot, and various other issues like that that we're struggling with. You know, if TIF is truly just moving things around, I feel like though I could go back to my constituents if I were say like a city council person and point to it and be like I moved something from south Lincoln to north Lincoln where they're...you know. So although it wouldn't necessarily change the budget for the city of Lincoln, and maybe that point is true, it wouldn't really drastically impact say some of our older core neighborhoods, would it not? If you're talking about shifting around, it's not just about what budgets get affected by the property tax revenue, it's about what parts of town get revitalized I guess. [LR394CA]

RENEE FRY: So two points, if I understand your question correctly, that I would make. So please tell me if I'm not addressing it. One, we haven't said that TIF is bad, right, there are legitimate purposes for using TIF. But it does result...as it works, the city is giving up revenue for...making decisions to give up revenue for other local governments so that they have a net loss in revenue. But that it doesn't necessarily mean that their tax base is going to grow over time, right? So if they would have relocated in a different area, that's an outright loss of revenue without growth in the tax base. So it negatively impacts those other districts and they don't have a say in that. Now there may be, as I have said before, legitimate reasons for the city wanting a business to locate or to revitalize a certain part of the city. But again, in Omaha anyway, the city's portion of those property tax dollars are 22 percent, so they're obligating almost 80 percent of tax dollars for other entities that may not benefit from where a particular business is located. That's

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the particular issue that we have, is that these projects don't necessarily grow the tax base and yet, we're giving away these property tax dollars. And that decisions is being made for other entities who then lose that revenue. Which means that they're either cutting services or they're raising taxes and getting that from other taxpayers. And that's really our issue. So our issue is not...we wouldn't propose elimination of TIF, but we do believe that these other local entities should have a say in whether they see a benefit from that project or not. Did that answer your question? [LR394CA]

SENATOR HANSEN: I think that was on point. I do agree that was more of a statement I asked you to respond to. So thank you, I appreciate it. [LR394CA]

SENATOR CRAWFORD: Senator Howard. [LR394CA]

SENATOR HOWARD: I apologize, it is late and I just absolutely forgot my question. So I'll ask the first question that came to mind, which was how...are there any Nebraska communities that can be equally compared to Chicago? [LR394CA]

RENEE FRY: So...yeah, I mean, I'm just using this as an example. [LR394CA]

SENATOR HOWARD: I mean, I used to live in Chicago and so I'm asking the question legitimately, because I don't think we have any. [LR394CA]

RENEE FRY: Yeah, no, that's fair. But I would tell you that there have been a number of studies. Again, we had Dr. Merriman come in, who has looked at TIF projects across the country. I mean, this is just one example that I pulled off that was very specific. But there's certainly been research done in other parts of the country that would likely be more comparable. I just honestly I pulled off the first example I found on the Internet last night. But there's lots of academic research on this that Dr. Merriman spoke to. Again, there have been studies that had found positive results, but there have been studies that found mixed results and have been studies that found negative. And I want to clarify this point too. What Dr. Merriman found and what he spoke to, when he was here in January, was that there's clear and consistent evidence that TIF ends up moving projects around, which is a separate point than the one...what he found, is that TIF districts...he found that in TIF districts it actually has less development than it would have without the TIF. Two different issues. So there's pretty much academic consensus that TIF leads to moving projects around. They would have happened somewhere and the TIF just puts them in a particular area. But the second point that he made, that I think is even...calls into question the use of TIF even more, is that his research finds, and he found when looking at other academic studies, some find positive growth after TIF, some find mixed growth, and some find negative growth. And his research in particular actually found negative growth after TIF. Two different

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issues that I just want to clarify that. So yes, I will grant you that Chicago wouldn't be, you know, on point, but I'm not familiar with any research that's been done...to this type of research that has been done in Nebraska specifically. [LR394CA]

SENATOR HOWARD: Lucky for you, it took you long enough to answer the question, so I remembered my original one. It sounds like your goal is to increase engagement for entities that are going to be impacted by TIF. Could this aim be met by something other than an opt out? [LR394CA]

RENEE FRY: Sure. As I think I testified before, there have been prior efforts to include representation from impacted local governments in the decision-making process. That there has been legislation that has been before this committee previously that would achieve that. I mean, our primary concern are twofold. One, our concern is transparency, just making sure...there has been research done specifically in Nebraska, Dr. Ken Kriz did look at some case studies and raised some concerns about transparency. And if you look at the national literature, transparency comes up quite a bit. The other concern that we have is whether these taxpayer dollars are being used for the best public benefit. And that's where we're concerned when you are choosing...not you, but when there's a decision to use taxpayer dollars for this, you know, private development, at the expense of using it for schools or for roads or for other public services. And so those are our two main points here. Doesn't necessarily mean that this has to be the way to do it, but that's the position and that's where we're coming from. [LR394CA]

SENATOR HOWARD: Thank you. [LR394CA]

SENATOR CRAWFORD: Thank you. Other questions? Senator McCollister. [LR394CA]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. OpenSky has long advocated for increased school aid from the state, correct? [LR394CA]

RENEE FRY: Yes. [LR394CA]

SENATOR McCOLLISTER: Okay. In your third paragraph, you indicated that, you know, by using TIF projects it reduces property taxes that could be going into school systems. So isn't that kind of at odds with your long-held position about increased school aid? [LR394CA]

RENEE FRY: Not at all, because in this case the state aid is being used to supplant property tax revenue that has gone away, rather than being used to provide additional support and therefore less reliance on property taxes by schools. [LR394CA]

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SENATOR McCOLLISTER: I see. But we talk about \$22 million from the state aid to school, out of \$1 billion, you could almost argue that's small change. [LR394CA]

RENEE FRY: And it depends on the district though, right? And \$22 million was the reduction in state aid, but it's about \$30 million revenue loss for schools. I agree... [LR394CA]

SENATOR McCOLLISTER: Statewide? [LR394CA]

RENEE FRY: Statewide. So you do have schools that are not equalized who, you know, have to make up that lost revenue either by cutting services or by raising their levies on other property tax payers, right? So again, is the amount huge? No. But still, it does put districts in a position of having to make choices about... [LR394CA]

SENATOR McCOLLISTER: Okay. Thank you very much. [LR394CA]

RENEE FRY: Sure. [LR394CA]

SENATOR CRAWFORD: Other questions? Senator Hansen. [LR394CA]

SENATOR HANSEN: Thank you, Chairwoman Crawford. Ms. Fry, I'm going back. So when you say there's lost revenue for school districts, you're calculating that...how do you come up with those numbers? Let's start there. [LR394CA]

RENEE FRY: Yeah, so we've done this analysis, but there's also a 2014 report that I mentioned earlier, that the Revenue Committee did. And that is on the Legislature's web site, but I could certainly send that if you'd be interested in seeing that. [LR394CA]

SENATOR HANSEN: Okay. I could follow up with the report if it's one of our publications. I'll be honest, I haven't seen it. But I guess with this whole concept of this being so far lost revenue, is that saying that all the TIF projects or a certain number of the TIF projects are not following their "but for" TIF qualification? Is that the assumption? [LR394CA]

RENEE FRY: Well, so the Minnesota auditor, and this was something again that Dr. Merriman spoke to in the January symposium, they did an evaluation in Minnesota, and Minnesota they do have more state oversight of TIF projects. And they found that basically that a justification could be made any which way. It was virtually impossible to not meet the "but for" test, because you could...again, you can say it wouldn't happen on 11th Street "but for", but that's different than

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saying the project wouldn't have happened at all "but for." And I think that's a pretty big distinction, but it's not specified in law that it has to be it wouldn't have happened at all "but for" the TIF. So it's a pretty big distinction. [LR394CA]

SENATOR HANSEN: Okay. And I guess thank you for answering. I just wanted a little clarity there. And secondly, I guess I could have asked this to multiple proponents or introducers, but if the goal of a lot of these bills is to give revenue back to other political subdivisions who are left out of the process...I was just looking through my notes and I have to admit I missed Senator Groene's first bill, but so far the only political subdivision in support of any of them has been the gentleman from Harlan County. Why isn't there kind of an outpouring of support or even nominal support from various school districts or counties or so on? If you'd care to comment. [LR394CA]

RENEE FRY: I haven't had any conversations with respect to this legislation in particular with any of those other government entities. What I can tell you is that I have had conversations with a number of different school districts, with county officials, with community college representatives in the past, who have all indicated that this, you know, TIF legislation puts them in a difficult spot and TIF projects are very difficult. They have concerns and they've shared those concerns behind closed doors, but they don't feel they can share those publicly. The comments that I've heard is that they want to be good team players, they work closely and they don't feel like they can...that it's good for them to come and publicly sort of rock the boat. Those are the conversations that I've had. But not specific to these proposals, but generally about TIF and about TIF legislation. [LR394CA]

SENATOR HANSEN: Okay, thank you. [LR394CA]

SENATOR CRAWFORD: Other questions? So I guess that comes back I guess to the same question. If they are uncomfortable enough to feel uncomfortable at sending a letter or testifying on the general principle of them having an opt out, because they feel this social pressure in their community, it would be even harder to step up and say we're not going to be a part of this project now. And so I don't...if you give them that right, then you're creating this uncertainty, but creating an uncertainty likely without having the effect you want to have. If they really feel like they cannot step...if they cannot come to a hearing or do not feel like they can object to a project now, I don't know why they would feel like they could object when objecting has this even bigger risk to the project, if we give them this right. But it does really create the uncertainty for the project. [LR394CA]

RENEE FRY: So, you know, I would say that in...I can't speak specifically as to whether this would change their...what they do, whether they take a public position. I have no way of

knowing, I don't think any one of us could anticipate whether that empowers them to be more vocal or to express concerns that they have. It definitely gives them more leverage that they don't currently have, right? So it does change that. So there's much more incentive with this legislation for the cities to make sure that the other local governments are on board, that they understand and are in support of, and it may weed out some projects that maybe aren't as much of a community benefit. So I do think it gives them a leverage that they don't currently have now. And you know... [LR394CA]

SENATOR CRAWFORD: So one other concern, and I think we talked about the time line and you mentioned the time line would probably be formulated in statute. So I think one of the concerns we have to just be very careful about is what we are providing the constitution and what people would understand that entitles them to do. So I'm imagining if this constitutional amendment were passed as is and we come back in our Urban Affairs Committee and say well, the constitution says you can opt out, but you have to do it at this stage in the process, there could be arguments that no, it says we can opt out. I mean, so why are you telling us it has to be this step. So I guess I would be concerned, if we are going to have an opt out, that it has some specification of what we can do in statute, as opposed to a broader kind of opt out that might then be seen as a right to opt out at any point in the project, which would make it very difficult to coordinate and pull projects together and increase the uncertainty we've talked about. So I'd also ask you if an entity opts out, do you think they then should benefit from whatever increment happens in that property valuation or should they not be able to benefit from it because they didn't choose to be a part of the project. Because now they have an option to be a part or not. [LR394CA]

RENEE FRY: So the way that I heard you phrase the questions earlier, it sounded like there's an assumption that the project is growing the tax base, right, in terms of there being this benefit. But again, we don't know conclusively that it's growing the tax base. So because again, if that had happened in some other area...so for the school district, you know, it really may be just a wash for them, right? So when the project is over and so now there's the...you know, it's now being fully taxed, again the research is not conclusive to say that that has in fact broadened the base. And so we don't know if that's in fact broadening the base and there is really a true benefit, or whether that would have occurred some place else in that school district and therefore they're just capturing what would have been in that district anyway. [LR394CA]

SENATOR CRAWFORD: From a macro perspective. From the plot of land itself, there is an increment, but from the macro perspective is your argument. [LR394CA]

RENEE FRY: Yes. [LR394CA]

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SENATOR CRAWFORD: All right, thank you. Yes, Senator McCollister. [LR394CA]

SENATOR McCOLLISTER: One more, thank you, Senator Crawford. After so many TIF bills today, I'm getting fairly familiar with the cast of characters. You would think among the proponents would be school boards, the NSEA, somebody else that would recognize the issues that the sponsor of the bill and you've raised. Where are they? Why isn't there more support from the various organizations that populate those groups that help manage our K-12 schools? [LR394CA]

RENEE FRY: Yeah. As I stated earlier, I have talked to other local governments, not about these bills in particular, but I don't...but the comments that have been made to me is that they don't feel like they can come in. You know, they want to be good team players and so they don't feel like they can weigh in. [LR394CA]

SENATOR McCOLLISTER: Thank you, Ms. Fry. [LR394CA]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you so much. [LR394CA]

RENEE FRY: Thank you. [LR394CA]

SENATOR CRAWFORD: So anyone else that would wish to speak in support of LR394CA. Anyone wishing to speak in opposition to LR394CA? Welcome. [LR394CA]

MIKE JACOBSON: Last trip up here. Thank you, Madam Chairman and members of the committee. Again, my name is Mike Jacobson, I'm chairman of the North Platte Community Redevelopment Authority and also president and CEO of NebraskaLand National Bank. I'll try to be briefer this time. I really have just a couple...three points to make. Number one, when I read the bill, I could only think of a story I read when I was a kid about the Little Red Hen. And I think it goes to the cart of what you're talking about, Senator Crawford. The Little Red Hen, if you recall, went out and was going to bake bread and wanted all these people to help gather the products that they needed. And nobody wanted to help her until the bread was baked, and then everybody wanted to share the bread. And that's kind of what's happening here and I think that's to your point. Why would you not opt out if you can get the benefit on both sides? I mean, that's a little bit like me asking the Legislature if I can opt out of paying my state income taxes because I don't agree with what you're expending my tax dollars on. I mean, we have to be all together on this. And I would tell you that one of the reasons why I believe that the school districts and the other taxing authorities...not only are they not here to testify in support of these bills, but why they actually testify in support of the individual projects when they come before the city council,

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is because they understand that this is real economic development. They understand that we are guaranteeing our property tax base is going to increase. It's not a maybe it's going to increase, it's guaranteed to increase. And it may take 5 years, 8 years, potentially 15 years, but we're going to have an incremental increase that's going to occur, plus all the other side benefits. You asked, Senator Crawford, earlier about GO bonds, rev bonds, and why TIF bonds are different. Here's why they're different: general obligation bonds obligate the taxing authority to pay it in full, no matter what. Revenue bonds, on the other hand, are to be repaid from the revenue produced from the project that secures that bond, but there's no time limit. TIF bonds have 15 years to be repaid. If they're not paid in full at the end of that 15 years, whoever is holding the bond gets to write it off. There's no ability to extend it beyond that time frame. So it's whichever comes first: either the bond pays in full in 8 years, like the Menards project did, and it goes to all the taxing authorities at that point; or it could go to 15 years, but if it's not paid in full at 15, you don't get any more revenue. Period. Also keep in mind that TIF bonds, there is one taxpayer that pays for the TIF bond, that pays the taxes for the TIF bond, and that's the developer who developed the project. Remember it's the taxes from the new project, the incremental taxes from that new project, that are going to repay that bond. Not the general taxpayer as a whole, just that taxpayer who built a project and now is required to pay taxes which repays the bond from which they got the present value of. That's how it works. I mean, I don't...there's any better system out there to shelter the taxpayer than TIF and still provide those great benefits that come with it. So again, I just think we have to be very cautious when we try to eliminate a program that's working, particularly in communities like North Platte. I would also say it was mentioned about Walmart, they compete with others. Walmart is a food distribution center, they don't compete with anybody locally. They're a distribution center. And yes, there is a business decision that's made. The business decision was we could be in two locations: North Platte, which would be on the eastern end of where we distribute food products; or a town in eastern Colorado, that would be more towards the western side. The business decision was either one of these communities would work. They ultimately made the decision to come to North Platte and said you get first shot, but you got to give us the land. If you can't, we're going to Colorado, plain and simple. Think about if you're the taxing authority out there that wants to oppose the project. The other reason they don't want to oppose a project is that they recognize that if this project it doesn't go forward, we may have lost it forever. Do you think Walmart would give us another shot at it, you think they'd come back to North Platte and say hey, let us...we'll do a do-over, we'll let you try it one more time. No, once they made their decision, they were gone--so they came to North Platte. The economic development that occurred there is real. I don't have to pay for a study to have somebody who's opposed to tax increment financing to tell me that it doesn't do real good, I see it every day. I see it as a banker every day. [LR394CA]

SENATOR CRAWFORD: Thank you, sir. Questions? Thank you. [LR394CA]

MIKE JACOBSON: Thank you. [LR394CA]

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JENNIFER TAYLOR: Jennifer Taylor, on behalf of the city of Omaha. I'm just going to make a couple of attempt to be brief points. [LR394CA]

SENATOR CRAWFORD: Can you spell your name again? [LR394CA]

JENNIFER TAYLOR: Sorry. J-e-n-n-i-f-e-r T-a-y-l-o-r. And I'm going to try to be brief, because actually several of the points raised by Senator Crawford in questions, they were questions I had about this bill in particular. So those are some of the issues I had, as far as the uncertainty of the process, timing in the process, and where those things would happen. Because again, when we have TIF applications come to the city, they look at here is the financials of how this project will work, here's the money it's going to cost me to build it, rehab it, do it, here's what I need. And if that number changes at some point of time during the process, then the guys like Dave Ulferts, they're done and they walk away. If that money gets pulled out after they've purchased the property and started development, then they're the ones that are damaged. So those are some of the issues I had as well. So what I would like to do actually is just remind the committee that Section 18-2116, which is the approval and the findings that must be done by the governing body when they approve a plan, requires that they find that the plan would not be economically feasible without the use of tax increment financing, and the redevelopment project would not occur in the community redevelopment area without the use of tax increment financing, and that the project is in the long-term best interest of the community impacted by the project. So it does not require that the project would never happen at all, it requires that the project wouldn't happen in that area. So for example, you take another project that we're doing, it's the power plant down by the river, that NuStyle is doing. There's 220 units of residential housing being done in a converted 100-year-old power plant. Now, it's not that Mr. Heistand wouldn't build 200 units at 192nd and Maple, he could if he wanted to, the point is to get him to take a dilapidated, run down, vacant power plant and put it to new and better use. If he doesn't do that, if he's not encouraged to do that and he builds his 200 units at 192nd and F, which he doesn't get tax increment financing for, at some point in time the city is going to be responsible for either demolishing that property or somehow rehabbing that property themselves. Those properties become burdens on the city, unless we can encourage people to put those existing properties in those community redevelopment areas back to good use. So that's the point. When you're talking about shifting projects from one end of the city to another, you can't talk about it in a vacuum, because one end of the city is different than another. And the purpose of the community redevelopment law is to redevelop areas that are blighted and substandard that have vermin, that are vacant, that are dangerous to our society, that cost money to the city to remove weed and litter, to demolish, first responders are called to vacant fires in vacant homes. That's the purpose of this law and that's what you're trying to encourage, is the redevelopment in those areas. Secondly and lastly in that, it's also you're looking to the city, who is charged with trying to find the long-term best interest of the community. So again, I would simply refer you back to my comments on LR399CA, as far as issues you may have with conflicts between various different

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taxing jurisdictions. The bill as drafted today says any taxing body can opt out. So now you have bodies with several different goals and different endgames in mind all making decisions about what's in the long-term best interest of the community, when at the end of the day, their best interest may be short-term. I'd like to make one other point as far as we had a lot of conversations about the money that is being lost, the tax revenue being lost. I went back into my files earlier today and for projects that have come "off the rolls," or their 15-year period ended in 2014, that increment was actual money back to the county in 2015 was over \$1.5 million for the city of Omaha alone. So projects that were TIF projects have now put \$1.5 million in one single year back on the tax rolls. And that's real money, that's not maybe, maybe not \$1.5 million. And then lastly, we talk a lot about transparency. Our applications are on average 40 to 50 pages long, with financials, with project costs, with elevations, they are extremely detailed. Anyone wants to pick that up and read it, you've got 40, 50, 60, 70 pages of information about what that project is going to do. It's available to you, all you have to do is ask and then participate in the process. And then lastly, when we have projects that impact school districts, we ask them to talk to the schools. So they come in and they meet with us and we say okay, if you're going to put 100 units of housing here, and it's going to be family style, have you talked to the local elementary school? Do they have the capacity to absorb this? The Highlander project I mentioned earlier--the 20 acres in north Omaha, they met with Howard Kennedy Elementary before they even brought a TIF application to the city of Omaha. They worked hand in hand with Howard Kennedy, and Howard Kennedy supports that project because stabilized housing in north Omaha is a better environment for those children who go to that school. Any questions? [LR394CA]

SENATOR CRAWFORD: Thank you. Questions? So would you care to comment about why Douglas County or OPS would care if those housing units were downtown, as opposed to out west somewhere? If it matters to you, it matters to the city where those housing...that the power building is rehabbed and the housing goes there, should it matter to Douglas County or should it matter to OPS? [LR394CA]

JENNIFER TAYLOR: Well, it would matter to OPS, because if it were hypothetically out west somewhere else, it might be in a different school district and then that would not support their revenue. [LR394CA]

SENATOR CRAWFORD: All right, thank you. Any other questions? Thank you. Welcome back. [LR394CA]

TOM HUSTON: Thank you, Madam Chair. My name is Tom Huston, T-o-m H-u-s-t-o-n, 233 South 13th Street, here in Lincoln, appearing before you today on behalf of the Greater Omaha Chamber of Commerce, the Lincoln Chamber of Commerce, the Nebraska Chamber of Commerce, and Nebraska Bankers Association, in opposition to LR394CA, specifically the opt

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out provision. One of the biggest difficulties that I have is the unpredictability in trying to project the completed valuation. You know, we can do the research and find out what the base valuation...that's readily available, but to figure out how county assessors are ultimately going to value a project is somewhat like reading tea leaves. And county assessors a lot of times, some will cooperate, some will not. But if we add another degree of unpredictability, uncertainty to the process that this legislative resolution would add, would make it much more difficult, and I think it would bring redevelopment projects to a grinding halt. The second point I wanted to make is that I think all the bills that are in front of you today...by the way, I admire your stamina. Because this is...I'm exhausted. I mean, I'm going to go to sleep in my office, I think. But all these bills are premised upon the theory that these projects would occur without TIF, and I strongly disagree with that. I heard analogies, and I think we have to be very careful making analogies, I heard the reference to TIF districts. TIF districts do not exist in the state of Nebraska. We examine projects on a project by project basis. Some states have TIF districts where they capture incremental values for anything that goes on in that district. We don't have that...we do examine it on a project by project basis, and have to satisfy the "but for" test and the cost/benefit analysis, and each individual project is vetted on that basis. And I would disagree with the premise that redevelopment in the state of Nebraska just causes projects to relocate within the same community. That's plausible in an urban environment, it's not plausible in a rural environment. I mean, it's either built or not built in a rural environment, so I disagree with that premise. I think this legislative resolution would add more uncertainty and unpredictability to the process and effectively kill tax increment financing in the state of Nebraska, so I oppose it on that basis. I'd be happy to answer any questions that you may have. [LR394CA]

SENATOR CRAWFORD: Thank you. Questions? Thank you. Welcome. [LR394CA]

DAVID LEVY: Good evening, Madam Chair. I took a little different path to the chair here, shake it up a little bit. David Levy, D-a-v-i-d L-e-v-y, registered lobbyist for Turner Park North, board member of Omaha By Design, Nebraska Association of Commercial Property Owners, and pinch hitting for the Eastern Nebraska Development Council, in opposition to LR394CA. I've got a few points I will make quickly. First, this type of veto power would be unprecedented. You occasionally...not you, but all 49 in the Legislature, occasionally makes decisions, passes laws that some people disagree with. There is not a veto power if you do something that a natural resources district doesn't like, that they can come in and opt out or say no, you can't do that. The city of Omaha can't go to the Omaha Public Schools school board and say that's great you want to change your sex ed curriculum, but you can't do that. It's not the way local government works. Different entities have different powers and they have those powers. And I think at some level, you know, we need to trust other levels of government and we need to trust elected officials who are charged with making decisions for those other levels of government that they think in their heart and in their good conscience are in the best interest of their constituents. And I think LR394CA is quite contrary to that very fundamental idea. Finally, I just have to...third, I think

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the point that the idea that shifting projects, if it even occurs, from one location to another is a zero-sum game. Having HDR in downtown Omaha versus west Omaha is a big benefit for Omaha Public School District, as opposed to if it were in another school district, and it's a big benefit for downtown Omaha. It's a big benefit for our state's largest metropolitan area and I think...and I'm biased, but big benefits for downtown Omaha are likely to be big benefits for the entire state of Nebraska. It's one of the drivers of our economy in the state. Bringing HDR downtown is very different than that same project happening in west Omaha. So even if projects may shift from one place to another, it is in no way a zero-sum game. So with that, thank you. [LR394CA]

SENATOR CRAWFORD: Thank you. Questions? Thank you. [LR394CA]

DAVID LEVY: Thanks very much. [LR394CA]

LYNN REX: Good evening, Senator Crawford, members of the committee. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. As with the other bills today, this afternoon at least, we are opposing these measures and I would like to incorporate by reference my testimony on LB719, LB1042, and also LR394CA. Just one thing I would want to underscore, and that's what Tom Huston said, which is that it's one thing when you're dealing with the Omaha issues...and I think David Levy has done a great job covering that, as have others...certainly Jennifer Taylor as well. But when you're talking about outside of Lincoln and Omaha predominantly, what Tom Huston said is exactly right. It's not about moving from one part of the city to the other part of the city, one development here or there, it's having the project or not having the project at all. That's what we're talking about. So this would kill TIF as we would know it. And if it's about engaging other political subdivisions, there certainly would be other ways to do that. I don't think that this was the intent of Senator Hughes in introducing this measure, but that is the result of what this proposal would do. So with that, I'd be happy to respond to any questions that you might have. [LR394CA]

SENATOR CRAWFORD: Questions? [LR394CA]

LYNN REX: Thank you all for your patience today. Thank you. [LR394CA]

SENATOR CRAWFORD: Thank you. Anyone else wishing to testify in opposition? Welcome back. [LR394CA]

ERIC GERRARD: Thank, Chairwoman Crawford, members of the Urban Affairs Committee. My name is Eric Gerrard, that's E-r-i-c, last name G-e-r-r-a-r-d, I'm here representing the city of

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Lincoln, in opposition to LR394CA. I primarily just want to get that opposition on the record. I did want to note that we communicate often with our community partners and other political subdivisions and I'm not in the day to day, so I can't speak to that, but I do know that's an effort we make in our TIF projects. And I would also like to make the point that oftentimes they will tell us if they don't appreciate the way we're doing it or they think we should go about something a different way, whether that be in TIF projects or in other projects that we engage in that they disagree with. [LR394CA]

SENATOR CRAWFORD: Thank you. Questions? Thank you. [LR394CA]

ERIC GERRARD: Thanks. [LR394CA]

SENATOR CRAWFORD: (Exhibit 3, 4, 5, 6) Anyone else wishing to speak in opposition to LR394CA? Anyone wishing to speak in a neutral capacity on LR394CA? All right, letters for the record. We have letters of opposition from Nebraska Economic Developers Association, Nebraska Association of Commercial Property Owners, Nebraska State Chamber of Commerce, Greater Omaha Chamber of Commerce, Lincoln Chamber of Commerce, and a letter of opposition from Mayor Jean Stothert, city of Omaha. Senator Hughes, you are welcome to close. [LR394CA]

SENATOR HUGHES: Thank you, Chairwoman Crawford. Thank you to the members of the committee for your indulgence. Just a couple of points. I'm not opposed to TIF, I think TIF is a very good tool for economic development in the state of Nebraska. But I just want to try and find a way to reduce the distortion that TIF causes in the tax base, specifically in how it affects other taxing entities. Senator Hansen, to your question about why there haven't been any schools in support. In the first bill today, Senator Groene's bill, you were absent, the School Board Association did come in and support that bill. And I think probably another reason is, last I knew, the Education Committee hearing was still going on, so that may have taken some of the testimony in that direction. There's a lot of discussion about whether or not this bill would empower a taxing district to step up and oppose. The gentleman from Harlan County is a county supervisor...or county commissioner, he said why bother to go because you know you don't have any power when you go to those things. So this would give taxing authorities the power. And my last point is all the dollars that we're talking about today are taxpayer dollars that are being spent. This is just a turf war over who gets to allocate them for their specific needs. Thank you. [LR394CA]

SENATOR CRAWFORD: Questions? Thank you. [LR394CA]

SENATOR HUGHES: Thank you. [LR394CA]

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SENATOR CRAWFORD: This will close our hearing on LR394CA, and our hearings for the day. Thank you. [LR394CA]