

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Urban Affairs Committee January 31, 2023

**McKINNEY:** Good morning. Welcome to your Urban Affairs Committee. Today is January 31, 2023. I am Senator Terrell McKinney. I represent District 11 and I'm the Chairman of the Urban Affairs Committee. Before we start, I would ask each senator to introduce themselves, starting at my right.

**LOWE:** John Lowe, District 37: Gibbon, Shelton and Kearney.

**HUNT:** Hi, everyone. I'm Megan Hunt and I represent District 8 in the northern part of midtown Omaha.

**BLOOD:** Good morning. Senator Carol Blood representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**McKINNEY:** The committee legal counsel is to my right, Elsa Knight; and the committee clerk to my left is Raquel Dean. Today and before all hearings, all bills to be heard will be posted outside the hearing room. The senator introducing the proposed legislation will be, will be first present to present. Senators who serve on the committee are encouraged to ask questions for clarification. That said, the presenter and those testifying are not allowed to directly-- to question senators serving on the committee. For purpose of accuracy to record, we ask each presenter to state one's name, spell it and state who you represent, if not yourself. If you are planning to testify today, please fill out the testifier sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify, but will-- but would like to indicate your position on a bill, please complete the sign-in sheets on the back table. The sheet will be included as an exhibit in the official record. In your Urban Affairs Committee, we will use the light system to promote-- to promote maximum engagement of those wishing to express their position on proposed legislation before us. The light system will generally be five minutes with a green light and one minute with the yellow light, with the red, where you'll be asked to conclude. We will recognize opponents, proponents, and neutral testifiers today. We also acknowledge letters received from all concerned parties. Should you have handouts you wish to share, please share ten copies or ask the clerk to make copies. The clerk will then distribute any handouts to all committee senators. Following all proponents, opponents and neutral testimony, the bill's presenter is offered the opportunity to close with final remarks. As a committee, we will work diligently to give a fair, full hearing. We will make every effort to accommodate

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special request of assistance. At this hearing, we ask that you be respectful of the process and to one another. And please silence or turn off your cell phones, Senator Wayne, you can begin.

**WAYNE:** Good afternoon. We're starting this off on the right one already today. Good morning. Chairman McKinney and members of the Urban Affairs Committee, my name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Prior to 1981, the city was elected at an at-large basis. I do know where this started. All seven members of the city were elected on a citywide ballot. As a result, there was nobody from north Omaha, particularly no African-Americans were-- were elected. And, of course, this was by design. And actually, it was Senator Chambers in '79 that changed this with LB329 that requires cities of the metropolitan class to be passed by city council districts. Prior to that, though, villages, first-class cities, primary class, all of them are in statute, have membership sizes that are in state statute. And even then, this was in state statute prior to 1979. We just-- the body changed it to allow for districts to make sure [RECORDING MALFUNCTION] representation, Once that fair representation was a part, Fred Conley was the first person to be elected to city council. I introduce LB21 not to change the makeup of the city council, but to make sure that there's proportionate representation. Current city council districts range anywhere from 57,000 to 77,000. Even in district-- even if the districts are heavily populated, the average city council size is around 64, which is nearly double many of our legislative districts. The purpose of this is by adding two seats would hopefully reduce this to around 45,000 to 55,000, making it more likelihood that they can know their city councilperson and have contact with their city councilperson. In the past, the city of Omaha has had soft opposition. Some city council members wanted it. Some city councils didn't want it. And at the time they were waiting to go through their home charter changes. From the home charter changes, and still hasn't made any recommendations to change this. So I try to keep bringing this bill to keep it in the forefront that maybe we as a state should continue to look at the city size and as far as the district size to make sure that they can have representation that kind of matches what we do here, which is around 40,000 to 45,000 people per legislative district. It is always mindful for us to-- of how people are representing the city of Omaha, particularly because the city of Omaha is our largest city. And so there's no other reason behind this bill. It's just to make sure this body continues to look at representation, not just from the villages and first class, but also from-- from the city of Omaha. I would be

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open to up to nine and leave it to the city council to decide. I know with some of the smaller municipalities we have a four or six and even a three or five, and that way we allow them to have the flexibility. We can allow the same thing for the city council to decide. I do think the timing is right now this year. In case this was to pass and we allow the city to do it, it allows them to go through the process of designing and going through their process of designing their legislative-- or city council districts, getting feedback from the public, and be ready before the 2025 elections. With that, I'll answer any questions.

**McKINNEY:** Are there any questions from the committee? Senator Hunt.

**HUNT:** Senator Wayne, how many times have you introduced this? Is this the second?

**WAYNE:** I think it's the third. But--

**HUNT:** OK.

**WAYNE:** --I think third.

**HUNT:** What-- can you remind us what the main reason is?

**WAYNE:** The main reason for the--

**HUNT:** For-- for thinking it should be seven, nine instead of seven?

**WAYNE:** Well, it's-- I don't know why it was initially nine. It was a long-- I mean seven. It was a long time ago. I just know in the '70s we tried to-- we broke it up from the at-large to council districts to make sure they had fair representation. I just think nine is because it reduces the overall population in the city council districts to around 50,000 to 55,000, which is more kind of what we deal with as legislative districts. And we know how hard it is to stay in contact with our constituents. I can't imagine having a city council district of 75,000 people and being able to--

**HUNT:** So is the reason to kind of-- like you think it would be better representation for those constituents--

**WAYNE:** Correct.

**HUNT:** --without being spread so thin, basically?

**WAYNE:** Correct.

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**HUNT:** Thanks.

**WAYNE:** Yeah. Well, and some of the coun-- some of them just don't make sense. So my city councilman is Pete Festerson, who represents me and you.

**HUNT:** Which is, like--

**WAYNE:** And we have completely different--

**HUNT:** [INAUDIBLE] yeah.

**WAYNE:** Completely different districts.

**HUNT:** OK. Yeah.

**McKINNEY:** Any other questions? Senator Lowe.

**LOWE:** Thank you, Chairman. And Senator Wayne, I am ignorant to [RECORDING MALFUNCTION] city council paid in metropolitan-- metropolitan class?

**WAYNE:** Yes.

**LOWE:** How much are they paid? Do you know?

**WAYNE:** The last one I remember was 36, but I think it's going up. I can get you that information.

**LOWE:** All right. Thank you.

**McKINNEY:** Any other questions? [RECORDING MALFUNCTION] one. Senator Wayne, another thing I was thinking about as you were testi-- as you were opening, have you considered moving city elections to even-number years?

**WAYNE:** Absolutely. Somebody else brought that bill last year. In my haste to get Bill Drafting not so many bills this year, I did not bring that. But I am all in favor of that. I know people think it gets lost in the national, but I think the opposite happens in the city of Omaha is we come off of a national election and people are burnt out and don't want to turn around four months later and do a city election. So I think it actually is a detriment to voter engagement and people because they just went through a national election and in five months later are supposed to vote in their local. So I would-- I would be very open to that amendment.

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**McKINNEY:** OK. Thank you. Any other questions? All right.

**WAYNE:** Thank you. I'm second in Education, so I have to waive closing. But if there's any questions, I'll be more than happy to help. And this is definitely a consent calendar item so have a good day.

**McKINNEY:** Are there any proponents?

**WES DODGE:** I guess just one. Good morning. My name is Wes Dodge. I'm from Omaha. And I'm associated with Represent US Omaha.

**McKINNEY:** Can you spell your name?

**WES DODGE:** Oh, I'm sorry. W-e-s and then Dodge like the car, D-o-d-g-e.

**McKINNEY:** Thank you.

**WES DODGE:** I'm associated with Represent US Omaha and Rank The Vote Nebraska. And I'm here to speak as a proponent of this bill. I think it's a good bill. And I think it's a good bill because it allows better representation. I liked the two questions we've already heard from the committee. I looked up some numbers, and I trust Senator Wayne's numbers better than mine because he has better resources than I do, I hope. But I looked up the population of the city of Omaha when we had the first council that I could find, and there was 366,000 people. So each-- if you divide that out, each councilperson would represent about 52,000. In 2023, the population of Omaha was 860,000 from the [RECORDING MALFUNCTION]. Now this is where my numbers are different than Wayne's. It seems like the numbers should be a lot higher, so I don't know what number they're using, but I had it at, you know, over 80,000 or 90,000 per representative. So there's something I don't understand there. But even if it's like 60,000, I still think it's a-- a good-- a good bill. So even-- I looked up the populations of the city in Nebraska and the number of people represented by a council member of the city of Omaha is still about the equivalent of like the third or fourth largest city in the whole state of Nebraska. So I think as far as expanding it, you get better representation. Each person's vote and representation has more strength if we do expand it. Now, Senator McKinney, you ask a great question. I attended the city council's charter convention this summer. I didn't get to be an acting member of it, but I attended it. And the mayor actually came up and said we should have our elections on the same schedule as our primaries and our general. In the campaign process that I've seen for mayor, they said our-- our elections cost

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about a half a million dollars each election. If we're paying our councilmembers \$36,000, we pay for that by putting those in the same-- in the same calendar. I think we could do [RECORDING MALFUNCTION] a-- a term by two years or half of them and do an odd/even rotation like we do in the Legislature, save a lot of money. And then, of course, with my-- my bias towards ranked choice voting, I would like to see the state adopt that as well, similar to LB793 that was offered last session. And that would allow us to potentially cut out the primary again, saving another half million dollars. And then right now in the whole United States, there's over 13 million people represented in ranked choice voting situations. People who use it like it. The acrimony goes down in the elections and it makes it difficult for the parties to take as much control as they can because [RECORDING MALFUNCTION] people from the same parties running. So it's a more effective method. It saves money. So I would like the committee to look at those changes. I think it's a good bill as it stands, but it could be better.

**McKINNEY:** All right. Are there any questions from the committee? Seeing none, thank you.

**WES DODGE:** All right. Thanks for having me.

**McKINNEY:** Are there any other proponents? Any opponents? Anybody here to testify in the neutral? No? With that, we'll end our hearing on LB21. Thank you. We may have to wait a little bit for Senator Linehan.

**LINEHAN:** I'm sorry.

**McKINNEY:** You're all right. Good morning.

**LINEHAN:** It was quick, very quick. Good morning, Chairperson McKinney and members of the Urban Affairs Committee. I'm Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n, and I'm from Legislative District 39, which is Elkhorn and Waterloo. Today I am introducing LB389. The lights are a lot better in this hearing room than mine. LB389 will amend existing law to prevent a property from having its tax increment financing divided if it has been previously divided in the 50 years prior. Currently, [RECORDING MALFUNCTION] first blighted properties-- or in some cases not so blighted-- use tax "incretment"-- you'd think I could say it-- tax increment financing, or TIF, to delay to use it to cover costs for infrastructure. The main reason for introducing this legislation is I want to wave a red flag and ask some questions. I did in the last few days-- city of Omaha put up a website, I think three or four days ago, and I did look at it quite a bit over the last two

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days. So on the website, one of the first questions is, "Will this project require city tax increases?" The answer says no. Omaha is using a corridor-specific total mobility funding approach, which assumes no use of city general fund obligations and no property tax rate increases, which I get very tired of hearing. Two things make up your property taxes, the rate and the valuation. So when you say you're not going to depend on tax increases and then follow that up with there will be no property tax rate increase, those are not the same thing. You can have tax increases and even lower your rate. Problem-- I think number two, the TIF district within the boundaries of the rebuilt-- redevelopment area will generate \$86 million based on projected property value increases along and within the three blocks of the street route [RECORDING MALFUNCTION] My question-- and I, I don't understand-- this is one of the reasons I'm glad that hopefully this committee can figure it out [RECORDING MALFUNCTION] talking about TIF in the sense that we've always-- TIF's been used previously. You have a blighted or not-so-blighted piece of property. You're going to build a new \$20 million hotel or manufacturing plant and you're going to use the proceeds from the property taxes, the increased value [RECORDING MALFUNCTION] there's something new there to pay off the bonds for the infrastructure. Or in this case, are we going to say a building that's already there, for instance, many of the new structures that are in this area around Mutual of Omaha's current campus-- are they going to say that increased valuations because there's a streetcar, we're going to use increased valuations to pay off TIF, which is different than I think we've used TIF before. There's another-- this was also from the website which I printed out, but I didn't make copies for everybody. Another thing that disturbs me from the website: over the last five years, more than \$4 billion in development has been completed and planned or is underway in downtown Omaha and midtown, including the Riverfront, Kiewit [RECORDING MALFUNCTION] Mercantile, Millwork District, Builders District, Blackstone, Capitol District, Civic Corner, Steelhouse Omaha, and Project NExT UNMC. The NExT project is not coming along as quickly as we thought and were told, and I have concerns whether we'll ever get a billion dollars from the federal government. In addition, even if NExT project comes on, it doesn't pay property taxes because it's the university hospital and they don't pay property taxes. I also question whether-- I don't think the new science museum by the river is going to pay property taxes. So I don't know how those help create property taxes. I'm sorry. Too many hearings. Somewhere and I will find it, it also talks about-- this was-- this I stumbled over because somebody told me something but it is on the website. The current route takes the streetcar over Interstate 480 on Farnam and Harney. Discussions

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are underway with the Nebraska Department of Transportation, that would be state agency, to share the costs of modifying the bridges for the streetcar. So I don't know how much that's going to cost. I don't know where those conversations are, but it seems to me that if the state's going to be helping pay for the streetcar by building bridges over the interstate, that we might be more included in the conversation. Finally, I went back and looked at-- I had not read this before-- but this is the agreement that created the Interlocal agreement between the city of Omaha and the Transit Authority of the city of Omaha. So two things I noticed in this that I thought were concerning. The city and Metro intended that the project should complement rather than compete with-- compete with the Metro system. The city and Metro will coordinate to ensure that project is not competing with Metro for any federal or state funding or otherwise burdening Metro's current and future taxing authorities. So I'm not a lawyer, but I read this, and I think that's one reason the city never went after any federal funding, because the agreement says they're not going to go after federal funding. Then finally, and maybe most concerning-- I'm not a fan of Interlocal agreements anyway-- but page 3 of 12 of the agreement: To the fullest-- Section 3-- to the fullest extents permitted by law, no member shall be deemed to have any fiduciary duty, any duty of loyalty or similar duty or obligation to the streetcar authority which supersedes any such duty a member may owe to such a member's appointing board. None of the people on this board are elected. I think that's problematic. So thank you.

**McKINNEY:** No problem. Thank you. Are there any questions for [RECORDING MALFUNCTION]. No? I have one.

**LINEHAN:** Yeah.

**McKINNEY:** It's kind of rhetorical, but I think it's good to ask. Is it fair, well, do you-- do you think the city of Omaha is using [RECORDING MALFUNCTION] as the statutes intended?

**LINEHAN:** No, I don't. I don't actually-- I'm not a lawyer. And I don't know if they don't use it, I don't-- I suppose a citizen could sue. I-- I like the idea of a streetcar. I love midtown. I love downtown. I just-- building something that's over three-- somewhere between (\$300 million) and \$400 million all on the hope that we're going to have increased value-- well-- it's not even just increased buildings like new buildings. But as you all know, the number one issue-- maybe living in Elkhorn it's different-- number one issue, but even in north Omaha, we have people who are trying to hold onto their house because of property taxes in the state. They're way too high. And the way I



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read this is that whole corridor, which is a lot of medium-income housing, those valuations are going to go up. And part of that is going to be used to pay for the streetcar. And that's real money to real households who have to decide whether to pay their property taxes or feed their kids.

**McKINNEY:** Besides property taxes, do you think anything else will be increased?

**LINEHAN:** Well, there is-- I have two other bills that I don't know where they-- I think they go to Government-- MUD has concerns about who's going to pay for all the new infrastructure under the roads that have to be dug up. So that could mean-- and hopefully the city and MUD will work this out-- but it could mean an increase in water fees. And as you well know, we already have very high fee, sewer fee on water bills, and it's not related to the cost of your-- your income or related to your valuation of your house. It's \$50 for every household in Omaha. They have to pay that every month. That's \$300 a year. It's already too high.

**McKINNEY:** All right. Thank you.

**LINEHAN:** Thank you.

**McKINNEY:** Are there any proponents? Any opponents?

**STEVE JENSEN:** Good morning, Chairman McKinney and members of the Urban Affairs Committee. My name is Steve Jensen, S-t-e-v-e-J-e-n-s-e-n. I'm a former planning director for the city of Omaha and currently serve as a deputy chief of staff for economic development for Omaha Mayor Jean Stothert. I'm here today to speak in opposition to LB389 as drafted for three main reasons. First, it would prevent the ability to use TIF for a new project on property that may have once received an approval for TIF, but that for some reason never moved forward. Second, it would prevent the use of TIF to assist additional development on a large site such as the Gallup campus in Omaha, where because of a change of plans, the company has vacant land that now it plans to make available for a different development project. Finally, LB389 would prevent the use of TIF for any project in Omaha's urban core for the next 50 years, following the creation last year of the Urban Core Housing and Mobility Redevelopment Plan TIF district that covers much of the area from the Missouri River to 48th Street and from Cuming to Leavenworth. The bill would stop the development of roughly \$400 million in projects that are currently in the planning stages, and another \$5 billion in projects that past history and

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numerous market studies project will happen over the next 30 years. Projects that according to the Chamber's Urban Core Strategic Plan will help fund the modern streetcar, encourage the use of Metro Transit's bus and BRT systems, fund bikeways, attract and retain a talented workforce, [RECORDING MALFUNCTION] 3,000 much-needed jobs back to an area that has lost tens of thousands of jobs, save hundreds of dollars a month in car expenses, and bring tens of thousands of new apartments and affordable housing units to Omaha's downtown and midtown areas. I would add that Omaha completely agrees that TIF should not be used merely for the purpose of revitalizing a building that has previously used TIF. The city was approached by someone-- if the city was approached by someone who purchased a hotel, for example, that had been built 15 years earlier by using TIF and they were wanting to rebrand the hotel and refresh the rooms and public spaces, the city of Omaha would say no. If a developer purchased an apartment complex that had been built using TIF and the new-- the previous owner had depreciated the building [RECORDING MALFUNCTION] for it to run down and the new owner wanted to do repairs and remodel the rooms using TIF, the city would say no. This has always been and will continue to be the position of the city of Omaha on such TIF requests. In closing, I would reiterate that Omaha does not support the use of TIF merely for the purpose of updating buildings that had previously used TIF. We do, however, strongly oppose the bill as drafted since it would stop the implementation of the city and Chamber-- Chamber of Commerce's plans for the revitalization of Omaha's urban core and stop the effort to attract 30,000 jobs and 30,000 residents to the core over the next 30 years; a plan that would result in the development of roughly \$6 billion in new development, create an attractive and unique urban lifestyle, save residents thousands of dollars a year in transportation expenses, increase affordable housing, and catapult Omaha's urban core into the top tier of major cities in the country. I appreciate the opportunity to speak in opposition to this proposed legislation. I'd be happy to answer any questions you might have. I also have others here from the city of Omaha who might be able to answer questions as well.

**McKINNEY:** Thank you. Are there any questions from the committee? I have a few. Do you think the city of Omaha is using TIF in the way that the statutes intended?

**STEVE JENSEN:** I do. I think that we're very careful in the analysis of projects that come in. We look to make sure that the project couldn't happen except for the TIF. One of the things I think that is important to understand is that developers have to make money or they wouldn't do a project. So there is some money that developers will make from a

project using TIF, and that's necessary. Otherwise they would invest their money somewhere else. And so I think we're very careful. We analyze every project; we make sure that the things that they're going to spend the TIF revenue to do are eligible TIF expenses; we make sure that the project is a good project and that it needs the TIF in order to move forward.

**McKINNEY:** So specifically the definition of blighted requires that we consider the economic reality of, of individuals living in those areas: unemployment, poverty level, safety, housing and buildings. But in some TIF reports in 2017, there was 1,600 units built, but only 150 low-income. In 2018, 716 units; only 48 low-income. [RECORDING MALFUNCTION] 17-- 1,713 units, but only 120 low-income; 2020, 1,928 units; only 96 low -income. My concern is that we're decreasing affordable housing and in the-- in the illusion of we're increasing affordable housing.

**STEVE JENSEN:** Yeah, and I think that, you know, that's a concern for the city as well. And so the city is currently working with other entities, nonprofits in the area [RECORDING MALFUNCTION] organization, for example, to try to find ways to increase affordable housing. One of the great things about this project is that we're not just looking at the streetcar. We're looking at all aspects of improving the urban core. But one of the key components to that is affordable housing. So part of the TIF that we will be receiving over the next 15-plus years will go toward affordable housing in the core. So not all of the TIF revenue that's coming in will be used for the streetcar. It'll be used for bikeways. It'll be used for other transit improvements. But second to the streetcar is the affordable housing component, and we're looking for ways to be able to do that earlier rather than later.

**McKINNEY:** Senator Hunt.

**HUNT:** Thank you, Chairman McKinney. But is there an affordable housing requirement for TIF?

**STEVE JENSEN:** Well, it's one of the things that we're looking at. Right now, there isn't a requirement. And so one of the-- a couple of things I would mention is that, you know, it costs anywhere from \$400 to \$500 minimum just to own a car. One of the things that will allow-- that people will be able to do in the core-- in the core because of the streetcar is to be able to move around without a car. So by the time that we see the streetcar, [RECORDING MALFUNCTION] people will be able to not only use buses to move around, but will also be able to use the streetcar to move around. The combination--

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**HUNT:** So that the hope for the streetcar is that low-income people who can't afford a car will use the streetcar for transportation.

**STEVE JENSEN:** It's just one of the-- one of the benefits. What I'm saying is--

**HUNT:** Is that the expectation, given-- given that we have a bus system, of course, that's really underutilized?

**STEVE JENSEN:** Right. So it's the combination of the two things. One of the things that we have done is we've lost anywhere from 17,000 to 20,000 jobs in the urban core over the last 50 years. And so one of the key problems that we have is now we devote almost 60 percent of the downtown area to parking. We've reached peak [RECORDING MALFUNCTION] So bringing jobs back to downtown, these are jobs that are best accessed using transit. It's the most transit-heavy portion of the city. So when we take jobs out of that area to the tune of tens of thousands of jobs, there-- then jobs are less accessible using transit. And so then people have to own a car and \$400 to \$500 a month, \$6,000 a year in order to own a car. If you can then live without a car, because now you can access all of the things that you need without a car, then, yes, it makes-- it makes housing more affordable immediately. But in addition to that, part of what we will do with the revenue that comes from the TIF is we will use that revenue to help encourage the developers to build more affordable housing. And we are looking at plans on how to make that work right now. So it's a combination of the two things.

**HUNT:** So my thought, listening to what you've said, is there's a difference between what I want and envision for a beautiful city and then when we build that, how it's actually used or like what the outcomes actually are for people. So I just don't understand how we can say that something like this would provide affordable housing because Benson, the district I represent, the neighborhood I represent is completely blighted, like it's all blighted by definition in statute. And the housing, as Senator McKinney was saying when he was asking you questions, the housing that's been built under TIF is not affordable. So if TIF can only be used in blighted neighborhoods, who-- what-- what mechanisms are we using to provide housing for the people who are displaced by these condos? I mean, I don't own a home. I'm a renter in my district and the condos and things that are getting built with this TIF money cost way more than anything I can afford to say nothing about, like a \$300 or \$400 car payment, which I think is extremely high. Like, I think most of the people who you want to reach with this project don't make that kind of money at all. And when we

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talk about the jobs this will create, jobs for who? You know, what jobs? Who's qualified for these jobs? And are they the people who can't afford a \$300 car payment? Are they the people who are going to be ostensibly relying on the streetcar? I think it's going to be beautiful; if we could get the streetcar, It's going to look so pretty. It'll be nice for the workers at Mutual of Omaha to go get their salad or something. But, like, the idea that this is going to lift up low-wage workers, that it's going to provide affordable housing is probably not realistic. And I think we should probably just not say that. I think we should talk about what the vision is and not [RECORDING MALFUNCTION] be clear that that's a vision, not maybe realistic. Thank you.

**McKINNEY:** Any other questions? I have another. Is it appropriate to use TIF to displace people who need that community development the most?

**STEVE JENSEN:** I would say that-- that it is part of what happens when a new project is built. You may see some displacement. I think, again, that is why part of this plan-- and to Senator Hunt's point-- part of this plan is trying to find a way to reverse that so that we have additional revenue that can be used to pay for affordable housing units so that we don't have just displacement and replacement of that lower-cost housing with higher-cost housing. So I think it is the combination of these things that together we will be able to sort of move in the right direction and be able to ensure that we'll get more affordable housing units. And so right now, like I said, that, that work is underway and we're looking for ways to do that. In fact, we have a project that we will probably put a request for proposals out for a piece of land that the city owns. And one of the things we're looking at is that as a part of that would be a requirement for affordable housing. So it is part of what is in the plan. One thing I wanted to correct, too, is when we talk about the \$400 to \$500 a month for an automobile [RECORDING MALFUNCTION] payment for the automobile. That's a piece of it. But it's also the maintenance, the insurance, the upkeep and so forth. And so the average cost of owning a car is, is actually far higher than that. But when it comes right down to it, when you combine all of the aspects of owning a car, it's expensive. So the more we can do to provide jobs for all of those districts that can access those jobs in downtown using public transit, the more affordable all of the housing in the area becomes.

**McKINNEY:** Transit-oriented development was sold as a tool to increase affordable housing. But to date there are zero units built and zero

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affordable. So is the streetcar for economic development or is-- is a streetcar economic development project or an infrastructure project?

**STEVE JENSEN:** Well, it's an infrastructure project that creates economic development. And so just as a-- in an SID, there is infrastructure that is built using the SID mechanism, it creates economic development. So this is no different than that; no different than putting in a sewer line or, or utilities. They all are infrastructure improvements that help generate economic development. One of the key things I think in this case is that, again, as I said, we've essentially traded jobs for housing-- or for-- I'm sorry, jobs for parking in downtown over the last 50 or 60 years. And so when you devote as much as 60 percent of your downtown to parking, there's just no place for those jobs to go. And so losing tens of thousands of jobs in the core, jobs that can be easily accessed from Benson, from north Omaha, from the other areas that are well served by transit, what that means then is you-- if you live in those neighborhoods, you must own a car in order to get to work because it's not easily accessible by transit. The urban core is, and that is very helpful.

**McKINNEY:** I got two more questions. The first is why was the Old Market deemed extremely blighted? It's the Old Market, and I've always had trouble really understanding that. So why did that happen?

**STEVE JENSEN:** You know, I wasn't there and so perhaps it'd be a question for Jennifer Taylor, who was with the city at that time. So I can't tell you exactly how all of the decision-- decisions were made on what areas were extremely-- designated as extremely blighted.

**McKINNEY:** And my last question and I'll stop. You talk about using a streetcar as a way to get individuals that can't afford car payments and those type of things and getting them to jobs, things like that. And I'm thinking-- I'm sitting here thinking, well, why don't we send a streetcar through the poorest-- poorest areas of Omaha if that's the mission?

**STEVE JENSEN:** Yeah. So I think, you know, certainly that is the future. The problem is how do you pay to extend the streetcar to begin with? And so what we're doing in this case is we're taking advantage of the fact that in this urban core area, we have very large buildings and very--

**McKINNEY:** I think that's the problem that I think the city is going to have to deal with. The individuals that need those type of amenities in a city feel like the city prioritizes corporate entities over poor

people and poor people in Omaha, the regular citizens of Omaha, largely, I would bet, would more-- more than likely want a streetcar to go to those areas instead of helping out big develop-- big developers and corporations.

**STEVE JENSEN:** Yeah, and I, I think you-- when you look at extending outside of that core area, what needs to happen then is you need federal funding, and you need a match for that federal funding. So it takes longer and it's more expensive because of the federal funding. So in order to really initiate the system, what has worked across the country is to begin with a core system and the facilities and vehicle maintenance facility and so forth that support that core system. And once that is in place, then you also have the ability to extend off of that system so much like you see in Kansas City and other cities.

**McKINNEY:** But you do understand why people feel the way they feel, because the person-- it's not-- it's the reality is it's a priorit-- you're prioritizing big development corporations over common people in the city. And they're looking at this and they feel like their voices are not being heard even when they show up to city council and things like that.

**STEVE JENSEN:** Yeah. So I hear what you're saying. I think-- and I, I think it is an understandable reaction to it. I get how people feel that way. Again, in order to create the system to begin with, when you look at federal funding, it just takes a long time and it needs a great deal of federal funding plus a local match. So part of what this allows us to do is to develop more of the property in downtown to provide those jobs and then to provide revenue that can be used to [RECORDING MALFUNCTION] those federal funds so that we can extend. One thing I want to make sure I mentioned is that the Streetcar Authority has directed its staff and directed HDR to begin the process of looking at extensions. That work is underway. I think I shared with you last week a, a, a, a, a map that shows the extensions that are being looked at today. And so there are extensions that would then go north and south and so forth and, and provide that transit. So part of the development and part of the revenue that you get from this urban core area can then be used to help match those-- the federal dollars to make those extensions happen. So the-- this urban core area helps to pay for that.

**McKINNEY:** I-- but-- and we could finish here. I think what the city needs to understand is you're asking people who historically have been left out to continue to hope and wait. There's no guarantee for federal funding. There's no guarantee that the streetcar will ever go

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through those areas. And you're asking people who have been left out of a lot of things for pretty much their whole lives, and you're asking them to keep hoping and waiting. And that's the issue that a lot of individuals in Omaha are-- have a problem with with [RECORDING MALFUNCTION]

**STEVE JENSEN:** I guess the only thing I would say is that if the streetcar in this urban core area is not built, then there would not be the bump in value that is created by the streetcar. And it is that bump that we are using to pay for the streetcar. So if we do not build this streetcar, it does not make it any easier to build a north-south line. In fact, it probably makes it harder because we don't have the revenue that would come from the initial bump in valuation that's created by this streetcar. So all I can say is if this streetcar doesn't happen, we can certainly apply for federal funds, but we have to find the match and there wouldn't be any match that would come from this urban core area, because what happens-- it-- the funding that is used to build the streetcar is generated by the bump in value that is created by the streetcar. So no streetcar, no value bump, no additional revenue; no additional revenue, no money to be used for affordable housing, to be used for further extensions of the streetcar. But that money doesn't happen.

**McKINNEY:** All right. Thank you. Senator Hunt.

**HUNT:** Thank you, Chairman McKinney. What I have to say isn't a question for you, but because everything we say in this committee is transcribed for the record and we haven't had the opportunity to say anything on the record in the floor as a full body. I want everybody to know that there's a very, very important political rally happening right now in the Rotunda for Senator Geist, who is the chairwoman of the Transportation Committee. So she left her committee to go to her political rally in the Capitol. So if any of you would like to leave your committee responsibilities to go join the political rally in the Capitol, I wanted to let you all know that was going on. Thank you.

**McKINNEY:** Senator Blood.

**BLOOD:** Thank you, Chairman McKinney. And thank you for sharing that, Senator Hunt. So we are talking a lot about TIF. And, you know, I was previously on the city council, so I probably have a different view of TIF than some of the people-- the other people that sit on this committee. Mine has been a more positive experience. And I'm always concerned about bills that are seeking out like one particular project in one particular city as to whether that's good policy or not. And so



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I'm kind of on the fence right now about this particular bill. So the questions that I need answered-- we're talking about zoning incentives when we talk about TIF. Correct?

**STEVE JENSEN:** Correct.

**BLOOD:** So where are we at on like-- and I do read Omaha's report when it comes to affordable housing, by the way [RECORDING MALFUNCTION] I actually feel like you guys have definitely made inroads, maybe not fast enough for some, but for as big a community as you are, I'm actually quite impressed with some of the movement forward. So where are we at [RECORDING MALFUNCTION] I mean, I'm going to use acronyms because it's going to be faster: WRMs, ADUs, CODs, PURs, inclusionary density bonuses. Are we utilizing those other [RECORDING MALFUNCTION] as well?

**STEVE JENSEN:** We-- in terms of transit oriented development, we have a corridor that is in place that covers part of this area that we're looking at that encourages higher densities, which also helps to lower costs. We have that. In terms of PUR, that's a planned unit residential, that is part of Omaha's code so that is in there. That also helps to increase density and allow it-- enable someone to put more units on a piece of land. In terms of AD--

**BLOOD:** With the goal being when we do that is for what?

**STEVE JENSEN:** I'm sorry, what?

**BLOOD:** I want to make sure we get this on record. So what is the goal when we do that, when we're able to add more units?

**STEVE JENSEN:** Well, by adding more units to an area-- first of all, by being able to have more units on, on a parcel of land, you just get a, a lower cost to the development of that land.

**BLOOD:** Thank you.

**STEVE JENSEN:** And therefore the units are, are less expensive than they would be if you were putting fewer units on a piece of land and then having [RECORDING MALFUNCTION] the additional costs that go with that. And so-- and then with accessory dwelling units, I know that that has been worked on and proposed by the city. I, I can't tell you right now-- and I don't know if Jennifer could, but I can't tell you where that sits right now. But it is, it is something that the city of Omaha has drafted and I don't know if it has moved forward.

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**BLOOD:** And so, so would I be accurate in saying that there are other zoning incentives outside of TIF that actually lean towards making things more affordable when it comes to housing, not only in this area, but that's like kind of a zoning thing now in Omaha, correct?

**STEVE JENSEN:** Correct. Exactly. The transit-oriented development overlay extends along the entire route of the BRT-- of ORBT-- and would extend along other routes as well, so, yes.

**BLOOD:** OK. I appreciate that. Sorry for all the acronyms. I just thought it would be faster, so.

**STEVE JENSEN:** Sure.

**BLOOD:** Thank you.

**McKINNEY:** All right. Are there any other questions? Seeing none, thank you. Are there any other opponents?

**SCOTT DOBBE:** Well, Mr. Chairman and members of the committee, good morning. My name is Scott Dobbe, S-c-o-t-t D-o-b-b-e. I appreciate Mr. Jensen's testimony and all the questions we've heard from the committee and look forward to maybe broadening some of this to a statewide level a little bit as much as we do focus in Omaha. So my background, I'm the executive director of Omaha by Design. For more than two decades, Omaha by Design has served as the region's nonprofit hub for people-centered urban design and policy. We work as a trusted liaison between the public and private sector, and we seek to enhance our fellow residents' quality of life through well-planned cities and spaces. For a picture of what that means, think equitable access to parks and public amenities, vibrant neighborhoods, and the transportation options to safely and conveniently move about. Of course, each of these also carries an economic dimension. And as we seek to encourage growth in ways that make our metro more resilient, more competitive, more-- more sustainable, and in all that, we-- we really have remained steadfast supporters of TIF as a concept, because we've seen time and again its unique capacity to simultaneously enhance that quality of life as well as spur economic development. [RECORDING MALFUNCTION] in looking at the community I know best-- I actually hail from Kearney, born and raised myself, but have been in Omaha for a little bit now. And as we look at the Greater Omaha Metro, which by the way, we see as stretching from, you know, Council Bluffs to Elkhorn and Florence to Bellevue. And as-- as we do that, we, we, we really come to see and to know TIF as an essential tool in furthering the revitalization in urban areas throughout. Crucially,

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too, TIF enables investment to occur in and near our city's areas of highest need, better connecting residents to opportunities for employment, to education, and to the cultural and civic amenities that are part of this great democratic value that a great city provides. You know, and that's certainly the case as we consider Omaha's urban core, which despite being just about three square miles in size, is headquarters to all four of Nebraska's Fortune 500 companies. You know, that makes it both an economic engine and a focal point for economic mobility. And, you know, as you well know, whether we're talking the big ones like Union Pacific or the hundreds of small and mid-sized businesses that call our city home, all are really engaged in a competition right now with our neighboring states to draw and retain and develop the workforce that we need. You know, utilizing TIF to unlock district level infrastructure enhancements helps to catalyze that sort of walkable and transit-connected, talent-attracting environment that ultimately strengthens our city services, our local schools, and our neighborhoods. So it's clear that, you know, for the sake of our fellow citizens and for the health of our state's cities and the balanced economy that they help to provide, we need the opportunity that TIF and TIF districts can offer. Given all this, we respectfully oppose this bill on the following grounds: one, that it would discourage investment in urban areas, decreasing the number of new jobs and slowing the creation of affordable housing where both are needed most. And two, it would put unnecessary roadblocks in the way of locally significant projects, whether you're talking Omaha streetcar or at the city of Ponca, where they did new downtown streets and sewers with the same mechanism. So in closing, as we've seen [RECORDING MALFUNCTION] state from Norfolk to Kimball and Auburn to Scottsbluff, TIF districts continue to be a valuable tool in the economic development toolkit for the development and maintenance of urban areas. Preserving this-- this capability in our city's toolbox is vital to the continued health and revitalization of core neighborhoods, ultimately delivering both an enhanced quality of life and a great return on investment to the citizens of this state. So I thank you for your time and would welcome any questions.

**McKINNEY:** Thank you. Are there any questions from the committee?  
Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman McKinney, and thank you for being here. Is it Dobbe?

**SCOTT DOBBE:** Dobbe.

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**J. CAVANAUGH:** Mr. Dobbe, so I was not able to be here earlier, so forgive me if I'm redundant to some of the previous questions. But my reading of this bill is it just-- it wouldn't eliminate TIF, it would just prevent TIF from being used more than once in 50 years.

**SCOTT DOBBE:** Um-hum.

**J. CAVANAUGH:** OK. So for a lot of the projects you're talking about, I mean, most of those-- I mean, how many projects get TIFed multiple times in 50 years?

**SCOTT DOBBE:** I wouldn't know a number. I wouldn't say it's-- it's a lot. I think you may be getting at the question of where would that happen.

**J. CAVANAUGH:** Yeah.

**SCOTT DOBBE:** And some of the instances are you may have a situation where a property has, has taken out TIF; the Gallup property is one like that. But then, you know, development plans didn't come to pass. There's still a large parcel there. Situations such as that, [RECORDING MALFUNCTION] it would be granted, you know, in any way willy-nilly for non-significant enhancements. But when there's only a great enhancement in the value is how I understand it. But of course, I'm not the city.

**J. CAVANAUGH:** So just to kind of back up there, you said a few things. So one of them was about unused TIF where a TIF's grant is unused. I would imagine that-- I mean, I don't want to speak for Senator Linehan, but that sounds like a, a tweak to this bill that wouldn't necessarily undermine the intention of the bill. I don't think the intent-- and again, don't want to speak for Senator Linehan-- but it seems to me the intention is that we don't double-dip as opposed to saying, well, we've started somewhere and then we stopped. I mean, so would your-- that alleviate your concerns if we put in a caveat that said, the TIF has to actually be utilized?

**SCOTT DOBBE:** I follow. I think that I would really kind of defer to, you know, perhaps those that are most in the weeds day to day of actually how, you know, TIF is granted or applied for and such. I mean, I'll be honest that from our perspective, we're looking, you know, broadly from the overall like viability, vibrancy, developing that kind of character of a neighborhood in an urban design sense. So we see TIF as a-- as a critical tool in that. We want to make sure

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that it is flexible to be used in the ways that best benefit the city and its-- its inhabitants, obviously.

**J. CAVANAUGH:** And so for TIF-- and this is, again, I'm new to this committee, missed [RECORDING MALFUNCTION] But my understanding of TIF is that it's meant to facilitate projects that otherwise wouldn't happen. And it is in a blighted area because we're trying to essentially raise up f-- out of blight, right? So I guess my question is, if we're granting TIF to a project and you're saying it's a successful tool to do all these things, if it is successful, why would the same property require TIF in quick succession?

**SCOTT DOBBE:** Well, you know, quick succession, 50, 50 years, I would suggest, you know, is a long time. And it's-- it's hard to exactly ascertain all that could come to pass in 50 years. But certainly it's not-- it's a significant move. It's an important tool. We've seen it advance our cities because of its use. And I think our perspective, again, I-- you'd be better served probably by answers from maybe somebody who understands it in the greatest depth of how these deals are structured together. But we're looking at that broad level about what we see these enabling happening inside our urban core and the vibrancy that they can help to enthuse.

**J. CAVANAUGH:** OK. Thank you.

**McKINNEY:** Any other questions? I have a couple.

**SCOTT DOBBE:** Sure.

**McKINNEY:** So you mentioned you're from Omaha by Design and you've been doing it for two decades to improve Omaha. North Omaha has gotten worse in the last two decades. So [RECORDING MALFUNCTION] is your plan and-- for north Omaha to address that issue?

**SCOTT DOBBE:** Well, our organization has been in operation, yes, for-- for two decades, as said. And thank you. You know, myself, I've been in this role four years. I'm an architect by training. And my passion is-- is this city and the city at large. And we certainly have a heightened focus, though we are regional and though we look kind of with that broad brush, we certainly put added emphasis in the areas of our city that have been disinvested for years and where we have structural conditions which have prevented growth and development in the ways that would most benefit their local residents. And so thinking of the north Omaha community specifically, you know, it's been our great honor to work alongside a lot of neighborhood partners

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in the development of, you know, the North Omaha Trail. Our partners at 75 North and us have led the development of affordable housing prototypes, which are open source and open to all have just been published; it's called the Affordable by Design Housing Playbook. And the idea there is small, single family infill designs that can be replicated that are really high-quality but provide affordable options. You know, we also have been showcasing some of the best, which all our neighborhoods hold at an annual event that we kicked off last year called Open Omaha. So I didn't mean to make this about us in any way, but I just wanted to say I share your-- your passion and your concern and your interest to invest in the places that right now need it most.

**McKINNEY:** But you-- you see the difference. And when you talked about midtown, you talked about jobs and economic development. When you talked about north Omaha, you talked about it [RECORDING MALFUNCTION] and affordable housing and a community event. Do you see the contrast there?

**SCOTT DOBBE:** I see how it all comes together, honestly. I think there's, there's a need for all that. We're trying to build these holistic, you know, comprehensive communities. And so it's-- it's both/and. We need the housing. We need the connectivity. We need the [RECORDING MALFUNCTION] vision of-- of jobs. And I think that where we can best accommodate that is in our core and north and south Omaha. There's this contingency there where things are easy to get to, or can be easy to get to once again. And anything we can do to further that growth and to heighten the possibility and the likelihood of that growth continuing.

**McKINNEY:** But you see why the people of north Omaha feel like the city of Omaha doesn't care about them. And-- and this is my last question. So do-- is it your opinion that the city of Omaha is using TIF in the way that the statutes intended?

**SCOTT DOBBE:** I do think so.

**McKINNEY:** All right. Thank you.

**SCOTT DOBBE:** Thank you.

**McKINNEY:** Any other questions? Thank you. Any other opponents?

**CHRISTY ABRAHAM:** Good morning, Senator McKinny and members of the Urban Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska

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Municipalities. I certainly appreciate the previous testifiers focusing on Omaha. I just wanted to give a little bit more statewide perspective on how this bill may impact others out there. Certainly Lincoln and Omaha are impacted, but I did reach out to several other municipalities just to get their take on this. And there seems to be concerns from smaller municipalities as well. A lot of your smaller municipalities are really focused on their downtown area, and that has been a project that takes, many times, decades to get their downtowns where they want them to be. So you have had downtowns that maybe have been declared substandard and blighted for over 50 years, and they're working on them. One example I heard in particular was there was a manufacturing plant that moved into a municipality sort of on the promise of the use of TIF, and that was over 40 years ago. And that manufacturing plant, they've moved out, and it's fallen sort of into disrepair. And that community expressed was like, well, we would love to have someone move into that place and-- and-- and rehabilitate it and make it better. But with a 50-year prohibition, they may not be able to do that for another 15 or 10 years. And I apologize; I know all of you on this committee are very smart. I just want to say again, I know that TIF is a complicated issue. And many of you, I'm sure, are sitting here thinking, well, why would you have to re-TIF something? Because the purpose of TIF, as you know, is to take something that's substandard and blighted and to make it into something that's better, that's new, that's rehabilitated, that's an improvement to the community. And we certainly appreciate Senator Linehan's intent on that. And I don't know of any municipality where after a 15-year TIF project they are re-TIFing again. I don't-- I don't know of that happening and I certainly appreciate that you don't want that situation to happen. The League is obviously very open to working with this committee and Senator Linehan, if it's possible to come up with language to allow a city to create its own policy, to say, you know, we're going to wait a certain amount of years before we re-TIF a property. Fifty feels a little bit too long for us. There's also the question about the definition of what is a parcel. Sometimes a parcel is a fairly large area and maybe part of that parcel has been redeveloped, something has been put on that. But there are other places that are vacant or not developed. And under this bill, I'm not sure that that other part of that parcel would be able to be redeveloped. So these are just some of the concerns that municipalities from across the state have expressed. And I just wanted to let you know that this is more than just an Omaha situation. And I'm happy to answer any questions anybody might have.

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**McKINNEY:** Are there any questions from the committee? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman, and thank you for being here.

**CHRISTY ABRAHAM:** Sure.

**J. CAVANAUGH:** So, I mean, what it sounds like what I'm hearing from you is that 50 years is too much, but some other number might be workable?

**CHRISTY ABRAHAM:** Senator Cavanaugh, I'm always open to, to working with this committee to make, make this bill better if that's something the committee would like to work on. We're, we're always going to advocate at the League for having as much flexibility in TIF as we can for municipalities because every municipality is different. Certainly, probably our first preference would be language that allows the municipality to create the policy to allow them to determine how many years might be reasonable. You might have a community that says, yeah, we wouldn't re-TIF anything in 50 years. But you might have another community that says, well, maybe we would re-TIF after 10 or 15 years. So we just would like as much flexibility as possible.

**J. CAVANAUGH:** OK. And I guess currently, you know-- I'm new to this committee. So under TIF currently, can you-- could-- you can re-TIF within 50 years. Can you re-TIF a property that is currently under TIF?

**CHRISTY ABRAHAM:** I don't believe so because you, you want that-- you know, and bond councils scare me. So I'm just going to say typically when you have a TIF project and you're paying off those bonds, they want that property, you know, to be on that project, and that repayment schedule with what's currently there, not adding an additional, oh, we're going to do another project on top of that. That doesn't typically happen.

**J. CAVANAUGH:** But it could under the statute?

**CHRISTY ABRAHAM:** [RECORDING MALFUNCTION] it could.

**J. CAVANAUGH:** OK.

**McKINNEY:** Any other questions from the committee? I got one. What if this bill was limited to cities of the primary and metropolitan class? Would it change your opposition?



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**CHRISTY ABRAHAM:** Senator McKinney, thank you for that question. Lincoln and Omaha are part of our League community; and if they are opposed, we would continue to be opposed to it as well.

**McKINNEY:** All right.

**CHRISTY ABRAHAM:** But thank you. I appreciate that.

**McKINNEY:** Thank you. Any other questions? Seeing none.

**CHRISTY ABRAHAM:** Thank you so much.

**McKINNEY:** No problem. Are there any other opponents? Anybody here to speak in the neutral? Senator Linehan?

**LINEHAN:** I want to thank-- thank all the testifiers for being here. I appreciate many of their comments, but I do have some pushback. The city of Omaha TIFed the casino, the only place the casino could go is at the horse track. There's no but for. It was going to happen. There were no proponents because we're the proponents on this, in my estimation. I'm saying we need to be careful about how we're using this because it affects taxpayers. And if we have too much parking in Omaha, which I've heard several times, why are we building another parking garage for Mutual, 200 spots and buying three garages at midtown? The city is. Federal funding takes a long time; we'll get started. Like, I would be, as the chairman said, much more excited about this project if it ran north and south, which I think two decades ago it talked about going from the airport to the zoo. That makes a lot of sense. There is no-- as, as lucky as we are in Nebraska and specifically Omaha about having donors to projects, whether it's University Hospital, the new science museum, or all at the new \$400 million park downtown, there's no-- there's no donors that I know of to this, which concerns me. If it's a great idea, where's the philanthropic community backing this up? Main question I have-- I am going to go back to it, and I think everything I've heard this morning confirms it-- they're going to use valuation increases to pay for TIF, not building a building, creating something new that wasn't there before, but increases on people who live there now. They have said that they're not going to do individual residencies. I don't know that-- I don't know how you do that constitutionally separate with how you're treating residential property from [RECORDING MALFUNCTION] I thought you couldn't, but, I'm not a lawyer. Regarding your question, Senator Cavanaugh, on re-TIFing things, they just said there-- I don't know how long Gallup has been on TIF. It's back before we went to 20 years, probably 15 years. I don't know. And they're talking about it's

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coming off so they're going to have to re-TIF it. At what point have you TIFed enough that it's no longer blighted? Anything that I see there doesn't look like blighted to me. It's beautiful. The situation is our property taxes is so high, the developers are saying we can't afford buildings without TIF. It's become like an inverse. We tax people so much that we have to give them back their taxes to build the building. And 50 years, the reason I picked 50 and I-- maybe there's another number, but this really needs scrubbing, because now TIF can go for 20 years, right? That was the bill that we passed a couple of years ago, it can go out for 20 years. So basically they're saying we're going to re-TIF the same properties every 20. The whole Midtown was TIFed when Mutual built out and it's beautiful. It's great. It struggled, though. I mean, there's-- restaurants aren't lasting there. There's something wrong with that plan. So now we're going to re-TIF it. I just think it really needs a lot more scrutiny than it's had. And that's why I brought the bill.

**McKINNEY:** Thank you. [RECORDING MALFUNCTION] committee? I'm trying to think if I have one.

**J. CAVANAUGH:** While you're thinking, I'll ask one.

**McKINNEY:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman. I'm sorry. I'm so used to calling you Chair, Senator Linehan, for bringing this bill. It is interesting to think about. You answered one of my questions about the, the timeframe, but what about the other one about the dividing parcels?

**LINEHAN:** I don't have a problem with dividing parcels if it is a situation which you have some of this in this TIF district which-- so you've got, you've got all of midtown that was redeveloped by Mutual, which is that center part that overlooks the park. That clearly-- I would have concerns if we re-TIF that. But then if you just go down the street a little bit, there are clearly some buildings that are not useful. So if there is a way to figure out that, like how you can separate those parcels, I don't know enough about your committee or how you would do that, but I understand and that was mentioned to me in meetings that if you say a parcel, some of those parcels could be huge. And some of them can be tiny. So maybe there's some work to be done there.

**J. CAVANAUGH:** But you're willing to work to make--

**LINEHAN:** Absolutely.

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**J. CAVANAUGH:** --an accommodation if we find a way that would work.

**LINEHAN:** Absolutely.

**J. CAVANAUGH:** Thank you.

**McKINNEY:** What-- what is your response to city officials saying that they need to develop the streetcar project and the whole project period to do the other things in other areas in the city?

**LINEHAN:** I find it-- I mean, I think I know where you're coming from, Chairman. It seems very odd to me that we're developing a streetcar for people to-- maybe it's for jobs, but a lot of it seems to be so you can play. Which-- play's fine. I mean, it's great. And I understand. I've lived in big-- I haven't so much as my kids have lived in big city; D.C., for instance. And you can get-- nobody has a car because you have Uber, you have Lyft, you have the metro system. That's great, but it's federal dollars. It's a big plan. It includes the whole community. It includes people actually who can't afford to have a car to get to work. I think that's a big deal. I don't see this plan. I think maybe the answer is show us the big plan and how you're going to get there versus just this east-west route.

**McKINNEY:** Yeah. All right. Are there any other questions? Seeing none, thank you.

**LINEHAN:** Thank you.

**McKINNEY:** And with that, we'll close our hearings for this morning. We'll be back at 1:30 p.m.. Thank you. Oh, and we had two proponents, three opponents and none neutral, for the record.

[BREAK]

**McKINNEY:** Good afternoon. Welcome to your Urban Affairs Committee. Today is January 31, 2023. I am Senator Terrell McKinney, Chair of the Urban Affairs Committee. Before we start, I would ask the senators to introduce themselves, starting on my right.

**LOWE:** John Lowe, District 37: Shelton, Gibbon, and Kearney.

**BLOOD:** Good afternoon. Senator Carol Blood, representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**J. CAVANAUGH:** John Cavanaugh, District 9, midtown Omaha.

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**McKINNEY:** And to my right is legal counsel, Elsa Knight. And to my left is committee clerk, Raquel Dean. Today and before all hearings, all bills to be heard will be posted outside the hearing room. The senator introducing the proposed legislation will first present. Senators who serve on the committee are encouraged to ask questions for clarification. That said, the presenter and those testifying are not allowed to directly question senators serving on this committee. For purposes of accuracy to, to the record, we ask each presenter to state one's name, spell it and state who you represent, if not yourself. If you are planning to testify, please fill out the testifier sheets that are on the table in the back of the room. Be sure to print clearly and fill out-- fill it out completely When it is your turn to come forward to testify, give the testifier sheet to the page or the committee clerk. And if you are testifying today, feel free to move forward. You don't have to sit in the back. If you do not wish to testify, but would like to introduce-- but would like to indicate your position on the bill, please complete the sign-in sheets on the back at the table. The sheets will be included as an exhibit for the official hearing record. In your Urban Affairs Committee, we use the light system to promote maximum engagement of those wishing to express their position on proposed legislation before us. The light system will generally be five minutes with the green light, one minute with yellow, and red to ask you to conclude. We will recognize opponents, proponents and neutral testifiers. We also will acknowledge letters received for-- from all concerned parties. Should you have handouts you wish to share, please share ten copies or ask the committee clerk to make copies. The clerk will then distribute any handouts to all committee senators. Following all proponents, opponents and neutral testimony, the bill presenter is offered an opportunity to close and give their final remarks. As a committee, we will work diligently to give a fair, full hearing. We will make every effort to accommodate special requests of assistance. At this hearing, we ask you to be respectful, respectful of the process and to one another. Please silence your phones or turn them off. Senator Jacobs, you're willing-- Jacobson, you're willing to open. Thank you.

**JACOBSON:** Thank you, Senator McKin-- or Chairman McKinney, and members of the Urban Affairs Committee. My name is Senator Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n. I represent District 42. I'm bringing intro-- today, I'm introducing LB33, which is-- I'm bringing on behalf of the League of Municipalities. The issue of when a mayor can vote is often a matter of discussion among city attorneys at times, and it can be challenging to determine in which situations the law allows the mayor to vote. State law used to have language saying that the mayor can

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vote when his or her vote will be, quote, decisive and the council is equally divided, end of quote. In other words, the mayor can vote when there is a tie. About ten years ago, that language was changed to the current law, which provides that a mayor can vote when his or her vote, quote, would provide the additional vote required to obtain the number of votes equal to a majority of the number of members elected to the city council, end of quote. According to legislative transcript, the reason for the change was that many items are required to be approved by the majority of those elected to the city council. So when a city has a four-person council and one person is gone, the city would have a 2 to 1 vote, which is not enough to pass the item because the city needs the majority of those elected, which would be a-- which would be three council members. So in those circumstances, allowing the mayor the vote-- mayor to vote makes sense. Challenges arise from the current language because it seems to allow a mayor to vote in situations where a majority of all members of the council are required but does not allow the mayor to vote when the situation only requires a majority vote of the quorum. For example, on an eight-person council, if the vote is tied 4-4 on a matter that requires quote, a majority of all members, then the mayor could vote to break the tie. If the vote were tied on a matter that only requires a majority of the quorum, then the mayor is not able to vote. Examples in state law of matters that require a majority vote for quorum, which presumes that the mayor cannot vote under the current law, are as follows: passage of general ordinances, bylaws and resolutions; emergency transfer of funds; appointment of city officials such as clerk, treasurer, attorney, et cetera. Examples in state law of matters that require a majority vote of all council members, which preserves-- presumes that the mayor can vote under the current law would be all ordinances, resolutions or orders for the, the appropriation of money, passing an ordinance or resolution to enter into a contract, and annexations. There are also votes that require a supermajority of the city council, such as a two-thirds vote or 75 percent vote of the council, where the mayor is not allowed to vote in these circumstances. The new language being proposed in this bill would be that the bill attempts to clarify some of the confusion about when a mayor can vote. When the new lang-- with the new language, a mayor in a city of the first class or a city of the second class can vote on any matter that requires either a majority of the city council or a majority vote of all elected members of the city council if the mayor's vote is required due to the city council being equally divided. In other words, when there's a tie or be a majority of the city council, a majority of all elected members cannot be reached due to absence, vacancy, abstention or one or, one or more city council--

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one or more abstention of one or more city council members. The new language addresses three concerns. It allows the mayor to vote when there is a tie, it allows the mayor to vote when a majority of the quorum is needed, and it allows the mayor to vote when a majority of all members elected to the council is needed. Important to note, this bill does not apply to villages, Lincoln or Omaha. Villages do not have a mayor and Lincoln and Omaha have their own rules because they are home-- they home rule charter state-- cities. Also important to note that the bill does not allow the mayor to vote when a supermajority vote of the council is required. And I would end my testimony and entertain any questions.

**McKINNEY:** Thank you, Senator Jacobson. Are there any questions?  
Senator Blood.

**BLOOD:** Thank you, Chairperson McKinney. I just have a quick question. Who brought this bill to you?

**JACOBSON:** It originally came to me through the League of Municipalities. And we actually had a circumstance in North Platte where I witnessed this happening and so we had this discussion about it and so they worked the bill and brought it together. There are experts here in the audience, one individual in particular who is very knowledgeable of the background on this, and I would encourage you to-- any deep questions, he's-- I know is prepared to testify in, in favor of the, of the bill and could answer some really tough questions, but give me this soft ones.

**BLOOD:** That was my only question. That was really my only question.

**JACOBSON:** Perfect.

**BLOOD:** Now I kind of want to come up with a hard one.

**JACOBSON:** Well, I figured that. Knowing you, I thought you'd ask that.

**McKINNEY:** Are there any other questions from the committee? Seeing none, thank you.

**JACOBSON:** Thank you.

**McKINNEY:** Are there any proponents to LB33?

**JOHN HINES:** Thank you. Thank you, Senator. That was a great summary of the bill. My name is John Hines, J-o-h-n H-i-n-e-s. I am an attorney at the Crary Huff Law Firm in Sioux City, Iowa, and am the assistant

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city attorney for South Sioux City, Nebraska, and Dakota City, Nebraska. And the question of mayor voting is something that has come up in both of those communities every year that I've worked at Crary Huff. And so I assisted the League in creating the new language for the bill, did a lot of research on the history and origin of the existing language and understand that that developed over time, but in a way that has caused some confusion for our council members and our mayors. And I think that the new language of the bill isn't perfect, but gets much closer to allowing our council members and our mayor to understanding before a meeting when the mayor is going to be allowed to vote or not. Instead of having to rely on counsel at the city council table, legal counsel, to render an opinion on the fly about whether the mayor is allowed to vote or not, which has happened. And in fact, for South Sioux City, we have a five-page cheat sheet on when the mayor is allowed to vote or not based on whether it's a matter that requires a majority of all of the members elected or is just a simple majority. And so while the, the goal was not to change the existing rule about when the mayor is allowed to vote, the goal was to make it clearer for the council members, for the mayor, and for the public to understand when their mayors are or are not allowed to vote. And so that's why I'm here to speak in favor of the bill. And if anyone has any questions, I'd be happy to answer them.

**McKINNEY:** Are there any questions from the committee? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chair McKinney. Thank you for being here, Mr. Hines. So I'm from Omaha so not really familiar with the-- these-- the form of government of the other cities. So in these-- was it a city of the first class and the second class?

**JOHN HINES:** Correct.

**J. CAVANAUGH:** So does the mayor sit on the city council?

**JOHN HINES:** The mayor presides, in our cities, over the city council meetings. So in both South Sioux City and Dakota City, the mayor attends all meetings, calls the roll and otherwise conducts the meeting and in rare circumstances, will cast a vote to, to break a tie or to provide the additional vote.

**J. CAVANAUGH:** And are the number of city council members set by statute or does each of those cities get to choose how many city council members they have?

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**JOHN HINES:** Each city has its own council set by ordinance. In South Sioux, we have an eight-person council and Dakota City is a four-person council.

**J. CAVANAUGH:** And are they elected at large or by district?

**JOHN HINES:** I believe South Sioux City has districts, but I think Dakota City might be at-large. I'm not positive.

**J. CAVANAUGH:** And the-- but the mayor's relationship to the city council is set by statute, not by the city.

**JOHN HINES:** That's correct.

**J. CAVANAUGH:** OK and do you have vetoes and veto overrides?

**JOHN HINES:** I'm sorry, I didn't quite hear you.

**J. CAVANAUGH:** Can the mayor veto city ordinance changes or the budget, or anything like that, and then have a veto override by the council?

**JOHN HINES:** Yes.

**J. CAVANAUGH:** And-- but that's not something that the mayor could vote on in this context.

**JOHN HINES:** No.

**J. CAVANAUGH:** OK. And how-- are the terms different? What are the lengths of terms? Are they set by-- would they all be set by the city ordinance as well?

**JOHN HINES:** The length--

**J. CAVANAUGH:** The lengths of term for the mayor or for the city councilmembers.

**JOHN HINES:** I think that is in the city code, but the state law might control that.

**J. CAVANAUGH:** OK. Thank you.

**McKINNEY:** Any other questions? Senator Lowe.

**LOWE:** Thank you, Chairman, and I'm from Kearney. Kearney has a, a different form of government, but our mayor votes on all votes there. Will this affect Kearney's form of government?



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**JOHN HINES:** I'm not familiar with Kearney's. Does Kearney have a home rule charter then?

**LOWE:** We have a city manager.

**JOHN HINES:** OK. I would maybe--

**LOWE:** And the, and the mayor is part of the city council.

**JOHN HINES:** Understood. So I don't believe that this bill would affect that. Christy might be able to answer that question better than me.

**LOWE:** I was going to ask her [INAUDIBLE].

**JOHN HINES:** OK. The, the focus of-- again, I-- the, the situations I have dealt with are in the two communities that we represent. And so the, the goal was to fix the mayor voting rules in the mayor/council form of government. So if you have a different form of government, I don't believe this would change that.

**McKINNEY:** Any other questions? Seeing none, thank you.

**JOHN HINES:** Thank you.

**McKINNEY:** Are there any other proponents? How you doing?

**GARY PERSON:** Good. Senator McKinney, members of the committee, my name is Gary Person, spelled like "person," G-a-r-y P-e-r-s-o-n. I'm the president and CEO of the North Platte Area Chamber of Commerce and Economic Development Corporation, but I'm also here representing the city of North Platte and Mayor Brandon Kelliher, going on record in support of LB33. I think it's probably more appropriate. I just provided a support letter on our behalf of our 625 members of our corporation. We work very closely with the city, obviously very engaged in all the different things that happen at the city council level. And I think because our mayor was directly involved in the situation here, I'll paraphrase-- read part of his letter here. During the fall of 2022, I was involved in a city council action where three members were absent due to illness or travel. The action required a specific percentage of the council members to vote in favor. However, state statute was unclear on the subject of the mayor voting on the issue in order to have the required number of votes in favor. North Platte City Council eventually resolved the issue in a subsequent meeting. However, this event provided an excellent example of the need for clarity in the statute. Mayors should be allowed to vote on occasions when their vote should-- would alter the outcome of the

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decision. Such a practice would be consistent with the chairman's role in Robert's Rules of Order: provide for clarity in council processes, help communities leaders provide the most accurate application of public preference in legislation. Please vote in support of LB33 as the bill progresses through the Legislature. Just to give you a little background on what this was, this was a citizen-led petition drive that got on the ballot. It was adopted by the voters on a 2-to-1 margin and there was very little time between when the election happened and when the city had to provide the ordinance to the state. The risk here was you wouldn't get it filed with the state in time to where you'd lose the entire next quarter of potential revenue. This is a half-cent sales tax initiative. Even though the, the statute is pretty clear, says the council shall acknowledge the fact that the vote did occur, with the three members absent, there was-- one council member chose not to vote for it because she was not in favor of the initiative to start with. So she wanted to go on record, make it so it was 4-1 vote. And because that doesn't constitute-- it's a simple majority, but it doesn't constitute under the statute that it has to be the majority of the elected officials voting. That's what had occurred and that's what was at stake. And so to make sure you follow the open meetings law and you have to been-- follow and, and try to advertise specific meetings to, to waive the three readings in order to get it in place, that, that's what occurred and caused all the confusion. City attorney initially thought the mayor did have the right to, to vote, cast that vote, but then they later determined it was vague enough. They didn't want to risk, you know, having-- lose this potential revenue so that's why they went back and, and did that. Senator Lowe, I would mention that I spent 16 years as a city manager in a city manager form a government. So your question-- I, I can tell you that that-- those are-- those folks are all elected by 100 percent of the, the people. And so it's just-- the mayor is a, is an equal member of the council. In a strong-mayor/city administrator form of government, that is not necessarily the case. But if you want to make an argument why the mayor should be allowed, they're the only elected official in that form of government that gets 100 percent of the people able to vote on it. The other council members are elected basically in wards owned by only 25 percent of the public. So again, showing the validity behind why a mayor deserves the right to, to vote in those situations.

**McKINNEY:** Thank you.

**GARY PERSON:** Thank you.

**McKINNEY:** Are there any questions? Come back, come back.

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**LOWE:** Gary, don't rush off.

**McKINNEY:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman McKinney, and thank you, Mr. Person, for being here. That was an interesting story. It must be frustrating--

**GARY PERSON:** It was.

**J. CAVANAUGH:** --that scenario. So I'm trying-- you know, not familiar with the particular type of government, but the scenario you listed-- you, you articulated had the combination of both people being out sick, but also a voluntary abstention. And I wonder about the wisdom of making this change to allow for that, which I think potentially can be gamed, but that-- in conjunction with the, I guess, vacancies. So I want-- I just wanted to ask about, like-- so that person abstained or didn't vote for this resolution on purpose. And in this scenario, the-- their decision to not vote for it, I guess, gets undermined by a decision to, to add-- just add another vote.

**GARY PERSON:** Yeah, it was-- we had-- there was a definite division in the council on this particular issue. In fact, because it took a supermajority vote to get it on the ballot in the first place, three of the eight members chose not to want to move it on so the citizens took it upon themselves. It involved a half-cent sales tax-- infrastructure sales tax for the building-- repurposing, rebuilding of a recreation center and redoing an old swimming pool and the community-- North Platte had the distinction of having the oldest outdoor and oldest indoor swimming pools and it's, it's definitely structures that are showing their age. It's an important issue with the public. They felt the council erred not letting the people vote on it. They took it upon themselves to, to put it on the ballot, but some of those hard feelings or whatever still carried over to where they still felt-- one person felt compelled to vote against acknowledging it and another one just abstained just out of also, you know, their way of showing of personal protest.

**J. CAVANAUGH:** And-- but I guess my question is in terms of making a change to the statute to clarify it, what are your thoughts on-- I guess, how are vacancies dealt with on the city council?

**GARY PERSON:** There, there's a little-- the mayor winds up appointing someone. Obviously, they all want to interview different people, take-- have an application process. In this case, it was someone who

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had served their time quite well, was a former county sheriff and he just started-- he had some health issues, some hearing problems and he just chose to-- you know, for the, the good of the cause, he felt--

**J. CAVANAUGH:** Right and I'm not talking about absence. I'm talking about vacancy. So the mayor would point-- appoint for a vacancy. I guess my concern is you set up a scenario under which the-- you get a vacancy and you could hold that open for a while and then the mayor just slots themselves in as the--

**GARY PERSON:** Yeah.

**J. CAVANAUGH:** --right?

**GARY PERSON:** I think there's a timeline in the statute that says you have to appoint in a certain time. And obviously, we have an election coming up fairly soon too where that particular precinct was up for ward.

**J. CAVANAUGH:** OK. Thank you.

**GARY PERSON:** Um-hum.

**McKINNEY:** Senator Blood. Wait.

**GARY PERSON:** Yes.

**BLOOD:** So you just really don't want to talk to us, right?

**LOWE:** You have to hurry to get home.

**BLOOD:** Thank you, Chair. Just a quick question and it's mostly one of clarification. So would I be correct if I said that the vast majority of councils have the ability to table an issue should some of these instances arise? So, for example, somebody is sick and they want that person or persons to vote, three people on the council get the flu all at the same time, which we know happens actually quite often because they hang out a lot, they table it until they had a quorum, until they had more people to vote. Is that correct?

**GARY PERSON:** In, in normal circumstances, that kind of a scenario works. You know--

**BLOOD:** Right.

**GARY PERSON:** --they would just table the issue. But where you had a pending deadline here, which really meant several million dollars of

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potential revenue coming to help support what the people voted on--  
overwhelming margin-- you'd risk that-- losing that whole quarter of  
revenue, so that's--

**BLOOD:** And I'm not arguing--

**GARY PERSON:** Yeah.

**BLOOD:** --that. I'm just saying more often than not, though, you have  
the ability to table it.

**GARY PERSON:** Sure.

**BLOOD:** Thank you.

**GARY PERSON:** Absolutely.

**McKINNEY:** Any other questions? No? Thank you. Are there any other  
proponents?

**CHRISTY ABRAHAM:** Good afternoon, Senator McKinney and members of the  
Urban Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y  
A-b-r-a-h-a-m, here representing the League of Nebraska  
Municipalities. I want to start by thanking Senator Jacobson for  
introducing this bill for us. As you have heard from the past  
testifiers and the introducer himself, this has been an issue that we  
struggle with. And my coworker, Lash, and I were talking before I came  
over. This is probably the number one issue that we get calls about.  
And that's, I'm sure, a surprise to a lot of people. This is what  
people call? This is what people call about: when can my mayor vote?  
We certainly appreciate the current language and what it was intended  
to do. We have a lot of second-class cities that have four-person  
councils. And it's not unusual in four-person councils-- you might  
have someone be sick, obviously; you might have someone be gone.  
There's also a lot of issues of "abstentia." In small communities, you  
may sit on the city council and you also own the plumbing business and  
you have to abstain from certain votes because you may have a  
conflict. So "abstentia"-- that's one of the reasons that language was  
added with vacancies and "abstentia" because that does come up quite a  
bit. So we really do think this takes care of the issues. I know there  
have been lots of questions and they're all really good, and I  
appreciate that. Senator Lowe, you've already had your question  
answered. City manager form of government, you're not impacted under  
this bill. You have your own set of statutes and we're not amending  
those. So you're, you're all good. Senator Cavanaugh, in terms of  
vacancies, again, vacancies are not unusual in cities of the second

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class. State law is very specific that you have 28 days to fill those vacancies, so four weeks. That can all-- sometimes be a challenge for our smaller committees because they only meet once a month. But we're always very clear when they call in that the vacancy needs to be filled within that, within that 28 days. So there's also often a special meeting called where, as you heard, the mayor proposes a name and then the rest of the council votes to determine to fill that vacancy. I'm happy to answer any questions you have. I know you've already asked a lot of great questions, but I just want to reiterate again, this language does clarify a lot of the questions we get. We have a lot of city officials who still think the law is a tie, that the mayor gets to vote when there's a tie. And the law has actually been changed a couple of times since that language. So we just hope that this is going to take care of all the issues that we hear about. And I'm happy to answer any questions, Senator. Thank you.

**McKINNEY:** No problem. Are there any questions? No? Thank you.

**CHRISTY ABRAHAM:** Thank you.

**McKINNEY:** Are there any other proponents? Any opponents? Anybody here to testify in the neutral? Seeing none, Senator Jacobson, you're welcome to close.

**JACOBSON:** Well, thank you. Since I'm coming back for the next bill, anyhow, I just as well close. But let me just clarify a couple of things. Senator Day, nice to see you here. I can fill you in along the way here if you need me to.

**DAY:** OK, thank you.

**JACOBSON:** But I think you've heard a lot of situations here and I will-- would want to reiterate again, we've got a situation-- my senior credit officer serves on the city council in North Platte. So there are a number of times when we do have conflicts and he's got to abstain on issues that would impact the bank. And so that will create an abstention that normally, you know, wouldn't occur, but we're very cautious about that. We're an eight-member council. It's also important to note that our-- of course, our mayor is elected. I think in the city manager cities like Kearney, they actually, I think-- as-- if I understand it, they elect their city council and, and then they elect the mayor. I think the council elects the mayor, don't they, in, in your, in your form of government? So-- but I think a big part of it is, as you look at a lot of the other smaller communities out there, class two cities in particular or second-class cities, you will have

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smaller boards and smaller councils. And so it does get difficult if somebody's missing, sick or otherwise and if they're not meeting very often, it does become cumbersome. So the bill was really meant to just kind of clean up and some consistency. It seems like the last time it was cleaned up, it made it more confusing. So with that, I'm-- since there are no-- nothing-- no one speaking in opposition and no neutral testifiers and not heavy-loaded questions, I learned a long time ago that when you made the sell-- sale, you should probably quit selling. So I'm going to stop here and ask for any questions.

**McKINNEY:** All right. Thank you. Are there any other questions from committee? No? That will close the hearing on LB33. All right, we'll open a hearing on LB98. Again, if you're here to testify on this bill, please feel free to move forward. Senator Jacobson, to start.

**JACOBSON:** Thank you. I'm back. Chairman McKinney of members of the Urban Affairs Committee, my name is Senator Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n. I am before you today to introduce LB98, which brings several revisions to the community development law and specifically redevelopment plans receiving an expedited review under Section 18-2155, also known as Micro-TIF. The bill is designed to improve the ability to finance projects and clarify the duties and powers of the city. It also modifies 18-2109 to clarify that more than one designation can be done within an area of substandard and blight-- of, of a substandard and blight study without the need for an additional study or public hearing. High interest rates and high construction costs continue to plague the rural housing markets. It will take every tool necessary to help solve this problem. Tax increment financing has been used successfully to build new housing subdivisions, but rehabilitating older homes in established neighborhoods can be another cost-effective way of improving the affordable housing inventory. Micro-TIF has been in place for a few years now, but it needs to be improved if we want to see greater utilization of the program. LB98 is designed to make much-needed changes to the Micro-TIF program to accomplish this objective. As a refresher, TIF is allowed to be used in areas that have been designated as blighted and substandard. To achieve this designation, the study must be completed by a qualified individual to make certain that the area meets all the requirements. The governing board of the community must declare the property as blighted and substandard before ultimately approving the project. Micro-TIF currently does not allow for future tax increment-- tax increments to be dedicated to the repayment of the note issued at the inception of the project, but instead provides for the property tax payments derived from the project improvements to go to the current homeowner as they're, as they're received as opposed to the initial

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developer/noteholder. As a result, the developer is unable to borrow against the note to offset some of the construction cost to rehabilitate the property because they can't ensure that that income stream will continue to come to them. LB98 makes three needed changes to the current Micro-TIF law. First, it allows for blight studies to be conducted on larger parcels, but allows the governing body to select smaller portions of the larger study areas for the blight and substandard designation. This keeps a smaller portion of the community to be declared blighted and substandard-- blighted and reduces the cost of doing multiple studies. Second, the bill allows for the incremental tax proceeds generated from the project to be paid to the holder of the note, thus allowing the note to be capitalized at the inception of the project. This would be consistent with all other TIF projects under regular TIF and, and affordable housing TIF. Finally, the bill also allows for the governing body to approve each individual project and allows for the governing body to limit the number of projects approved at any time. This keeps the governing body in control of the number and character of the projects. It should also be noted that Micro-TIF is not allowed to be used in cities of the metropolitan class and the-- or the primary class. I believe, believe that these much-needed improvements will significantly help to jumpstart this program and allow more aging homes to be rehabilitated and create truly affordable housing in rural areas. I'd be happy to answer any of your questions.

**McKINNEY:** Are there any questions from the committee? Seeing none, thank you.

**JACOBSON:** Thank you.

**McKINNEY:** Are there any proponents for LB98?

**MIKE BACON:** Mr. Chairman and members of the committee, thank you for your service. I know you're so well-paid. My name is Mike Bacon, M-i-k-e B-a-c-o-n. I worked on my first TIF project 30 years ago to help our local community and that's all I do. And so don't tell my mama I'm a TIF lawyer; she thinks I play piano in a bar. Senator Jacobson is a friend of mine and asked me to take a look at this bill and I've made some suggestions. The original Micro-TIF was pretty messy for all the reasons that the senator described. A couple of things that are there as it exists today, if there's-- an area is declared blighted and substandard, then if the city says it will engage in this type of TIF project, the city council then loses absolutely all control. They are required to approve the plan. So if a billionaire wants to take advantage of this type of project, they



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have, they have no ability to say no. There is no cost-benefit analysis required; there is no look at the impact of what happens to the city. So that is significantly different than the current TIF statutes that do not allow you to deploy tax funds to a project. Secondly, the-- as it sits right now administratively, it is terrible to deal with-- for \$50, the poor city clerk and city treasurer have to deal with tax payments over a 15-year period and they can only pay it to the owner of record so that you can get up to four or five different tax checks during the year to pay on TIF projects: the two that go prior to a delinquency date, plus the state's refund. So you can get four payments and, and have to go check before you pay everyone out to see who holds title for every one of those projects because that's the way the current statute is drafted. By paying it to the holder of the TIF note, you can just pay that one person and not have to go spend that time. The way TIF generally works today is TIF-- a TIF note or a TIF bond is issued to a developer. They go to the banker and say, I need to borrow some money against this. That cannot happen because you don't know that that TIF is ever going to be paid back to the individual you're loaning to. There is currently no way to revoke the area that-- or revoke the process of doing a micro-blight, and so that has been fixed. Micro-blight is talked about quite a bit, but the blighting piece that Senator Jacobson has put in here actually does allow micro-blight. I represent a fairly large city that would like to pick and choose areas to say, let's go see if we can talk that person into rehabbing their, their project without having to blight this whole area. And they can't do that presently without being included in a large area so this allows people to pick and choose. Other than that, those are the major areas. I would say that as the bill sits right now, or as the law sits right now, it could be-- you could be accused of abusing tax, tax revenue because there's no but-for test. You can't charge interest on the, the note. It's just a continual payback of the funds. And there's no limitation on how much you pay back. It's just you get all your taxes for 15 years regardless of how much you've spent. So this has a provision-- this, this bill has a provision that says you can only get it to the amount of the agreed-upon cost and you have to disclose what those are. So I'll stand down. Thank you.

**McKINNEY:** All right. Thank you. Senator Blood.

**BLOOD:** Thank you, Chair. You said you helped a little bit with this bill. You helped with the crafting of this bill?

**MIKE BACON:** I reviewed a couple of pieces, yes.

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**BLOOD:** I'm not sure if I should be asking you or Senator Jacobson.

**MIKE BACON:** It's his fault.

**BLOOD:** His fault? All right. So why retroactive?

**MIKE BACON:** You have, you have some TIF projects out there that qualify. Under that scheme, you have to check and pay who the landowner is for those. That's just the way it's set up currently. If you go to a new regime, those notes follow the landowner and not the original developer. So this cleans it up and says it goes on to the, to the originator who gets the, the TIF benefit. It's not very useful the way it sits now. It's, it's pretty ugly.

**BLOOD:** So why would you remove the submission of building permits then, just to remove one more step? Because some communities-- I was trying to figure out-- and I couldn't see that in the legislation, like, which class of cities this applies to. Because I know you look at, like, a community like Bellevue and there is a planning commission. It sounds like your experience is there is no planning commission where you come from. It just goes right to the council.

**MIKE BACON:** No, no. They're-- almost every community has a planning commission.

**BLOOD:** Right.

**MIKE BACON:** And so it's, it's-- the process for this, a normal TIF bill, there's a public hearing in front of the planning commission, public hearing in front of the city council and a-- either a community development agency or a community redevelopment authority. All three entities weigh in. That's eliminated. If it's-- if a request is filed, it doesn't go to the redevelopment authority, it doesn't go to the planning commission, and the council can't do anything but approve it. So that's the way it's set up now. The city council cannot limit the number of projects and they can't decide whether or not they want to kick one to the curb. They all come through.

**BLOOD:** But ultimately doesn't the buck stop with the council when it comes to this type of financing?

**MIKE BACON:** No. Once it's, once it's put in place, it can't be stopped. Once you, once you decide you're going to participate in this and pass a resolution saying we'll allow this process to begin, you sit back and the only way that you can stop it currently, if you don't fill out the blanks correctly on the application. It just goes.

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**BLOOD:** I guess I'm not talking about stopping it. I'm talking about-- it almost feels like you're trying to take authority away from, from people who ultimately are responsible for the bottom line of how TIF works in their community and I find that concerning. So I'm going to keep listening to see what everybody else has to say and-- because that's how I'm reading the bill, but I'm going to sit here and listen.

**MIKE BACON:** OK. That's not the impact. You actually are giving it back to the council. Thank you so much.

**McKINNEY:** Any other questions? No? All right, thank you. Are there any other proponents?

**ANDREW WILLIS:** Andrew Willis, A-n-d-r-e-w W-i-l-l-i-s. I'm an attorney with Cline Williams. I represent quite a number of communities with tax increment financing and quite a number of developers utilizing tax increment financing so I kind of see this from both sides. The changes that are proposed by LB98 to the Micro-TIF statute I think would be very beneficial on both sides, really, to, to, to make this-- to make Micro-TIF the, the-- and the expedited process for these smaller TIF projects be as effective as it was intended to be. Particularly, the-- I'll hit a couple of points. What, what this-- what LB98 would do in one hand is allow for cities to set the number of, of projects that can be approved. It allows--- it, it, it adds standards to when-- how they would be approved, allows them to opt out at a later time. Again, this, this does give more authority to these cities, more ability for these cities to control how, how the Micro-TIF program looks in their community. And particularly, I like the, the additional standards for approval, having, having that laid out a little bit clearer. It's always, it's always more beneficial to have that clarification when approving, when approving this, especially because this is an expedited process compared to the, I guess, what I would call the quote unquote typical TIF review process. So I think those additional standards really do help and, and should be beneficial for each community as they, as they look at a Micro-TIF program. Clarifica-- the clarifying the language of the-- on the issuance of TIF indebtedness, I think this really does make a big difference when looking at a project. As, as draft-- as written right now, Section 18-2155, again, as it's already been mentioned, the, the TIF payments are made to the owner of the property and that is the owner of the property if property is transferred later. Whereas, you know, the way a redevelopment project like this works, if somebody comes in to build a home, for example, and utilizes the expedited process, the development-- those eligible TIF costs that they're incurring, that TIF is intended to repay those costs. Really, they're going to go out

and need to go to a bank, find a lender. The lender is going to provide those funds and then that tax increment will repay that over time. If that's-- the way it's written right now, it's, it's difficult for those lenders to ensure they'll be repaid because if that home, for example, is sold during that 15-year period, these TIF payments stay with the owner of the land. It just doesn't quite work the same way in the expedited process as it does in again, the-- what I call the typical process. This is meant to be simpler and I think those were just some things that were overlooked and this will-- that-- we'll make it actually a workable program or more workable program, I should say. I did want to comment on the building permit question. I was involved in one specific project earlier, voted on last year where we had a-- on the developer side where we had a project that would have otherwise qualified for the Micro-TIF. And we're going through the Micro-TIF process, had the application filled out, but except-- and, and that was the one thing that stopped this project because a developer in these scenarios is looking at, you know, the-- usually looking at tax increment financing very early on in the process because that's a piece of the funding to see if this project will even, even be feasible. Without, without TIF-- I mean, if that TIF isn't there, they have to figure out if this project works from a financing perspective. So in this case, the city correctly said, well, we need the building permit. And we said, well, we don't have a building permit. We're not that far in the process because you have to figure out the financing before you've got to that step. So what, what this does-- and really, that was-- and that's not required in the, in the full hearing process. You're not required to have a building permit at the time of the application to submit it. So this is an extra step on these smaller projects that actually makes it more difficult to get to. And, and that was one example where we-- that specifically happened. Again, all in all, I think that these changes clarify, add a little more ability for this, for this program to be workable, give a little more guidance and authority on, on the city side for how to make this work. And I think it's, I think these changes will be beneficial for, for a lot of communities and I'm happy to answer any questions.

**McKINNEY:** Thank you. Are there any questions from the committee? Seeing none, thank you.

**ANDREW WILLIS:** Thank you.

**McKINNEY:** Are there any other proponents?

**CHRISTY ABRAHAM:** Senator McKinney and members of the Urban Affairs Committee, my name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, here representing the League of Nebraska Municipalities. Just as a little bit of background, Micro-TIF is sort of a term that we all use for this. It's not-- that's not what it's called in statute. In statute, it's called expedited review. The reason we like the word Micro-TIF is because the intent of Micro-TIF, which was created by Senator Groene-- I think it's been maybe three or four years now, Senator Groene had this idea that sort of an individual person should be able to apply for TIF and get some of the benefits of TIF if they're just doing a small project on their home. I think he was worried about, you know, rundown and dilapidated properties in his, in his town. And he thought, well, you let just an individual person be eligible for TIF. Wouldn't that be great? Maybe that would encourage more people to do improvements on their home and there wouldn't have to be these giant redevelopment plans. You could just be a single person going in, filling out an application and getting Micro-TIF. So we call it Micro-TIF because expedited review just seems too confusing. So we certainly appreciated that Senator Groene tried to make this as simple as possible. So there was one application that you filled out. If you filled it out correctly, you were going to get Micro-TIF. There are a handful of municipalities that have passed a resolution to do Micro-TIF, but only a handful. And many of them have expressed concerns to us about that they're not ready to do Micro-TIF quite yet because of some of their concerns, and this bill addresses a lot of them. The first one-- and I-- you've heard this before, I just want to repeat. This bill allows municipalities to set the limit on the number of applications. That was something that our larger communities were really concerned about is what if we get 200 applications? Under the bill and under the law that was passed, you could only have a \$50 application fee. So I think there was some concern with some municipalities is we're going to lose money if we allow Micro-TIF because \$50 is not going to cover all the costs that we have to, to do these applications. So we're very grateful for that change. Municipalities can set a limit on how many TIF applications-- Micro-TIF applications they take. Second of all, it allows a municipality to deny a Micro-TIF application for certain reasons that are outlined in the bill. We're very grateful that this bill outlines them because, as the previous testifier mentioned before, you fill out the application, you've put all the information, you filled out all the blanks, you, you are going to be approved for Micro-TIF. So we're grateful for that change. And finally, there is explicit language that allows a municipality to revoke their resolution that allowed for Micro-TIF. So as the law stands now, the municipality who wants to do

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Micro-TIF passes a resolution and then Micro-TIF can be done in that community. This bill says, you know what? If you decide this isn't working, we're going to allow you to revoke that resolution and you don't have to do Micro-TIF any longer. I also just want to mention that Micro-TIF can only be used in cities that are located in counties with less than 100,000 in population. So if you are a municipality in Douglas, Lancaster or Sarpy County, you don't get to use Micro-TIF. Again, Senator Groene felt that this Micro-TIF thing was really something that should happen in non-urban settings. So I'm happy to answer any other questions that you have, but the League is supportive of this legislation.

**McKINNEY:** Thank you. Are there any questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chair. Thank you, Ms. Abraham, for being here again. So has anybody gotten into Micro-TIF yet?

**CHRISTY ABRAHAM:** Yes. These are-- I did a very scientific Google search plus some communities have actually called and told us that we're doing it. But Norfolk has it. Tilden, Nebraska, North Platte and Beatrice are the communities that I know of. There might be more, but those are the ones that I'm aware of that have passed the resolution to do Micro-TIF.

**J. CAVANAUGH:** And-- but do you know if anybody has received TIF under those--

**CHRISTY ABRAHAM:** Oh.

**J. CAVANAUGH:** --city resolutions?

**CHRISTY ABRAHAM:** I apologize. Yes, it's my understanding that some applications have been approved, yes. But I apologize, Senator, I don't know how many. I could probably try to find out, but I don't know how many.

**J. CAVANAUGH:** Thank you. Just curious.

**CHRISTY ABRAHAM:** Yeah. Sure, of course.

**McKINNEY:** Any other questions? Seeing none, thank you.

**CHRISTY ABRAHAM:** Thanks so much.

**McKINNEY:** No problem. Any other proponents?

**GARY PERSON:** Mr. Chairman, senators, my name is Gary Person, spelled like "person," G-a-r-y P-e-r-s-o-n. I'm the president and CEO of the North Platte Area Chamber Development Corporation. Also testifying as a proponent, but also representing the Nebraska Economic Developers Association legislative council, which represents approximately 300 members statewide, and the city of North Platte and Mayor Kelliher, who also submitted a letter that's being passed out right now to you. The revisions presented by Senator Mike Jacobson introducing LB98 are excellent changes, very much needed for Micro-TIF projects. I don't want to reiterate all the points that have already been made, but telling you, you've got two of the finest minds sitting here in the, in the chambers right now in dealing with redevelopment projects and use of tax increment financing and the complexities. That being Senator Jacobson has had 24 years experience as a community redevelopment authority chairman, as well as his many years of banking experience and Mike Bacon, who has been spending 30 years here. I tell you, I've been doing TIF projects with Mike Bacon for those 30-plus years so I've got a lot of experience, a lot of scars and bruises in going through the public process. So I understand it well and I'm, I'm a big proponent of TIF overall and the wonderful things it does to help revitalize communities. The two primary things I see that are critical in this and all the proposed changes is, number one, you could do a comprehensive study of the community and define what are the eligible areas. In older-- all Nebraska communities are obviously aging. A lot of our housing stock was built somewhere between 50 and 125 years ago. You have large sections of communities that are badly in need of redevelopment because they were, they were developed some time ago. And communities sometimes are reluctant to blight an entire area because they're restricted by the amount of percentage they can do in a community. In, in class one cities, that's 35 percent. So there's that reluctance. If you were just to be able to study it and say these are eligible areas and then as each particular project comes along, you can just define that lot that qualifies so you're not endangering the overall percentage. I, I saw that as one deterrent, why only four communities have come forward and adopted this. The other is the complexity of how do you finance these projects? And there was no real clear, defined way that a bank uses as collateral on potential revenue coming forward from specific projects. So this does help clarify that as well. So I think those in particular are going to be really good changes. I can tell you I've been personally contacted by well over 40 different people who are really excited about-- this is something that's going to help the small developer, the individual older home, an older commercial building downtown that wanted to do upper-floor housing, those kind of things. And so people are really

engaged, really excited about it. The mayor, in fact, says the city has had about 40 different people approach them on an application process, but only seen two actually come forward and get approved. And it's because of the confusion and especially not being able to get the projects financed or just figuring out there's just no way I can make this pay. So these are, are very much good changes and supportive to a great degree. And it's like I said, the statewide Economic Development Association is, is totally on board with this as well.

**McKINNEY:** All right, thank you. Are there any questions? No? Thanks. Are there any other proponents? Are there any opponents? Anyone here to testify in the neutral? Seeing none, Senator Jacobson, you're welcome to close.

**JACOBSON:** Thank you again, Senator McKinney and members of the Urban Affairs Committee. Again, I appreciate the opportunity to come and speak before you and try to enlighten you as to the ideas on this particular bill. I think what I'd like to do is clarify-- just reiterate a couple of things. And, and I know, Senator Blood, you had an excellent question earlier in terms of how does that impact the city? And what this does is it gives the city much, much more control. The way the bill was originally drafted, the bill was drafted with, as it's been enumerated, \$50 fee. Once the city opted into Micro-TIF, they were locked in. They had to accept every project. If they, if they applied for it and completed the application, they were automatically approved. The city had no opportunity to shut it down. So, so it was really meant-- it was very aggressive and it was meant to probably cut past the CRA, not the-- the CRA is not involved at all in Micro-TIF, nor is the planning commission; it goes directly to the city council. Assuming that the property has been declared blighted and substandard, it's the council that makes that decision under this expedited review. What this bill does is it gives the city much more control. Number one, it says that the city can opt out at any time. The city must-- will review each project and make sure that those projects do fit the intent of what was-- Micro-TIF was for. And if it didn't, they could reject that project. The \$50 fee is still the fee. So the other problem that was enumerated and that we have a concern about is under the original plan, there was no ability to do what a normal TIF project does. And you have a handout there that, that shows the funds flow of how typical TIF works, how the repayment works, OK? Under Micro-TIF, that doesn't happen that way. Under Micro-TIF today, the future payments are going to be sent-- the county treasurer is going to collect the money. They're going to give it to the city treasurer, who's likely the treasurer for the CRA. And then they're going to-- or in this case, the city treasurer would get the money and



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then they have to go figure out who the homeowner is and distribute that money to them for 15 years and they get paid \$50 upfront one time to do this, OK? Just doesn't make sense. So the other thing that's a problem is that if a developer comes in and wants to rehabilitate a project, you go in and do a major remodel and you apply for Micro-TIF, you no have-- you have no way to monetize that money to use it upfront like you normally do with TIF because you don't have the repayment stream coming to you unless you agree to hold the house or hold that property for 15 years. So you sell it two years later. Well, then that revenue goes to the future homeowner. Now you can argue, well, you're going to get a higher price for the house when you sell it? No. How you going to do that? Because the appraiser is not going to appraise that house any higher simply because it's got this imputed or inferred property tax payment coming in the future. There's no basis to appraise the house higher so therefore, you're not going to be able to sell it at a higher price. So it just negates the whole, whole concept of, of being able to do this. This needed to be changed so that it would work just like regular TIF so that the developer-- if the developer came in and took an older home and wanted to completely rehab that home or tear it down and build new, they'd be able to capture the TIF to use-- and they could use that as upfront cost to do the rehabilitation, turn around and sell that home. And they can sell it and they get subsidized in terms of what their cost was and brings that house down to something that would actually encourage them to truly come in and build it. One of the problems we've got today across rural Nebraska-- and you're finding it in Lincoln and Omaha as well, but across rural Nebraska is if you go out today, you're going to build a new-- bring in a new subdivision, you're going to spend between \$65,000 and \$75,000 per lot getting that lot ready to go. But I can tell you-- and, and Senator McKinney, Senator Wayne and I have had this conversation a number of times about the difference between north Omaha and the north, north side of North Platte. You know what the change-- the difference is? Almost none, OK? Because you've got poverty there, you've got older homes, you've got dilapidation. If we're going to change that and we're going to get older homes rehabilitated, this is the program that'll make it happen. You're not going to spend \$65,000 to develop those lots. Those lots already have street to them. They already have water, they already have sewer. You can go in and buy those older houses, tear it down and build new under Micro-TIF and all of a sudden, you've got the, you've got the subsidy that makes sense to make that happen. And so instead of expanding our city limits, we're going to be able go into the interior part of our city and on our north side and we're going to be able to fix some of the re-- some of the dilapidation that's occurring there and probably

reduce crime and make our city that much nicer city. This will happen throughout the state in, in the class one and class two cities and villages if we make these changes. I think it's an important piece to come into the arsenal of what we're trying to get done. So that's why I'm very focused on trying to make these changes, expedite it, get it done so that we can start rehabilitating more of these homes. Clearly, you look at the price of-- or the cost of interest today, what the affordability index is right now, it's very, very poor. A lot of what we've talked about this year and we'll continue to talk about this-- there in the Legislature is figure out how are we going to be able to provide more housing for real work in affordable housing, making handicap accessible, doing the things we need to do? This is a way that we can do it without any money from the Legislature, without taking any money out of the pockets of the taxpayers that exist. Because you know what? With TIF, it's self-funding. If the project gets built or if the project otherwise would not have been built, that tax revenue wouldn't be there. The only way that tax revenue comes in is if we build the project. So we're allowing that developer to take that increase during that next 15 years to pay-- repay them for the incentive to build that house today. I think it's a win-win. I really hope that you will move forward and move this bill forward and I'd stand for any more questions.

**McKINNEY:** Thank you. Are there any questions from the committee? Seeing none, thanks.

**JACOBSON:** Thank you.

**McKINNEY:** That'll close-- oh, and for the record, we had two proponents, zero opponents and zero neutral. Thank you. That closes our hearing for today and we'll go into Exec.