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Urban Affairs Committee  
February 27, 2007

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[LB387 LB562]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 27, 2007, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB387 and LB562. Senators present: Mike Friend, Chairperson; Amanda McGill, Vice Chairperson; Abbie Cornett; Ray Janssen; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None.

SENATOR FRIEND: Welcome, this is the Urban Affairs Committee. My name is Mike Friend. I'm from northwest Omaha, District 10, and we are going to go ahead and get started while the other senators are filtering in. Some are introducing bills in other committees, obviously. We'll take care of some of the up-front duties that we have. If you would--I'll introduce the members of the committee as we approach the end of this housekeeping stuff here. I was hoping that everybody could turn their cell phones off or at least turn them to vibrate. Everything is being transcribed and that makes it a little bit easier for the transcribers to deal with. Anybody wishing to testify on any legislation, should come to the front of the room when that bill is going to be heard, at least move up into the first row or second row, kind of get in the on-deck circle, if you will. As someone finishes testifying, you can move a little bit closer in progression, I guess, toward the front of the room. The green sign-in sheets by both doors are for testifiers. Those have to be completed by all wishing to testify. If you would fill that out and place that in the box before you testify, we would appreciate that. And if you do not want to testify and you'd like your name entered into the record as being present at the hearing, please enter your name and information on one of the white sign-in sheets; we would appreciate that. As you begin your testimony, and I've been saying this all since we began, all year, please state your name and spell it for the record and if you don't, I'll go ahead and stop you and make you spell it--not to interrupt your train of thought, but just for the transcribers as well. If you have handout material, Matt Pederson is our page, Matt is from North Platte, Nebraska--he'd be happy to distribute that to the committee for everybody. And if you don't want to testify, you may want to submit some comments in writing, you can do that--we can also have those read into the official record. I wanted to introduce the committee real quick. Oh, by the way, no display of vocal support of opposition to the bills, please. With that, I want to introduce the committee real quick. To my right, again, Senator Ray Janssen, from Nickerson. I've known him for four years and never a day goes by that he doesn't surprise me. Just be ready. (Laughter) Senator Amanda McGill is the Vice Chair of the committee, she's from Lincoln. Bill Stadtwald, to my right, is the legal counsel. To my left, Beth Dinneen is the committee clerk, and Abbie Cornett, from Bellevue, she's a surprising person as well. (Laughter) Senator Rogert, no surprises at all, (laughter), he's from Tekamah. With that, I see Senator Langemeier, who, I believe, has a surprise for us with LB387. Senator Langemeier, welcome. [LB387]

SENATOR LANGEMEIER: (Exhibit 1) Thank you, Chairman Friend. My name is Chris

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Langemeier, it's C-h-r-i-s L-a-n-g-e-m-e-i-e-r, and Old McDonald had a farm, I would say. (Laughter) I'm going to offer today...I introduced LB387. I didn't do it on behalf of any particular group or any individual, so I may not have a lot of proponents behind me today. I am offering out an amendment that would basically strike the bill. I'm first going to go over a couple of things that this bill requires and it's basically... [LB387]

SENATOR FRIEND: Go ahead, sorry. [LB387]

SENATOR LANGEMEIER: ...three things: one, would require that starting in January 1, 2008, all new homes, and when they are getting plumbed, they would be plumbed with two different meters; one meter that would register all the water that goes to the exterior of the house, and one meter that would require measurement of all water used within the house. That would happen in January 1 of '08. The second portion of this bill would require starting January 2015, that all cities put water meters in. We have cities across this state that have municipal water that don't have meters at all. Number three would require...how do we deal with the old houses? Number three would require in January 1, 2015, starting that date, at any point after that when you sell your home, before the new service could be hooked up, where physically possible--some homes are finished where you can't get this done--but where physically possible, these homes would be converted over to be double-metered. Now, that's the essence of the bill. Why the bill? As we look today, as we talk about the use of water, we hear about agricultural use versus municipal use--it's not really what this is about. We can determine what is basically being used on the exterior home for watering your lawn, washing your car, pretty much by comparing a winter rate of use to a summer rate of use. But, however, we don't have the awareness to the homeowner of what's really going where. When you get your \$100 water bill--and I'm just using \$100, I don't if that's high or low, I'm just using an easy number--when you get your \$100 water bill and you sit down to pay your bill, you look at that and say, I need water, I'm going to pay my \$100 water bill this month because we need water for the house, we need water for showers, we need water use in our home. My argument is if we double-meter this, we have a couple of avenues: number one, you'd get your bill and it says that you've used \$35 worth of water in your house, with the balance \$65 outside your house, that's going to click in your mind. You're going to say, gosh, we used \$65 worth of water outside. Maybe we need to water our lawn less. Maybe we need to wash our car less on the external use of water in our home. When it's separated, you have that click in your mind versus one bill. You have to pay it; you have to use it. When it's separate, I think that's a conscious ability for people to say, wow, how are we using our water. Now, when you do this, it also leaves you a number of opportunities: number one, right now our sewer rates are compared to your water bill. Water usage "equivilates" out a sewer rate. If we have dual meters, we could get that sewer rate onto the water used that's using the sewer. It also allows us then to get into an Omaha situation where storm water is an issue. Storm water is not real tied to municipal water use, but in the future there may be an opportunity to tie on some storm water use fee onto that external use. So there becomes a number of different avenues

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as you have the dual-meter system. You are going to hear today, testifying behind me, opponents, that it's real costly. You know, the meters are \$34 to \$55. It ranges on plumbing on an old construction, I've heard anywhere from \$100 to \$700. My local plumber said that on a new construction, they use the PEX system. It would add about 75 bucks and you'd need another separator box and some...they are already running the lines and so you are going to hear a range. There are some costs to do this. But I think into the future, as water becomes an issue, is if this state continues to experience drought conditions, at some point we are going to look at reducing water use even in municipalities. People don't like to hear that, but if we have dual meters, we could effectively affect how you use your water by the rates we charge versus external use versus internal use. We could make people conscious of how they're using water. And that's why I bring LB387 and the amendment does totally replace the bill. I would, probably opposed to the green copy myself, after reading it and preparing my testimony, and so I would ask anybody in the crowd that doesn't have a copy of the amendment, my staff would sure pass that out if you'd raise your hands. And so are there any questions? [LB387]

SENATOR FRIEND: Yeah, thank you, Senator Langemeier. I was going to open it up for questions in a second. Could I see a show of hands of how many folks want to testify on this bill? Both proponent or opponent? Okay. Thank you. I think Senator Janssen had a question. [LB387]

SENATOR JANSSEN: Do most cities around the state have water meters, Chris? [LB387]

SENATOR LANGEMEIER: The majority do. There are some cities and municipalities that have no meters at all at this point. [LB387]

SENATOR JANSSEN: What about those that don't have any public water? [LB387]

SENATOR LANGEMEIER: If they have private wells, this would not affect them. This would not affect a private well, it would just require those hooked onto a municipality or rural water district... [LB387]

SENATOR JANSSEN: It isn't going to make the metropolis of Nickerson have to put in water meters then? [LB387]

SENATOR LANGEMEIER: I believe Nickerson is on their individual wells, correct? [LB387]

SENATOR JANSSEN: Absolutely. [LB387]

SENATOR LANGEMEIER: So you would not have to meter your water. [LB387]

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SENATOR JANSSEN: Although I had to replace my well last summer to the tune of about \$5,000 so I could have probably bought a lot of city water. [LB387]

SENATOR LANGEMEIER: I won't disagree. [LB387]

SENATOR JANSSEN: Okay. All right. No, Chris, I think you've got a good idea here. I think if people knew how much water they were putting on their lawns, they would be amazed. Good idea. Thank you. [LB387]

SENATOR FRIEND: Thank you. Further questions? Senator Langemeier, do you...I know you've got a background and experience dealing not just with water issues, but from a business standpoint. But I mean, it's stuff you've been involved in, but also from a natural resources district history or background. This was your idea? I mean, are there other governmental subdivisions, states that have tinkered with dual metering like this? Has there been a success rate or precedent for any of this stuff, I mean? [LB387]

SENATOR LANGEMEIER: I don't know. This is, I will admit this is something I hatched in the middle of the night which (laughter) I don't sleep well at night. I think of a lot of these things and I just happened to bring this one forward today. At some point I think we are going to have to take a conscious effort to: number one, educate the people and to get off of dead-center and get out of the paradigm, and start thinking into the future of how we use water. [LB387]

SENATOR FRIEND: Further questions? Senator Cornett. [LB387]

SENATOR CORNETT: Chris, couldn't you get a reasonable estimate of the amount of water that you are using during the summer by just subtracting the summer months from the winter months, basically, on your water bill? [LB387]

SENATOR LANGEMEIER: Well, I think it's very apparent that we could do that in any individual home and community. But what happens is you pay your summer bill, you don't dig out your winter bill months, receipt, and hold them up and compare them. [LB387]

SENATOR CORNETT: Okay. Thank you. [LB387]

SENATOR FRIEND: Further, Senator, that leads me to this question, I mean, I'm glad you brought that up. This is behavior...you're looking to promote behavior modification. It's not necessarily for a governmental subdivision to sit back and say, okay, here's where we are at and we know, you know, west Omaha, where they're watering golf courses or whatever the case might be. It's not necessarily for their purposes, it's for the guy maybe sitting out there or the gal sitting out there watering every day as opposed to

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once every three days. Behavior modification is your goal. [LB387]

SENATOR LANGEMEIER: Yes, this would be consumer awareness. I think we can prove, within a margin of error, how much water we use in the summer versus winter, and make some assumptions that it's used for external use. Granted, we probably do take more showers, I don't know. We probably do bathe and use more water in the summer which would also lead to higher use in the summer. But I think for the most part, I think we can determine that now. So this isn't...my objective of this is not to say Omaha, you're using this much water to water lawns and we need to slow that down versus what we're doing in the ag world. We are seeing in the ag world, as we continue to increase the amount of meters that we're requiring farmers to put on irrigation wells, it's been a conscious education. Even though we don't charge them, the fact they've put water meters on irrigation systems has given them a conscious knowledge of actually how much water they're putting on, and it's actually made them more efficient because they didn't have a clue. [LB387]

SENATOR FRIEND: Further questions for Senator Langemeier? Seeing none, thanks for bringing the bill, and will you stick around for a while? [LB387]

SENATOR LANGEMEIER: I'll stick around. You bet, thanks. [LB387]

SENATOR FRIEND: Okay. We will start with proponents of LB387. Those in favor of LB387? [LB387]

SENATOR LANGEMEIER: That's going to be quick. (Laughter) [LB387]

SENATOR FRIEND: Last call. Okay. No proponents? We will start with opponents, LB387. [LB387]

DAN CROUCHLEY: Mr. Chairman, members of the committee, my name is Dan Crouchley, D-a-n C-r-o-u-c-h-l-e-y. I'm senior vice president and general counsel at Metropolitan Utilities District. MUD is the water supplier for Omaha, Bellevue, Ralston, Waterloo, and the Papio Natural Resources District rural water district. MUD provides water to 200,000 customers and that's 200,000 meters representing service to 550,000 people. That's one-third of the state's population. My own math suggests that that is 1.3 percent of Nebraska's water is used to serve one-third of its population with the vast majority being domestic use. Each year we add about 3,000 meters to our service and if I use our figure of \$162 per meter, that is \$486,000 a year to add an extra meter on per year. Senator Langemeier said the reason for this bill is education and consumer awareness. I think lurking underneath all of these things is simply the water problem in the state. Ninety-four percent of the water is used by irrigators, four percent is used by municipalities. When we talk about one and the other, we're not talking about 50-50, we're talking 94-4. What is this for? We just mentioned it there. What's the use in two

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meters? I would suggest very little. Senator Langemeier admitted that you can just do a statistical, some simple math and measure winter and summer use and come up with a figure and I'll tell you that you can. And for a five-year average, approximately 28 percent of the water is used for outside uses at MUD, so that's basically Omaha. A ten-year average is 27.5 so it appears fairly consistent that it's roughly 28 percent of the water is used outside. In terms of the awareness of customers, MUD uses, and this is not universal in the state, but MUD uses an inclining rate. The more water you use, the more expensive it is. That is a conservation measure. And if you water your lawn, you will be jolted by the increase in water. If you use the average amount of water that a person uses for the regular uses like sanitation and so on, in the house, if you water your lawn beyond just a certain amount, you will see quite a large increase in your bill. I think that will make you very aware of the amount of water that you use. We also have conservation efforts beyond that inclining rate. With regard to existing...this bill initially applies to new construction. And like I said, roughly \$486,000 a year at MUD. I did a rough...\$162 times 190,000 is \$30 million for existing and this only covers at sale time, but just a general idea of what we'd be talking about as a current cost of \$30 million to put a second meter on existing. The bill also, well, it increases all sorts of costs for a water supplier, including these meter costs, reading meters, providing computer billing, and so on. This is all added costs and we just don't see that it's necessary at all. It also, the bill also interferes with the business practices of each individual municipal provider. Each of us decides whether the customer or home builder purchases the meter or whether we pay for the meter and put it in, etcetera. MUD chooses to bill the cost of the meter to the home builder, the contractor, and...but this bill requires that everyone in the state, that all the municipal water suppliers pay for the meter. So it makes uniform a business practice for every single water supplier in the state. Municipal use isn't the water problem in Omaha. I think people know that irrigation is the water problem in the state of Nebraska. This bill does nothing to solve that and it's also related to an extremely small amount of water. And if you have any questions... [LB387]

SENATOR FRIEND: Thank you, Mr. Crouchley. Senator Janssen. [LB387]

SENATOR JANSSEN: Dan, would you name the cities that you are servicing now? [LB387]

DAN CROUCHLEY: Omaha, Bellevue, Elkhorn, Ralston, Waterloo, Waterloo is a wholesale, and Papio NRD rural water district is a wholesale. [LB387]

SENATOR JANSSEN: Okay. Had you...before the annexation of Elkhorn, were you servicing them with water prior to that? [LB387]

DAN CROUCHLEY: Yes. Um-hum, yeah. [LB387]

SENATOR JANSSEN: And Millard also, and... [LB387]

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DAN CROUCHLEY: Oh, yeah, yeah. [LB387]

SENATOR JANSSEN: Yeah, okay. All right. Thank you. [LB387]

SENATOR FRIEND: Any further questions from committee members? Dan, you can...the 94 percent, you know, the 4 percent, I mean, those numbers are tossed around quite a bit. But take the Omaha metropolitan area or take Lincoln, take portions of Lancaster County, I mean, how are they identifying. I mean, if you go down to certain areas of Arizona, I'm sure that they are building homes with dual metering. But there is probably...or are they? [LB387]

DAN CROUCHLEY: I have no idea, it... [LB387]

SENATOR FRIEND: I mean, is this a...I guess that's my question then, is this a fundamentally new idea? You've never... [LB387]

DAN CROUCHLEY: I personally have never heard of it and was startled when I saw it. It may be or not, I don't know. [LB387]

SENATOR FRIEND: Okay. You are going to know, and I'm not picking on Wenninghoff's or any of the people...Paul Wenninghoff doesn't live far from me and I know he does a lot of irrigating. I would assume a guy like that's drilling wells, he's getting permits to drill wells over there. He can't use MUD resources to irrigate, I wouldn't think. Too expensive? [LB387]

DAN CROUCHLEY: Well, he could and we'd be happy to take his money. [LB387]

SENATOR FRIEND: Okay, well... [LB387]

DAN CROUCHLEY: No, I don't believe there's anybody that irrigates with municipal water. Maybe somebody else can give an example of it, but I'm not aware of it. [LB387]

SENATOR FRIEND: I know that's an ignorant question, but what I'm saying... [LB387]

DAN CROUCHLEY: Or agricultural irrigation. [LB387]

\_\_\_\_\_ : He drills. [LB387]

SENATOR FRIEND: Yeah. Okay. Senator Cornett? [LB387]

SENATOR CORNETT: Just a technical question. Do they produce a meter that can...one meter that can separate indoor from outdoor use and do you know if those are

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implemented in other states? [LB387]

DAN CROUCHLEY: I don't know. You know, when I read it, I thought, well, it's two meters and I think Senator Langemeier... [LB387]

SENATOR CORNETT: But it probably technically could be done with one meter? [LB387]

DAN CROUCHLEY: Well, you'd be metering twice. [LB387]

SENATOR CORNETT: Correct. [LB387]

DAN CROUCHLEY: You could put it in the same casing, I suppose you could...I don't know that it's out there and I'm simply unaware. I mean, that's just my own knowledge. [LB387]

SENATOR CORNETT: Okay. Well, I was just thinking of costwise, if something was available like that. [LB387]

DAN CROUCHLEY: I don't know. [LB387]

SENATOR CORNETT: Okay. Thank you. [LB387]

SENATOR FRIEND: Further questions? Seeing none, thanks for the testimony. [LB387]

DAN CROUCHLEY: Thank you. [LB387]

SENATOR FRIEND: Next opponent of LB387. [LB387]

KORBY GILBERTSON: (Exhibit 2) Good afternoon, Chairman Friend, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska State Home Builders Association and the Nebraska Realtors Association in opposition to LB387. First of all, one thing that's been touched on briefly in prior testimony is the issue of ground water use by agricultural versus urban usage and the figure of 94 percent versus 4 percent for urban. This is an article that appeared in the World Herald, so I made copies of it for all of you that shows a good graph on the very first page that illustrates this fact. So I'm a little confused. So if we would actually cut urban water use, what impact it would actually have because obviously, if you look at that pie chart, we're just one small sliver of the pie. The issue I wanted to really cover, when you look at the new white copy of the bill, this expands the bill not only to new construction, which we had estimates from \$100 to \$200 depending on what you do for your home, if you're building a new home. Now, a lot of new homes also include things

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like sprinkler systems, some have water in their garages, some have outside water that isn't hooked up to a sprinkler system, so for each additional thing that you would be looking at, there are additional costs that would be borne by the homeowner to do those things. So now, both for new construction and existing, when you are looking at an existing house, if you have an inside meter and outside meter, you have just a sprinkler, no other outside water, you would need...the minimum that we got from one bid was \$770 and then if you needed additional back flow preventers, which I'm not a plumber so I don't know a lot about these things, those cost about \$350 a piece on top of that and then you would need to add labor on top of those things. So this would be quite costly for the homeowners for a benefit that we cannot see there to deal with the issue. One other thing that I wanted to address was Senator Langemeier said that he thought this might be able to address the storm water issue. This is not storm water, this is municipal water, not included or ever been mentioned as being encompassed in the storm water issues, so I don't see how this would impact it. The water that we are using in our homes is not the water that comes from the storms and is running down the streets and causing the problem. So I don't think that this would be a way to address that in the long run. So I'd be happy to try to answer any questions. [LB387]

SENATOR FRIEND: Thank you. Any questions from the committee? Senator Janssen. [LB387]

SENATOR JANSSEN: I can't answer for Senator Langemeier, but I think what he was talking about was the person that waters his lawn in excess and it runs off into the gutters and eventually does get into the storm water system. I...he'll probably address that when he closes. [LB387]

KORBY GILBERTSON: Okay. [LB387]

SENATOR JENSSEN: If he closes. [LB387]

KORBY GILBERTSON: And I can see that that maybe makes more sense, but I think that when you look at how water bills are right now, show your usage--I know mine, and I asked somebody, I thought mine showed month by month how much I'd used so I could go back and look and I think they do that already. [LB387]

SENATOR FRIEND: Thank you. Further questions from the committee for Ms. Gilbertson? Seeing none, thanks. [LB387]

KORBY GILBERTSON: Thank you. [LB387]

SENATOR FRIEND: Next opponent? How many more people to testify? Can I see a quick show of hands? I see four total. [LB387]

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STEVE MASTERS: (Exhibit 3) Hello, my name is Steve Masters, S-t-e-v-e M-a-s-t-e-r-s. I am public utilities administrator with the city of Lincoln, Nebraska. Senator Friend, Urban Affairs Committee members, I have circulated a letter prepared by our director, Karl Fredrickson, and rather than read you the letter, I'll highlight a couple of points. Number one, the city of Lincoln does meter inside water usage and we do compare winter versus summer usage and we believe that that number accurately predicts the difference between inside and outside usage. Last year we had a little over 1,200 new taps to our water distribution system. We do charge a little over \$400 a tap to pay for our costs, so at the order of 1,200 taps, that's a little under \$500,000 a year that we would be needing to somehow charge back to our customers. Finally, I'd to observe also that the city of Lincoln does use an increasing block rate so that an individual who does a lot of lawn watering does pay more for their water usage. We also are very committed to water conservation and over the years have seen a decrease in the average per capita annual daily water usage. With those comments, I'd like to answer any questions that you might have. [LB387]

SENATOR FRIEND: Thank you, Mr. Masters. Any questions from the committee? I see none. Thanks for the testimony. Next opponent? [LB387]

JACK VAVRA: Senator Friend, members of the committee, my name is Jack Vavra, V-a-v-r-a. I am city administrator for the city of York, Nebraska, also wanting to talk to you today, my past experience with the Lincoln Water System in the seventies and eighties. Most all municipal water systems are metered and those that aren't, I would agree with the senator introducing this bill that all municipal systems should be metered. We found in York, and also my experience in Lincoln is, that we have a very good handle on summer outside water usage by comparing the winter usage which we use to bill water and sewer, and then in the summer we use the total water usage for water and then we go back to the winter usage to bill sewer during the summer months. I think sometimes we forget that municipalities have been on the leading edge of water conservation in this state for decades. In 1974, for instance, when I was with the Lincoln Water System, we set a record that year of 90 million gallons in one day. After that issue, and it was during Helen Boosalis' term as mayor in the city of Lincoln, she got together with the people in the utilities office and wanted a change in the way we billed and she wanted water conservation materials sent out to all the people who were connected to the system. We did that, we had an extensive water conservation program and changed our rate structure from a decreasing block--in other words, the more you used, the cheaper it was--to an increasing block, meaning the more you used, the more expensive it was for every incremental gallon of water. To my thinking, I think it was almost 30 years or maybe a little over 30 years before Lincoln again pumped 90 million gallons in a single day. So I think that will give you some idea that 30-some years ago, municipal governments around this state started conservation in a very serious way. Not all in 1974, some of them later than that. The city of York did go from a decreasing block structure to a flat rate structure and we also have had, for the last three or four years,

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voluntary water conservation mandated by executive Order of the mayor. And we have a program in place to have mandatory restrictions if that is necessary. We think we are providing our citizens in York with the information they need to conserve water. We think our billing rates and the way we bill gives people a good understanding of how much water they use outside, and I guarantee you that people do compare the usage they have in the summer with the usage they have in the winter because when they call in with a high water bill, they know what they used in the winter, they know what they're using now and they know what the difference in those bills are. With that, I would answer any questions. [LB387]

SENATOR FRIEND: Thank you. Questions from the committee for Mr. Vavra? Seeing none, thanks for the testimony. [LB387]

JACK VAVRA: Thank you. [LB387]

SENATOR FRIEND: Next opponent? [LB387]

DON BLANKENAU: Good afternoon, my name is Don Blankenau, my last name is spelled B-l-a-n-k-e-n-a-u. I'm a Lincoln lawyer and I'm representing the League of Municipalities this afternoon. My law practice is limited to water natural resources and environmental law. I've practiced law dealing with water issues in Arizona, Virginia, Georgia, Alabama, Florida, Colorado, Wyoming, North Dakota, South Dakota, Kansas, and Missouri. And in answer to your question, Senator Friend, there is no precedent for a law like this in any of those states, nor in any other state that I am aware of. And I think the rationale is because this isn't necessarily a new idea, it is related to the expense. And you heard some of those numbers here this afternoon from both Lincoln and Omaha. Those expenses would also be borne by much smaller communities as well, which also leads to a question that you raised, Senator Janssen, about what happens to individuals who have household wells. I think you arguably have an equal protection problem in that instance where water users in one area, for educational purposes, are being required to undergo the expense of installing one of these meters, while another water user elsewhere is not. Now, studies out there suggest that people on private wells actually use more domestic water than those in urban areas. If the purpose of the bill is educational, I think that educational point can be driven home in a much less expensive manner and in a manner that treats all water users the same way. Finally, with respect to one of the charts that was handed around concerning the total amount of water used in Nebraska, that 4 percent number is the amount of water actually pumped from the ground, it is not what is actually consumed. The consumption of water is typically related in an urban setting to the watering of ornamentals; the grass, the trees, golf courses, things of that nature. If you look at Nebraska's total water consumption, municipalities probably consume in the neighborhood of 1 to 1.5 percent of that total. So in terms of a water management plan overall, they really make up a pretty minor portion of the whole puzzle. While I think Senator Langemeier's purpose is

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laudable, I think you should be commended for trying to get out to the educational aspect of this, I don't believe this is the correct vehicle for doing so. With that, I'd be happy to try to answer any questions you may have. [LB387]

SENATOR FRIEND: Thank you. Questions? Senator Janssen. [LB387]

SENATOR JANSSEN: Don, in Lincoln, do the golf courses have their own wells or do they use city water? [LB387]

DON BLANKENAU: Some do and some don't, but there is some, and I think somebody asked whether there was irrigation from municipal wells. There is some of that that occurs. And I don't know if that's true in Lincoln, but it is certainly true in some communities. [LB387]

SENATOR JANSSEN: Is water hard to acquire in Lincoln? Do you have to go along way to find water? [LB387]

DON BLANKENAU: Well, yes. Lincoln's well field is located near Ashland, yeah. [LB387]

SENATOR JANSSEN: I know where it's at, I know where it's at, but is the water in Lincoln, is it good water, the underground water? [LB387]

DON BLANKENAU: Within the city limits of Lincoln? No, I think that's why it's limited in supply and quality, which is why they have to go all the way to the Platte River. [LB387]

SENATOR JANSSEN: Okay. All right, thank you. [LB387]

SENATOR FRIEND: Further questions from committee members for Mr. Blankenau? Seeing none, thank you. [LB387]

DON BLANKENAU: Thank you. [LB387]

SENATOR FRIEND: Is this the last opponent? [LB387]

LYNN REX: (Exhibit 4) Senator Friend, members of the committee, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. We strongly oppose this bill not because of it's stated purpose, but because of the cost. And it does come down to a cost factor. I'm handing out a letter from the city of Schuyler, from their department of utilities and this just summarizes, I think, all the complaints that we've been hearing from across the state: cost of two water meters, cost of installation of two water meters and the remote readers, cost of upgrades to remote reading system billing software, cost increase of the monthly meter reading process in both man hours and

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billing hours. And the letter goes on and elaborates on those. I think one of the most important things is that it is important. I just want to underscore what Jack Vavra and others before me have already stated, which is that municipalities across the state, we think, have been on the cutting edge. We have been extremely concerned about water conservation and extremely concerned about costs. And that's why more and more municipalities across the state are in fact, charging more--the more you use, the more that you pay. And in terms of just on a per-gallon basis or a per-unit basis, and I can assure you that I know in my neighborhood, we actually had a meeting last summer and did have the actual comparisons of our water bill from the winter and our water bill from the summer. And we had a meeting with the city about that. So people do look at that and people are concerned about it and people want to make sure that they are not overwatering their lawns and doing those sorts of things. And I think that is a separate and distinct issue from the issue that Don Blankenau raised, which is equally important, which is if you look at the numbers that you've heard today, basically 94 percent versus 4 percent, or as Don said, total consumption, the consumption of 1 to 1.5 percent of total water usage in the state of Nebraska by municipal use. And in terms of other numbers that you may have heard, 93 percent of all water basically being irrigation; center pivot, 2 percent, agriculture non-center pivot; and the other 5 percent being commercial, industrial, everything else, residential all combined. But that's not the consumptive use element, which is a much, much smaller number on the municipal side. So when you are dealing with municipalities that have to deal with nitrate issues, municipalities across the state, some of them that have had to have actually bottled water, and water shortages. We have municipalities, virtually every one of them, they are looking at voluntary and/or mandatory restrictions based upon the time of year and what's happening. So we do take it very seriously. We appreciate his concern, we are just very concerned about the costs. I'd be happy to respond to any questions that you might have. [LB387]

SENATOR FRIEND: Thank you. Questions for Ms. Rex from the committee members? Seeing none, thanks for the testimony. [LB387]

LYNN REX: Thank you. Thanks for your time. [LB387]

SENATOR FRIEND: Are there further opponents? We will move to neutral testimony? Any neutral testimony? Senator Langemeier to close. [LB387]

SENATOR LANGEMEIER: Thank you, Chairman Friend, and members of the committee and your patience with this, and I want to thank everybody that testifies this day, as I want you to think a little into the future, brings back chilling memories to seven, eight years ago when we started in the Republican River Basin. The same denial was testimony there--not by this group, but a different group--and you can see where we're at on that today without looking into the future. Lincoln water municipality mentioned their tap costs of \$400. This doesn't require a separate tap, it requires a 39 cent copper

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T put in your house to separate these out to two meters. And we talk about the use of municipalities versus agriculture. We're all aware that we have a problem on the agricultural side and we're dealing with that and that's in Natural Resources Committee, I thought I would share this water fight into your particular committee here today. I think we have to start looking into the future. We have to start making this aware to our people. It would be a bad day in Nebraska if we have already shut off all irrigation, we've shut off industrial, and now we're down to shutting off residential, we have a serious problem that will be well beyond what this will bring to us. But I think as we look to conserve, I think this gives an eye-opening effect to everybody in the world and as we look at a lot of things we spend money on, we're going to spend money on a lot of things today and we are going to spend more money on it tomorrow. With that I would conclude. [LB387]

SENATOR FRIEND: Thank you, Senator Langemeier and thank you for sharing the pain with the Urban Affairs Committee. (Laughter) [LB387]

SENATOR LANGEMEIER: I do my best. [LB387]

SENATOR FRIEND: Any questions from committee members...final questions for Senator Langemeier? Thank you for bringing the bill. [LB387]

SENATOR LANGEMEIER: Thank you. [LB387]

SENATOR FRIEND: That will conclude the hearing on LB387. I see Senator Adams and we will move to LB562. [LB387 LB562]

SENATOR ADAMS: (Exhibit 5) Thank you, Chairman Friend, and committee members, my name is Greg Adams, A-d-a-m-s, representing the 24th District. And to open today, if you'll indulge me for a moment, I want to put two hats on at the same time. One as a fellow Senator, but I'd also like to tread back a couple of months to my days as a mayor of a first-class city and talk with you about economic development and LB562. As a mayor, I would tell you, and you probably already know this, there isn't a town in Nebraska, village, or metropolitan class, that doesn't struggle every day to bring business, to bring quality jobs, to bring tax base. And sometimes it's just as simple as cleaning up the downtown or striking a bit of vitality into the community with whatever they can do. And they work hard at it. But we know, as senators, that we're the ones that also can have a huge impact on what those cities can and cannot do on their own behalf. LB562 is meant to be an addition, something more that cities can do that's at their disposal, another option that they can exercise in order to try to build that tax base, to create jobs. Or maybe something as simple as a village or community of the second class just revitalizing a portion of their downtown. Now what LB562 does is this: let's assume that we already have a community under the Community Redevelopment Act that has a redevelopment authority. It may be their city council, it may be a separate

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advisory board. What LB562 would do is to allow the community redevelopment authority of a community to use occupation tax, a tax which cities already have the authority to implement, to assist in a development or a redevelopment project within the community. That is, the city would enter into an agreement with the project developer for an area within the community. Let's say we have an area, I'll use as an example, let's say we have an area of four blocks that the community wants to redevelop and it's within a redevelopment plan area. A developer comes along and says, I might be willing to redevelop this area, what kind of incentives are there? The redevelopment board could say, well, first of all what it is you want to do? The developer says, here's my plan of attack, this is what I would like to do and it complies with the redevelopment plan the community has already developed. The community could say, well, we could provide you TIF, tax increment financing. That's one option. Another option, or an additional option could very well be the use of occupation tax to help that developer out. And how might that work? The occupation tax, if it was agreed upon by the developer and the city or the city's redevelopment authority, could be imposed upon the businesses within the defined redevelopment area, not every business in town, just those new businesses that would come into this redeveloped area. The occupation tax would be imposed, it could be imposed per seat in the restaurant, per square foot of office space, per parking space, gross receipts, however the developer and the city would agree to. The captured occupation taxes would then be used by the city to pay on bonds, principal and interest, on bonds, on revenue bonds that would be issued by the city on behalf of the developer to do the project. And the occupation tax would stay in place, it would carry on that area for as long as there are bonds to be retired. The bonds could be issued for only those things that the city and developer would agree to and that would comply with the existing community redevelopment laws. Now, we would take it one step further. It would be possible, the way that LB562 has been written, for a city to enter into a development project with the developer that's outside of a redevelopment area but within its annexed area. So the developer comes along and says, well, I would rather develop this green space out here rather than come into your downtown. The city may very well say, well, then we are not going to extend you the occupation tax authority because we need the redevelopment downtown, that's where we'd like to see it. The city could also say, all right, if you insist in being outside of this redevelopment area, outside of the plan that we have already put together, we could agree to that, but the occupation taxes collected would have to be used for a narrower scope of items: water, sewer, streets, sidewalks. The essence of it is, it may help that city provide the infrastructure out to where that development wants to occur but it's still within the annexed area of the community. Some of the other features of the bill: eminent domain could not be used on the part of the city if it is to take private property and give it to somebody else's private benefit--it couldn't be used. Secondly, if you'll look in the materials that I handed out to you, there is a structure size whereby not everybody necessarily could get this benefit. For instance, if a county has a population of less than 15,000, and we're basing this off of the Rural Development Act previously passed by the Legislature. If a county has a size of less than \$15,000, if an enhanced employment

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area or redevelopment area under this act is going to employ at least two new employees and have a new investment of \$125,000, then they could be eligible for this occupation tax assistance in the paydown of revenue bonds--and it incrementally works its way up. So in effect, the developer has got to do something to earn the privilege of this occupation tax use and the privilege of the city's authority to issue the bonds. And if you move clear up, if a new business is over 90,000 square feet, and I have an amendment to add to that to move it to 135,000, these numbers are very transient, and we've been working for a long time trying to come up with the numbers that we believe are most workable, and recently handed out to you was 135,000 square feet, or \$10 million worth of sales, what it would ask of the developer is that they provide a health insurance benefit of some kind. It may be contribution to an HSA account, it may be a partial contribution to an insurance premium, of \$3,000 to the employee. So as it works up and there's more investment, there's more occupation tax on the part of the city that's garnered here on behalf of the developer, then the developer has to commit more to it at the same time. I guess at this point, I'd try to answer some questions because I can see wrinkles in foreheads. [LB562]

SENATOR FRIEND: That's because I'm old. (Laughter) You were looking right at me when you said it. [LB562]

SENATOR ADAMS: Oh, come on. I know better than that. [LB562]

SENATOR FRIEND: Thank you, Senator Adams. Questions from committee members? I have a few myself, but I want to see what direction you guys go. Senator Adams, if I'm sitting in a community and I'm staring at trying to enable that particular community as a mayor or a city administrator, it first occurred to me when we were talking about this way back when that TIF seems like the logical assumption for everybody right now. The problem is it's obviously disbursed at different levels throughout the state. What I mean by that is, some can do it, some can do it more efficiently depending on their class than others can. I'm not going to go into that. What I'm saying is there's very little risk to TIF for the taxpayers of the city and for the people who are developing and everything else. More risk here with this. I mean, why would I say...if I had these two options next to each other, why am I going to choose the new option when I have the first option available to me? [LB562]

SENATOR ADAMS: Let me throw out some possibilities for you. First of all, you could use both options. A city could say, we're going to use both TIF and occupation tax. An example of that might be in a lot of rural downtowns where retail is sliding away, it can be very difficult to attract a developer in and TIF may not be enough. So now you add the occupation tax to it. You've given that city two opportunities that might push the developer over the edge and say, okay, I'll take the risk, in a small rural community, to do this. Now, breaking it apart. For instance, if we use something like sales tax, it could very well be that if a retail development comes in, a new development comes in, you

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use sales tax there, you're just robbing it from someplace else in town and shifting it around. We have, and I read more and more about it, we're having a growing number of communities, and I've sensed it even in the community that I'm from in York, in the many years that we've used TIF, a concern that we are continually eroding the property tax base. And schools in particular, in my history in York, were very good about saying, you know, a but for, we understand that, but for, we won't have this project 5 years, 10 years, or 15 years from now if you don't TIF it, but remember. If I go up the road from York 15 miles to Stromsburg, small little community. There they set, spirited people, like in every other community in this state, they want to revitalize their little downtown, that they sit right on the pinnacle. They don't frankly know if it's going to be worth it. They've "TIFed" one portion, one side of their downtown and it worked. They got a new coffee shop, took out some of the older buildings and revamped them and it really looks nice, and they've just recently done another TIF project where they've redone some of the sidewalks, but it's getting edgy for them. Can they continue to garner the property tax base necessary to continue to grow it? And I would tell you when you have a nonequalized school district in Cross County, they're mightily concerned as the village of the second-class city of Stromsburg continues to use TIF, you've got an unequalized school district that's saying, look, we want the town to grow, but come on. Don't keep robbing property tax base away from us. That's a very legitimate concern. This would create a third option. [LB562]

SENATOR FRIEND: Thank you. Further questions from committee members? [LB562]

SENATOR LATHROP: Can I just have you... [LB562]

SENATOR FRIEND: Senator Lathrop, yes. [LB562]

SENATOR LATHROP: Pardon me, I should have waited until I was recognized. [LB562]

SENATOR FRIEND: No, that's...you're fine, I just wanted...for the transcriber. [LB562]

SENATOR LATHROP: Can you walk me through how this is going to work? Just come up with a hypothetical business, they're interested in coming in to York or one of these communities, and tell me who are we going to tax and how that's going to work in the typical situation. [LB562]

SENATOR ADAMS: Okay. Yes. Let me try Senator Lathrop, and if I don't do a very good job, I've got the city administrator from York here and maybe he can walk you through even more of the finer details of it, but let's use York as an example. I think you're all aware that we had a pretty significant fire in downtown York, wiped out nearly one whole block right at the square. It's been a long time just getting the area cleaned up for a host of reasons. But now we enter into I think what could very well be the most difficult part of the project, and that's rebuilding. Why? Because it takes dollars, it takes

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a desire to rebuild in a small rural community, and it takes a developer. And the people who occupied the stores in that downtown area, it's not their business to be developers. They're appliance salespeople, they're the Eagles Club, they're not developers. And as we go out looking, we, I mean the community of York goes out looking for a developer, the developer might be setting right there in town, or the developer may be here in Lincoln, or who knows where that developer may be. I suspect it's going to be difficult to attract somebody, first of all, to a small rural community to do retail downtown development. I think that's going to be tough. In York, frankly they would probably rather develop out by the interstate. And would we say no to that? Probably not. But at the same token, with this incentive, we might be able to attract them and say, if you decide to come downtown, here's something more that we could do for you. So we sat down. We already have a redevelopment plan in York, we've offered TIF before to a variety of programs. In fact, our downtown is and of itself, a TIF project. We've done sidewalks, we've done facades, a variety of different things, to keep the town alive. So now we want to revitalize or rebuild this section. We get a developer that comes along and he or she says this is a pretty risky deal, I just don't know. We sit down with them and we say, in this area right here, which is about three-quarters of a block, right on the south side of the square, what we could do is identify that as an enhanced employment area right there. All right, the developer comes in and says, well, I've got a plan. If I do this, here's what I might do: I might put a retail store here, an appliance store, and I might try to put the Eagles Club back here as tenants. And the upstairs I might do as residential, or I might do as office space. Now this is what the project is going to cost me. This is what the tax increment gain would be if we used TIF, and all of that's fine and good, but is the city willing to give me an extra edge? Well, we could come in with TIF and say, we can help you do these public things with tax increment financing, we could come in with the occupation tax if the developer agrees. And the developer says, all right, here's the enhanced development area, I'm going to have a club here but I'm going to rent out space in a restaurant area. I'm going to have an appliance store, I'm going to have office space at the top. The city and the developer work out the formula for how the occupation tax will be collected off of this area and this area only, no other stores in town, this area. It's designed so that the occupation tax revenues will pay off the amortization on revenue bonds that the city would issue on behalf of this developer. And those bonds may be, again, for anything that fits within the redevelopment plan. It might be for the facade of the building, it might be for windows, sidewalks, landscaping, those kinds of things--parking, which would help this developer do what he or she has to do to get this thing there. I don't know if that's more descriptive or not. [LB562]

SENATOR LATHROP: That was very helpful. So you have an occupational tax. Who's paying it? How's it... [LB562]

SENATOR ADAMS: Well, the customers are paying it, Senator Lathrop. There's no question about it. When a customer walks in the store, they walk into the club, they walk into the appliance store, they would be paying it, the city collecting it, and using it to pay

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on those bonds. [LB562]

SENATOR LATHROP: Okay. That helps. Thanks. [LB562]

SENATOR FRIEND: Further questions? I see none and I would imagine you'll be around or are you going to... [LB562]

SENATOR ADAMS: Yes, I'm going to stick around, thank you. [LB562]

SENATOR FRIEND: Thank you, Senator Adams. Can I see how many proponents we have? Okay. How many opponents? We'll start with proponent testimony. [LB562]

WALTER RADCLIFFE: (Exhibit 6) Senator Friend, members of the committee, my name is Walter Radcliffe. I'm appearing before you as a registered lobbyist today on behalf of an organization called the Community Development Coalition which is a group of developers in the state, and also... [LB562]

SENATOR FRIEND: Walt, could you spell your name for the record just to...that's all right. [LB562]

WALTER RADCLIFFE: I'm sorry, R-a-d-c-l-i-f-f-e. Thank you, Senator Friend. [LB562]

SENATOR FRIEND: You're welcome. [LB562]

WALTER RADCLIFFE: And also, I'm registered for the League of Nebraska Municipalities. Mayor Jo Dee Adelung will probably testify--not probably, she will testify--directly on the league's behalf. What I'd like to do is share a little bit of history of the concept of these types of economic incentive bills and then some background on how LB562 got to the point that it got to. Senator Adams did an excellent job in response, Senator Lathrop, to your question as to stating how LB562 would work. And as a predicate to all of this, I think it's necessary to understand the nature of an occupation tax. An occupation tax is a taxing authority that cities have today and most notably, for example, it is exercised on telecommunications companies. In Lincoln, it is exercised \$100 per garbage truck--don't ask me why, there's a story behind that. But cities use occupation taxes in varying ways because to a large extent, it is a self-defining tax. And in the instance of LB562, it is a self-defining tax that in essence is agreed upon by the city and the primary developer of a project. So that concept of an occupation tax needs to be, I say, understood in order to contextually look at LB562. I want to go back about two years, I'll make this a quick history lesson. The first time I really got involved in this type of incentive legislation was when Cabelas came to me and wanted to build their store up in Sarpy County. And basically what was done then was the bill was introduced by Senator Landis, LB500, that dedicated the city sales tax revenues and a portion of the state sales tax revenues for, quote, public infrastructure

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for this project. The bill--you don't need to hear a history of the bill, but nonetheless, the bill did not pass. Some life was breathed into it last year in an attempt to use it as a vehicle to develop a proposal that would build a stadium in Omaha. There wouldn't have been enough sales tax generated to build the stadium. Point being: when people approached me about this bill this fall, I was very skeptical. I mean, it's the old once burned--I was not too anxious to try to work on the bill. And then I met with the league. They were interested in this too, so I said, well, let's take a look and see what we can do, but I'd learned two things at that point in time: number one, you cannot come at, and this is my opinion, you cannot come at an economic development proposal for cities on a project-specific basis. It doesn't work. If you try to tailor legislation to fit X development project, it simply isn't going to work. Unless, and obviously there's an exception to every rule, unless it is such a significant project as some projects were in Omaha, where we had the UP bill, we had the Microsoft bill, we had the ConAgra bill--those type of things are different than what the cities were looking for. So therefore, it needs to have general application. The second thing was that we could not invade existing tax structure or increase existing taxes. In other words, we couldn't give the cities an extra cent sales tax. Why? It just politically isn't going to sell. And I especially didn't think it was going to sell with the Governor's Office. So we looked at the circumstances and said what can we do that isn't site-specific and what can we do utilizing existing tax structure, but not increasing it? Very honestly, the occupation tax was what we seized upon. That's why you have an occupation tax here. We think this is broad enough in scope that it can be utilized, and it's generic enough in scope, that it can be utilized in most any circumstance. It gives cities, as Senator Adams said, another tool in addition to TIF. Right now TIF is about the only tool they really have for economic development incentives. So it gives them yet another tool that is an agreed-upon use between the city and the developer. The last thing that we wrestled with, and I'm try to choose my words on this, but what do we do, I'll be generic, about some large retailers whose policy is, at times, suspect? Was that generic enough? And the worst thing I can do is get sued and that wouldn't be the first time, so...and I'm sure, Senator Lathrop, you would be a good defense lawyer for me, or you might be the "sue-or", yeah, I'd be the "sue-ee." (Laughter). But that's why you have this 135,000 square foot requirement that Senator Adams spoke about. And coupled with that, if a store exceeds that, they have to meet this healthcare threshold of \$3,000 a year for any employee that works more than 30 hours. I think that's very, very sound public policy. So let me leave you with these thoughts. One, we definitely support the bill. Secondly, the amendment that Senator Adams presented, we would support. In addition to that amendment or bill is an amendment to that amendment, striking that 90,000 and putting in 135,000. With that, I'd be happy to try to answer any questions. [LB562]

SENATOR FRIEND: Thank you. Senator Janssen has a question. [LB562]

SENATOR JANSSEN: Well, there is a bill in Revenue, LB443, by Urban Affairs... [LB562]

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WALTER RADCLIFFE: Yes, by Senator Stuthman. [LB562]

SENATOR JANSSEN: ...which he calls it his Transportation Development Act... [LB562]

WALTER RADCLIFFE: Yes, he does. [LB562]

SENATOR JANSSEN: ...and that uses a portion of the...you add the sales tax, it gives you the opportunity, I think up to a half cent, quarter, half cent... [LB562]

WALTER RADCLIFFE: Yes. [LB562]

SENATOR JANSSEN: ...in that development district. So I see a little correlation between the two here. Going at it a little different way, but... [LB562]

WALTER RADCLIFFE: One utilizes existing sales taxes and in essence allows an increase in sales tax. I will be honest since, I mean, you've asked me a question about the bill, I think it is very constitutionally suspect. And that's why, to be just perfectly candid, we...the people I represent, don't want to be relying upon it. I'm not against the bill, I understand Senator Stuthman is going to make it his priority, that's fine. There are some problems with the bill. [LB562]

SENATOR JANSSEN: It takes a question to have it answered, also. [LB562]

WALTER RADCLIFFE: Absolutely. And it...the difference is, I mean if we strip both these proposals down to their bare bones, LB443 allows cities and counties to levy an increased sales tax. In other words, instead of a 7.5 percent it would be 8 percent. And to utilize those funds for projects such as this. This bill utilizes an occupation tax. They are not mutually exclusive pieces of legislation. [LB562]

SENATOR FRIEND: Further questions? Walt, I always go back to the same watering hole, I mean, none of the people in this room invented this idea, I mean, this occupation tax levied all over the country. There are people using these as incentive packages. I would think that that would be the case. [LB562]

WALTER RADCLIFFE: Yeah, to be very honest with you, as far as incentive packages around the country, most of them are far more progressive than anything we would even consider here, Senator Friend, far more progressive. [LB562]

SENATOR FRIEND: Interesting. [LB562]

WALTER RADCLIFFE: The STAR bonds that they've used, sales tax anticipation, revenue bonds that they used in Kansas to build the speedway, to build the Cabelas,

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and the Nebraska Furniture Mart, very honestly, that concept was fairly summarily rejected here by the Legislature. So the unique thing about this use of occupation tax is that it allows existing occupation taxes to be levied in a specific geographic area, and for the political subdivision that has that, they can use that as a basis for bonds. That's the bill in a nutshell. [LB562]

SENATOR FRIEND: Further questions for Mr. Radcliffe? Seeing none, thanks for the testimony. [LB562]

WALTER RADCLIFFE: Thank you. [LB562]

SENATOR FRIEND: Next proponent? [LB562]

JO DEE ADELUNG: Good afternoon, Senator Friend, and members of the Urban Affairs Committee, my name is Jo Dee Adelung, spelled J-o D-e-e A-d-e-l-u-n-g. I am testifying as mayor of Nebraska City and president of the League of Nebraska Municipalities. First, I would like to thank Senator Adams, Senator Friend, and other senators who introduced LB562. The league executive board voted unanimously in support of this important legislation. LB562 will provide another valuable tool for cities and villages working to develop or redevelop areas of their community. And like other proposals that have been discussed, LB562 has several advantages. Development or redevelopment costs would be paid for by customers choosing to buy products from stores and retail operations within the designated area. Whether to make a purchase is a choice of the consumer as opposed to a tax paid for by all residents. In addition, LB562 would generate more sales tax for the municipality as well as for the state. It is also critically important to pass LB562 to enable cities and villages to improve areas within their communities that are blighted and substandard. Many of these areas would probably never be able to be redeveloped because of significant redevelopment costs. I am confident that our citizens would be equally supportive of municipal redevelopment efforts and powers that we'd be granted in LB562. This is especially true since LB562 expressly prohibits the use of eminent domain to acquire property that could be transferred to a private property in the enhanced employment area. Thank you for your consideration this afternoon. Please advance LB562 to General File. [LB562]

SENATOR FRIEND: Thank you. Are there questions for Mayor Adelung? Jo Dee, can you think of some things right now, I mean, obviously you're thinking all the time about Nebraska City and what some of the things that you've either used TIF for in the past, or what you'd use something like this for. I mean, can you think of things? Only because I know Nebraska City fairly well. I'm trying to think of things... [LB562]

JO DEE ADELUNG: Absolutely, well as you know... [LB562]

SENATOR FRIEND: ...how can Nebraska City be improved? I guess that's what I'm

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looking at? [LB562]

JO DEE ADELUNG: Right. Well, (laughter) we...obviously our downtown is an issue for us and we have just undergone a downtown redevelopment plan and revitalization plan. And so we do have some areas, not only downtown, but very close to downtown, where this would be very applicable. And what happens to us is when developers come to a community, it's easier and cheaper for them to go to bare grounds, spaces that are out on south 11th Street and do development in that area. What I see this happening for us in Nebraska City is a really great bargaining tool for when a developer does come to town, we could say, please, we want to redevelop, revitalize downtown and the areas close to downtown, and so therefore we would be willing to put on the table TIF and this occupation tax as a way to be an incentive for people to develop in the areas that we really need to develop. Again, if they choose to develop on south 11th Street, that's still in city limits, we're not going to say no. I mean, we really want to see that development occur, but we really need to focus on not only Nebraska City, but many communities, focus on our downtowns that have dilapidated buildings where it's more an issue of demolition and site preparation, where it's so much cheaper to just go to bare ground which typically is not going to be your downtown or surrounding your downtown, and we have several of those in Nebraska City. [LB562]

SENATOR FRIEND: Can you tell me the last time you guys ended up having...that you used TIF to do something, I mean, fairly recently or... [LB562]

JO DEE ADELUNG: We just recently are "TIFing" a project downtown Nebraska City and it's going to be a brand new bank and it's outstanding project. I know a lot of you are familiar with the National Arbor Day Foundation, Lied Lodge and Conference Center, that was a very, very successful, almost model TIF project, and we just sunset that TIF project. But in my opinion, the one that we doing now for the bank downtown Nebraska City is really huge to the vitality and economic development for downtown. [LB562]

SENATOR FRIEND: Thanks, and I think one of the reasons that I brought that up is over the years what we've been talking about, debating, arguing about, is that a bank being built, you know, with tax increment financing, and people have raised the idea that, hey, that's not what TIF was originally meant to be. But that's what everybody's using it for. The thing is, this is a tool more than likely that would have replaced that. I mean, I don't think that this bill in place, or this law in place, this statutory authority, would have been used as opposed to TIF under that example you just gave. [LB562]

JO DEE ADELUNG: It's possible that it would have been. The nice thing is, is that it's an option to either use it in lieu of or in addition to, and that's up to the city council to make that decision. And regarding your comment about a bank, the nice thing about having the bank do this downtown, not only does it revitalize downtown, but we are using those

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dollars to create public parking space and two really bad buildings came down that we were on the verge of making a condemnation. And if we do condemn those, then it is up to the city and the taxpayers of Nebraska City to take those down. So this was just an outstanding project that I will look forward to keeping you updated on how well that particular project is working in Nebraska City. [LB562]

SENATOR FRIEND: Thanks. [LB562]

JO DEE ADELUNG: You're welcome. [LB562]

SENATOR FRIEND: Any further questions for the mayor? Seeing none, thanks for the testimony. Next proponent? [LB562]

MICHAEL NOLAN: (Exhibit 7) Senator Friend, members of the Urban Affairs Committee, my name is Michael Nolan, spelled N-o-l-a-n. I'm the city administrator of Norfolk testifying as a proponent of this bill. To keep my testimony shorter, I just would ask you to look at page 3 of my handout because I think the scenario that Senator Lathrop and Senator Friend had some conversation with Senator Adams about kind of shows up there. This is a pro forma that my staff put together to show you a possible scenario that can occur quite realistically in a situation where you try to redevelop property that's been a commercial site for over 30 years that has high traffic counts. And I would tell you that in this instance, we think our numbers are realistic, but they are numbers, they are not anything more than a scenario. But when you start looking at the cost of the property acquisitions and then what you would have to sell property to a large anchor to anchor the site, in which you are selling the ancillary property for, even with an \$800,000 tax increment financing, a real estate TIF that goes in the pro forma, you are still left with a gap of almost \$2.9 million. I call that deterrent cost. Because deterrent cost means that if somebody who wants to set up a big box and do retail business has to absorb within their pro forma all of that unproductive cost, they're going to be deterred from siting their facility at that particular site. And in fact, they can probably find \$2 a square foot ground someplace else on a green space where they can site--maybe not have as favorable a traffic count as this commercial area, but in order for you to have some way to direct this and to effectuate the development at this particular site, you have to have a mechanism like this occupation tax to defray that, what I call, deterrent cost. And what the result of it is, is what you see down at the bottom if you do that. I think the scenario makes enormous systemic sense and I think when you see that we've developed it, it will not be a concept that's only used in Omaha or Lincoln or in cities of the first class, but I see that in existing retail areas across the state, they will be able to use this if they have someone who can help them manage their pro forma and structure their cash flow assumptions. But to me, this is how it would work in this area, I mean, it would work differently in some other scenario, but I think it's totally plausible which Senator Adams said, that you, in fact, could use this mechanism in addition to a real estate TIF to effectuate this development. Quite honestly, if this

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happens, I will just tell you, if this thing happens based on this set of assumptions, I think in the long term, for Norfolk, Nebraska, this could end up being a \$30 million deal, I really do. That's how important I think it could be for us. And I don't...we partner a lot on economic development stuff and on landfills and other things with Fremont and Columbus and we know their business leaders and their community leaders--I think it would be of immense benefit for those two communities as well. I'd answer any questions if you have them. [LB562]

SENATOR FRIEND: Thank you. Questions for Mr. Nolan? Thanks for coming down. Next proponent? [LB562]

JACK VAVRA: Senator Friend, members of the committee, my name is Jack Vavra, V-a-v-r-a, and I'm speaking to you today as city administrator for the city of York. Also in past experience, I have been finance director for the city of Lincoln for nine years and was involved in many redevelopment projects and TIF projects, including Lincoln's first TIF project, the Cornhusker Hotel. I also was a municipal bond underwriter for First Tier Bank, which is now U.S. Bank. And so I do bring you, perhaps, a different perspective of what this bill is. And I see you, I think, somewhat struggling to find out, you know, how does this bill really benefit anybody because the developer is saying, I'll pay you what you want us to pay, I'm just going to pay you over a 20-year period. If we use this, unlike TIF, where it's...TIF is subsidizing the project with tax money--the developer pays their taxes, the tax money on the increment, instead of going to the school district and the county and the city's general fund, goes into the TIF fund and pays off the bonds that we use to do part of the project. So in fact, it's a subsidy of this project with tax money. This is different. This is an occupation tax, and what we are saying is, we will build this up front, these things that we think you as a developer are responsible for, and we'll borrow money and you will pay us so we can make the bond and interest payments over a 15-year period or a 20-year period. What we are actually doing is we are transferring our tax-exempt status to the developer. Instead of that developer having to go to the bank and borrowing that money at prime plus 2 percent or prime plus 3 percent, we are borrowing the money with limited obligation revenue bonds, tax exempt in nature, at an interest rate much lower than the developer would have to. And then the developer is paying those bonds off with their occupation tax over a predetermined period of time. So the subsidy...the developer does get the subsidy but the subsidy is like an industrial revenue bond that counties and cities now can sign off on and give industry the tax-exempt status of industrial revenue bonds. This is kind of like an industrial revenue bond for retail business. We are not subsidizing the project in essence with tax money, what we are doing is financing a portion of the project that the developer is responsible for and doing it with tax exempt bonds, thereby making their responsibility somewhat less over a longer period of time. So in essence, the developer isn't saying, sure, I'll have to charge more in this area than I would in some other area. They may be paying the same amount even though they are paying this occupation tax, because they are getting a better deal on the money that they have to borrow. In some

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cases, Mayor Adams talked to you about trying to recruit a developer into York, trying to get somebody in York to do the development. This may be the incentive. They would have to borrow less money from the bank, put in less of their personal money, it would be less risky of a project. With that, I would answer any questions. [LB562]

SENATOR FRIEND: Thank you. Questions for Mr. Vavra? I see none. Thank you for the testimony. [LB562]

JACK VAVRA: Thank you. [LB562]

SENATOR FRIEND: Next proponent? [LB562]

BRUCE BOHRER: Good afternoon, Chairman Friend, members of the Urban Affairs Committee, my name is Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce and for the record, my last name is spelled, B-o-h-r-e-r. And yes, still pronounced "Boyer," I don't know why. We wanted to appear on behalf of the chamber and business interests to support this bill. You've already heard a lot of the proponents that preceded me testify in very well-defined terms on how the bill would work, and I agree with that and endorse that earlier testimony. I just want to give you a chance to ask me about any, I guess, proposals here locally or projects here locally. I especially thought it was...I just found it so interesting to hear from Senator Adams as a former mayor, really, his understanding of the development process and just how challenging it can be and how you try to put together a project, and how we do have very limited local options. I think we've got a very good incentive program in place at the state level now with the Nebraska Advantage Act. But tax increment financing in a redevelopment law has always kind of been used as an economic development law. I shouldn't say always, maybe it's just fairly recently morphed into that a little bit. But I think with this bill, LB562, we explicitly acknowledge that it is an economic development tool and add another option to that toolkit, if you will. So I'm going to conclude my remarks there and just answer any questions you might have. [LB562]

SENATOR FRIEND: Thank you, Mr. Bohrer. Any questions from committee members? Mr. Bohrer, what do you think...what's one of the first things that you...you look at Lincoln, you look at Lancaster County, I guess in general, what's one of the first things that happens if a bill like this passes? I mean, or is that putting you on the spot? [LB562]

BRUCE BOHRER: No, no, no. I think it would allow us to go after different projects. I'm not saying we would use this in every project that might come along... [LB562]

SENATOR FRIEND: I guess the reason I asked the question is I can think of some cities like Mr. Nolan's and other cities that they have already a clear understanding...this area, I know we can do this...maybe in York, this area. What about Lincoln? I mean, I don't.... [LB562]

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BRUCE BOHRER: Well, I know a specific project that's off of Highway 77, I'm not going to speak for the developer, but I do know that Dave talked about this option, and so there are some specific projects that really just locally, either the TIF will not generate the revenue, or our local CIP doesn't have the enhancements that we need for road infrastructure or other infrastructure pieces plugged in soon enough. I do know of at least one fairly large project that would probably look at this and say, now we could probably use this. I just don't feel comfortable telling you since I... [LB562]

SENATOR FRIEND: No, I appreciate that. I just think sometimes it might help committees, you know, when you're...when people have the grand ideas that we throw out at these hearings about what kind of great economic development is going to occur, that folks have ideas about what they want that economic development to look like, so, anyway...any further questions from committee members? Seeing none, thanks. [LB562]

BRUCE BOHRER: Thank you. [LB562]

SENATOR FRIEND: Next proponent? How many more proponents? I'm sorry, I lost track. Any more proponents after this one? Thank you. Go ahead. [LB562]

MARK BOWEN: I am Mark Bowen, I'm the chief of staff to the city of Lincoln. My last name is B-o-w-e-n. I represent the city of Lincoln and the mayor in this case. The mayor also serves in a dual capacity as the chairman, cochairman of the Lincoln Partnership for Economic Development. We look at LB562 as really another option as has been said before, I won't repeat previous testimony, another tool for us to use to enhance economic development and job creation in the city of Lincoln. In a variety of projects, for a variety of different reasons TIF does not fulfill closing the gap and this would give us a tool in a different fashion to help close that gap without diverting existing tax revenue for other parts of the city to do that. This would divert revenue only from the district itself to pay for that existing structure, primarily public infrastructure, and that is our biggest challenge. Depending on what the project is and where it situates on a piece of ground, there may be environmental issues that we can't close the gap with TIF. There may be other issues dealing with trying to get the water or sewer lines to it in the size that somebody wants because it's not in our current CIP in the time frame that they want to complete the project. This gives us those options to try to make that happen. That's all I have. We support the bill and hope you will advance it. [LB562]

SENATOR FRIEND: Interesting. Any questions from committee members? The interesting part was when you talked about some of the environmental problems that TIF...you can close the gap, TIF might not cover all of it. Cities have gotten pretty creative with TIF though. [LB562]

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MARK BOWEN: We've had to. It's the only tool we have. [LB562]

SENATOR FRIEND: Yeah. Any more questions from committee members? Thanks for the testimony. [LB562]

MARK BOWEN: You're welcome. [LB562]

SENATOR FRIEND: Any more proponents, in case I missed one? Anybody else to testify in proponent fashion? We will start with opposition. Any opposition to LB562? No opposition? Neutral testimony...do we have any neutral testimony? I see no neutral testimony. Senator Adams to close. [LB562]

SENATOR ADAMS: Thank you, Mr. Chairman, I'll keep it very, very brief. I don't know that there's any more that I can say at this point. I would hope that you advance the bill and as your thought processes go on, if there are any questions that I can answer, why, I would be glad to help you work your way through it. The essence of it is, quite frankly, it gives communities another tool at no cost to the state of Nebraska to try to leverage what they have in their communities, their goals and priorities, and to make economic development happen in those communities. So with that, I'll answer any final questions and I'll close. [LB562]

SENATOR FRIEND: Thank you, Senator Adams. Further questions from the committee? [LB562]

SENATOR ADAMS: Thank you, committee. [LB562]

SENATOR FRIEND: Well done. Thank you, Senator Adams. That will close the hearing on LB562, the hearings for the day, and I believe the hearings for the 90-day session for Urban Affairs. [LB562]

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Disposition of Bills:

LB387 - Held in committee.

LB562 - Advanced to General File, as amended.

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Chairperson

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Committee Clerk