

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

[LR152 LR155]

The Committee on Urban Affairs met at 1:30 p.m. on Thursday, November 5, 2015, at Northeast Community College, Norfolk, Nebraska, for the purpose of conducting a public hearing on LR152, and LR155. Senators present: Sue Crawford, Chairperson; Colby Coash; Matt Hansen. Senators absent: John McCollister, Vice Chairperson; Laura Ebke; Sara Howard; Dan Hughes.

SENATOR CRAWFORD: Good afternoon. Welcome to Urban Affairs Committee. My name is Senator Sue Crawford and I represent the 45th District. I'm going to allow our sitting senator to say a few words before we begin.

SENATOR SCHEER: Thank you, Chairperson Crawford and esteemed colleagues. On behalf of myself and the community and my district, we're just thrilled that we came up to Norfolk to have a hearing. I think it helps to get outstate to get the perspectives of communities, because how we utilize things in rural areas is sometimes vastly different than in more metropolitan areas. So I think we'll get a good taste of how different things are utilized in the rural areas. And again, welcome to the college. I'm sure somebody else made welcome to the college, but I think it's one of the...certainly the diamonds of my district. It is probably the diamond of all the community colleges in the state thanks to my esteemed approach. And we value it and we're glad to share that with you today, and hope that you have a successful hearing. And appreciate you taking the time to again drive up, because I know that's somewhat more of a pain for you folks to drive this direction than it is for us to drive your direction. So noting that, again thank you for coming, I appreciate it. And I mentioned I do have to be someplace else, but I do want to thank you because it does take some effort on your part and your staff. Thank you, legal counsel and committee clerk, for getting up here and getting everything set up. So I appreciate it so much. Thank you very much.

SENATOR COASH: Thank you, Senator.

SENATOR CRAWFORD: Thank you. Thank you. And thank you for the wonderful welcome. We did get a chance to take a tour earlier today--wonderful facilities. And we're very happy to be here. And thank you for you hospitality for having us here today and allowing us to hold the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

hearing here today so that we can allow people in other parts of the state to participate. We appreciate that very much. Thank you. We will start right now with having members of the committee do self-introductions, starting on my right with Senator Coash.

SENATOR COASH: Hello, I'm Senator Coash. I represent District 27, which is in Lincoln.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR HANSEN: Matt Hansen, representing District 26, which is northeast Lincoln.

COURTNEY BREITKREUTZ: And I'm Courtney Breitkreutz. I'm the committee clerk.

SENATOR CRAWFORD: All right. This afternoon we'll be hearing two interim study resolutions: LR152, which examines the Local Option Municipal Economic Development Act or LB840; followed by LR155, which examines current and potential economic development tools for municipalities. Outside of the room, you'll find blue testifier sheets. If you're planning on testifying today, please fill out one and hand it to Courtney when you come up to testify. That will allow us to keep an accurate record of the hearing. If you do not wish to testify, but you would like to record your presence at the hearing, please fill out one of the pink sheets outside of the door. And those just go in our records to indicate that you were here for the hearing. We would ask if you have any handouts that you please bring at least 10 copies and give them to Courtney. Testimony for each interim study will begin with the introducer's opening statement. After the opening statement, we will take testimony from the public. Since these are interim hearing studies, there will be no proponent or opponent testimony. We just ask that you begin your testimony by giving us your first and last name and please spell them for the record. And we're not going to be using the lights today, but we do ask you to keep your comments to five minutes so everyone has a chance to share their perspective, please. I would remind everyone, including senators, to please turn off your cellphones or put them on vibrate. With that, we will begin the hearing with LR152, and I will turn the hearing over to Senator Coash. [LR152]

SENATOR COASH: Okay, so we are going to start with LR155. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

TREVOR FITZGERALD: LR152. [LR152]

SENATOR COASH: Excuse me, LR152. Which is, I'll read for the record, an interim study to examine issues surrounding the Local Option Municipal Economic Development Act, commonly referred to as LB840. And to open this hearing, we are going to hear from Chairwoman Crawford. You are recognized to open. [LR152]

SENATOR CRAWFORD: Thank you. Good afternoon, Senator Coash and members of the Urban Affairs Committee. My name is Senator Sue Crawford, C-r-a-w-f-o-r-d. And I represent the 45th Legislative District, which includes Bellevue, Offutt and eastern Sarpy County. The Local Option Municipal Economic Development Act, commonly referred to as LB840, is one of the key economic development tools available to municipalities in Nebraska. Under LB840, municipalities are authorized to collect and appropriate local tax dollars for economic development purposes, if approved by local voters. The act was enacted in 1991 and requires that a municipality develop a local economic development plan, which forms the basis of the municipality's LB840 program. There are approximately 70 municipalities that have voted to create an LB840 program, and a map of those programs is included in the committee materials. The purpose of LR152 is to examine issues surrounding LB840 programs. And for the purposes of today's hearing, my testimony will focus on the eligible uses of LB840 funds, as well as the process used to amend existing LB840 plans and whether such amendment requires voter approval. In 1990, Nebraska voters amended Article XIII Section 2 of the Nebraska State Constitution to add new language that specifically authorized municipalities to appropriate local tax dollars for economic development purposes. This new constitutional language, which became the basis for LB840, required voter approval of an economic development program before municipalities could utilize this new authority. On top of the constitutional limitations, statutory language also contains a number of restrictions on the use of LB840 funds. Under the act, municipalities can spend LB840 funds in two ways: one, loans and grants to qualifying businesses; and two, the payment of "related costs and expenses," which generally includes things like the cost of public infrastructure projects and the cost to administer the LB840 program itself. The definition of qualifying business limits the use of LB840 funds to statutorily identified business activities such as manufacturing, research and development, and tourism. The act has been amended multiple times to add additional business activities including retail, low-

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

income housing, broadband Internet access, film production--a bill from our own Senator Coash, rural natural gas infrastructure, and relocation incentives for new residents. As committee members may recall this past session, LB150 clarified that loans and grants under an LB840 program cannot be made to another political subdivision. Since the passage of LB840 in 1991, the definition of qualifying business has always been limited to a private business entity, such as corporations, partnerships, and LLCs. While the change in LB150 did not create any new restrictions on LB840 programs, it has generated significant discussion about the current restrictions in statute and whether municipalities should be given greater flexibility to use LB840 funds to partner with government entities like community colleges and county hospitals. One issue that the committee will likely have to address in the coming legislative session is the ability of municipalities to amend their existing LB840 plans to include new qualifying businesses or activities after the Legislature has expanded the eligible uses of LB840 funds. Under Section 18-2714, municipalities have the authority to amend their LB840 plan to conform to the provisions of any existing or future state or federal law, but they also cannot amend their plan to "fundamentally alter its basic structure or goals" without resubmitting their plan to voters. In January, Senator Coash requested an Attorney General's Opinion on the issue, and that Opinion found that current statutory language requires voter approval for such a change. A copy of that Opinion is included in the committee members' materials. Both the Attorney General's Opinion and the confusion surrounding LB150 this past session bring heightened visibility to LB840 programs and how they are implemented by municipalities, particularly in cases where there is some question whether programs are being used appropriately. My hope is that LR152 can generate productive discussions of how we move forward in ways that protect the effectiveness, integrity, and accountability of this key economic development tool for municipalities. For example, are there ways to expand the potential uses of LB840 funds in a manner that is consistent with the existing statutory framework? Is there a way to allow plan amendments without requiring voter approval while still protecting the accountability and integrity of LB840 programs? Should we require that LB840 plans terminate after a certain period of time so that cities proactively engage citizens in a review of economic development at regular intervals? All of these questions deserve thoughtful consideration, not just by the Legislature, but by city officials with the duty to oversee these LB840 programs. In addition to the League of Nebraska Municipalities, a number of city and economic development officials have joined us today to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

testify. I look forward to the discussions on both interim studies this afternoon, and I would be happy to answer any questions. [LR152]

SENATOR COASH: Okay. Thank you, Senator Crawford. I assume, Senator Crawford, one of the reasons for this hearing is we're trying to explore what our options are with regard to changing...what statutory changes might need to be made to get more flexibility as the Legislature continues to add qualified businesses, things of that nature...how that might look is what we're trying to explore today? [LR152]

SENATOR CRAWFORD: That is true. So we've expanded it multiple times to expand uses. At this point, given the Attorney General's Opinion, it's my understanding that to add any of those new opportunities would require it go back to a full vote of the people. Which...and one of our questions is should we have other alternatives besides that? Or is going back to the full vote of the people an important piece? Also, I think it's also the case that sometimes situations change in a community, so economic development tools need to be adaptable. So how adaptable could or should LB840 be? [LR152]

SENATOR COASH: Very good. Any questions, Senator Hansen? All right. We'll...in the opening statement, and as Chairwoman Crawford stated, we're going to start with testimony. So unless you have an order, we'll just... [LR152]

SENATOR CRAWFORD: We do not have a defined order so... [LR152]

SENATOR COASH: We'll take testifiers as they come up. Well, that will conclude the hearing. (Laughter) Welcome. [LR152]

STACY HEATHERLY: We were just talking about being first, so why not? [LR152]

SENATOR CRAWFORD: All right, welcome. [LR152]

STACY HEATHERLY: Thank you. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR CRAWFORD: Nice to have you here. [LR152]

STACY HEATHERLY: (Exhibit 1) Thank you. My name is Stacy Heatherly, S-t-a-c-y H-e-a-t-h-e-r-l-y, and I thank you for the opportunity to speak before the Urban Affairs Committee today. I am currently involved in the Nebraska film industry in a number of capacities including serving as film commissioner for the Eastern Nebraska Film Office and as president of the Digg Site Productions, a private sector nonprofit film and production company. I live and work in Fremont, Nebraska. The Local Option Municipal Economic Development Act, commonly known as LB840, has been an effective and pervasively used economic development tool since 1991. It is currently used by approximately 68 cities across the state to support a wide range of economic development activities and programs. I am here today to speak on behalf of one of those industries affected by the program, the Nebraska film industry. According to the Motion Picture Association of America, the film industry in Nebraska in 2013 and 2014 contributed to over \$109 million in wages in nearly 2,800 jobs. Several films were shot and produced in Nebraska during that time, some of which received critical acclaim and continue to promote the state and Nebraska tourism to national and international audiences. Nebraska does have an excellent and diverse community of filmmakers and production companies, and with additional support, this industry would certainly grow and develop into much more. However, because Nebraska does not have a film industry specific incentives, the primary mechanism available to support the film industry is LB840. LB840 was designed to give local officials the power and flexibility to tailor economic development incentives to their communities. LB840 was not intended to be static or inflexible tool. In fact, since 1991, local officials have amended LB840 plans without a public vote on numerous occasions to account for changing communities' needs and opportunities. As local officials remain fully accountable to the voters in those communities, such modifications have not been controversial nor overreaching. Nevertheless, because there is a perceived ambiguity about the authority of local officials to amend an existing plan, and that the film and production industry is poised to grow in this state, I feel it is necessary and prudent for the Legislature to address this issue and provide the clarity needed to fully realize the potential of LB840. This can be accomplished in number of ways, but I offer that any resolution to this issue should account for the following policy principles: First, any proposed legislative solution should empower local officials to make local decisions on behalf of the people they represent. They are elected to exercise sound judgment on matters of governance and public policy, and there are

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

mechanisms available to the voters to hold these officials accountable. Second, any proposed legislative solution should reflect that economic development can be fluid and dynamic, often requiring decisive and swift action to capitalize on opportunities that arise. There is especially true in the film industry, which is oriented and structured differently from other bricks and mortar industries, and yet shares the same positive economic impacts on local communities and economies. Lastly, any proposed legislative solution should be written as broadly as possible to encompass as many different industries as possible. Local economic development plans can and should change to reflect ongoing efforts by local officials to do everything they can to promote growth in their communities. Their efforts to do so should not be constrained by a narrow interpretation of LB840. In fact, increased flexibility for local officials will ultimately make LB840 implementation more efficient and successful and maximize the financial returns for local communities. Without the clarity about the nature and scope of the authority of the local officials to amend existing LB840 plans to support local film and film production activities, Nebraska will remain at a competitive disadvantage to our neighboring states such as Iowa, Colorado and Missouri that do have movie production incentives. Please support our efforts to provide this clarity and further promote a healthy and growing film and film production industry in the state. Thank you for your time and consideration. [LR152]

SENATOR CRAWFORD: Thank you Ms. Heatherly. I appreciate that input. Questions? [LR152]

SENATOR COASH: Sure. [LR152]

SENATOR CRAWFORD: Senator Coash. [LR152]

SENATOR COASH: Thank you. So, Stacy, you're advocating for a policy change that would mean the local governing body could amend their plan without going to the people? That's... [LR152]

STACY HEATHERLY: Yes. Even though we did that in Fremont--we did take it to the people to amend ours. But we do believe that we put that authority within our local community and government so we would...yes, we would like that. But we are an advocate so, you know, an adversary, so whichever way this goes, you know, we would promote that. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR COASH: So your experience in the Fremont community was the plan amendment went to the people... [LR152]

STACY HEATHERLY: Yes. [LR152]

SENATOR COASH: ...for a particular change in the plan. Or were there several changes within the plan? [LR152]

STACY HEATHERLY: Just one. [LR152]

SENATOR COASH: Just one. It went to the people in a general election, right? [LR152]

STACY HEATHERLY: Yes. In a general election. [LR152]

SENATOR COASH: And they voted for that? Okay. So we've seen it work that way. [LR152]

STACY HEATHERLY: Yes. [LR152]

SENATOR COASH: But the Legislature could do something next year and if a community like Fremont wants to take advantage of that they might have to take it back to the people. [LR152]

STACY HEATHERLY: Right. [LR152]

SENATOR COASH: Understood. All right, thanks for your testimony. [LR152]

SENATOR CRAWFORD: Thank you. [LR152]

STACY HEATHERLY: Thank you. [LR152]

SENATOR CRAWFORD: Other questions? Thank you very much. [LR152]

STACY HEATHERLY: Okay, thank you. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

COURTNEY DENTLINGER: I'll race everyone else up to the front. [LR152]

SENATOR CRAWFORD: Okay. Thank you and welcome. [LR152]

COURTNEY DENTLINGER: (Exhibit 2) Thank you for having me, Chairwoman Crawford and members of the Urban Affairs Committee. My name is Courtney Dentlinger, C-o-u-r-t-n-e-y D-e-n-t-l-i-n-g-e-r. I'm the economic development director for the city of Norfolk and the Norfolk Area Economic Development Council, which represents communities throughout Madison County. I'm here to speak on behalf of LR152, but will speak briefly about other economic development programs as well--bleeding a little bit into LR155. State economic development programs and federal programs are very important and we need to protect those to grow our state. But at the end of the day, companies locate in communities. And if communities do not have all the tools necessary to overcome barriers to development and redevelopment, projects will be lost, expansions will not happen, jobs will not be created. There are real barriers to development and redevelopment in our state and particularly in our communities. I wanted to list just a few that we deal with frequently. One, is infrastructure: from water and sewer, to roads, to natural gas. Infrastructure is costly to extend, but absolutely necessary for economic development projects of all types, from large industry to housing development. Workforce shortage: many celebrate the fact that we have among the lowest unemployment rates in the nation, but overlook the fact that we have thousands of jobs going unfilled, potential expansions that are on hold and site selectors who are looking past our state because of concerns about workforce attraction. Housing shortage: this is tied directly to the workforce shortage. We cannot recruit workforce if we have no place for them to reside. I mention these issues because often the only way a community can effectively address them is with the assistance of local economic development programs such as LB840 and tax increment financing, which my colleague Randy Gates will be speaking to you specifically during the comments for LR155. With the restrictions against a community extending the credit of the state, the availability of LB840 to encourage private business development and address infrastructure extension to encourage business development is a key tool for municipalities. I'll briefly share a significant roadblock hindering Norfolk's future, which the community will be able to overcome only because of the availability of LB840, and that is the shortage of natural gas, an essential ingredient for industrial expansion and recruitment. Ironically, natural gas is readily available in the United States. In fact, we've

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

been exporting it to other countries, because our domestic prices are far lower than what they pay in Europe and elsewhere. But what many don't realize is that transporting the gas to individual communities, if sufficient infrastructure is not in place, becomes nearly impossible without spending truly eye-opening sums of money to rectify the issue, Norfolk has no additional natural gas capacity. None. We have industries who'd like to expand, but can't. We've been wanting to recruit an industry, but could not. Recently, you may have heard that we've had some success in recruitment, that's all tied to our ability to solve the natural gas problem. Recruiting that company and the necessary expansions at Nucor, in order to make that happen, would not have been possible if we had not been able to come up with a plan to rectify the shortage of natural gas. Initial quotes that we received from interstate pipelines to remedy the issue, were close to or exceeding \$50 million. While natural gas pipelines and transport companies are not political subdivisions, but rather corporations, they are regulated by FERC at the federal level and by the PSC at the state level. As such, they were prohibited from passing along such costs to existing customers. So they were left with three options: one, take on all the costs themselves, without a method of passing it through to ratepayers, which would be virtually unsellable to their shareholders; two, require the community requesting additional capacity to pay for the infrastructure extension and/or upgrades, which was not possible, particularly with price tags upwards of \$40 million; three, ask the new customer coming on-line to absorb that enormous cost, again, not feasible. Fortunately for Norfolk, Black Hills Energy stepped up to partner with us on a unique combination of those options. In order for the partnership to work, it was essential that this community fund part of the infrastructure. What source of funds did the city have? LB840. We combed through everything, we looked at every possible option. LB840 was it. That is the source of funds that we have to put toward this project. Without that, we'd have been unable to form a public/private partnership with Black Hills Energy and local industry to rectify this issue. So I want to thank this committee for assisting in allowing particularly natural gas infrastructure extension to be listed very specifically as a qualifying expense. I also wanted to note we really appreciate Senator Coash's efforts on getting film included as a qualifying business. Although the time frame was very short with the Nebraska film and we weren't actually able to utilize LB840, the possibility of it certainly did open the door to getting them to Norfolk. They filmed that in an around Norfolk and throughout northeast Nebraska, bringing in millions to the communities locally. So we certainly appreciate that. I also wanted to note that we appreciate your review of how to incorporate those new changes to qualifying businesses. It's a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

question that we've had at the city level. Although in our LB840 plan, when it was adopted by the voters, we noted that it would incorporate any new qualifying businesses that the Legislature would adopt with the AG's Opinion. That's clarifying a question that we have. Is that sufficient or do we need to take this back to a vote of the people? With as many new qualifying businesses as are coming on-line, it is cumbersome to try to take that back to a vote of the people each and every year or every other year. Our LB840 plan is in place for 10 years. Maybe once or twice throughout that period wouldn't be as cumbersome, but every year, I think, would be a bit of a burden for the public. So in closing, I just want to thank you for the LB840 program, so the communities are able to utilize it, grow existing business and industry, and to recruit new business into our state, and grow jobs for our citizens. [LR152]

SENATOR CRAWFORD: Excellent. Thank you so much. So I believe it was Senator Flood's bill that added that use to LB840. [LR152]

COURTNEY DENTLINGER: The natural gas. Correct. Yes. [LR152]

SENATOR CRAWFORD: So, yes. Questions? Senator Coash. [LR152]

SENATOR COASH: Yes. Thank you, Senator Crawford. Courtney, so I was going to ask this question, but I think you answered it. So the Norfolk's LB840 program has been in existence for about how long? [LR152]

COURTNEY DENTLINGER: Five years. [LR152]

SENATOR COASH: About five years. [LR152]

COURTNEY DENTLINGER: Yes. [LR152]

SENATOR COASH: So when you initially...or when the city initially drafted it and put it out to the people, it was drafted broadly. So you were honest with the citizens at the beginning, so here's what it is, but we're going to...you're voting on giving us the authority to change it or to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

allow for a use that we don't know what it is yet, because we don't know what the Legislature might do down the road? [LR152]

COURTNEY DENTLINGER: Correct. That was the language that was incorporated into the plan to give the elected officials the flexibility to add in those new eligible businesses as the Legislature adopted them over time. So that was our hope, to not have to take it back to a vote of the people. It was in the plan that the voters adopted, but again... [LR152]

SENATOR COASH: So you didn't have to go back to the voters when you wanted to do this natural gas project or anything? [LR152]

COURTNEY DENTLINGER: I believe the natural gas actually was put in place prior to when our plan was put in place, because we've only had it in place for five years. [LR152]

SENATOR COASH: Okay. Very good. [LR152]

COURTNEY DENTLINGER: But to your point, film--when we were looking at that, that would have been a question then that would have had to go back to the public. So often, communities don't think about some of these additional eligible businesses until there's a prospect right in front of them. And then the timeliness of trying to take a vote to the people but still keep that prospect in line to come to your community would be untenable. [LR152]

SENATOR COASH: Does your LB840 plan have an expiration on it? In other words... [LR152]

COURTNEY DENTLINGER: Yes. [LR152]

SENATOR COASH: It does. [LR152]

COURTNEY DENTLINGER: Yeah. It's a 10-year plan. [LR152]

SENATOR COASH: And that was Norfolk's choice, to make that a 10-year plan, right? [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

COURTNEY DENTLINGER: Yes. [LR152]

SENATOR COASH: You could have done 5 or 15 if you wanted? You could have... [LR152]

COURTNEY DENTLINGER: Yes. Correct. [LR152]

SENATOR COASH: So what will happen in a practical sense when your current plan expires? [LR152]

COURTNEY DENTLINGER: That's an interesting question and one that I've been asking, because we are now within a 5-year time frame of that plan expiring. I just had this conversation with Gary from the League of Nebraska Municipalities to see which other communities, who were early adopters of LB840s, have re-upped their plan and what process they utilized, and what timeline. There isn't any clarification on that matter within the statutes themselves, so we're in talks of putting that back in front of the voters maybe two years ahead of the expiration of the existing LB840 plan. But there doesn't seem to be a lot of guidance on how to go about that process at this point. [LR152]

SENATOR COASH: If Gary can't tell you how to do it, it can't be done. [LR152]

SENATOR CRAWFORD: So we, at our hearing in Lincoln, we had someone from St. Paul come and talk about their renewal. They passed their initial plan in 2000 and it expired in 2015, so their packet that they brought to us talked about their plan for renewing their LB840 plan. [LR152]

COURTNEY DENTLINGER: Great, yeah. And I'd be very interested to see how other communities are doing this. We came to LB840 a little bit later than some communities, so... [LR152]

SENATOR CRAWFORD: Other questions? So did...was your LB840 plan really the natural gas plan? Was that what you started and was it 10 years because that's how long it would take to pay off the natural gas infrastructure? Or was it something else when you started? [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

COURTNEY DENTLINGER: No, it was actually initially, when it was adopted by the voters, one of the things that we talked about with the voters was the ability to utilize this to create good paying jobs. Natural gas at that point in time...I don't think anyone foresaw that the community would have to come up with such a sizeable sum of money to fix that issue. We have known about the problem since at least 2006. I would share with the committee there are probably a number of communities throughout the state who don't realize they have a natural gas shortage. Norfolk did not until there was a prospect on the line who had a great need. And we worked with the gas companies and realized we had absolutely nothing to offer. During my tenure, I've called around to a number of other communities to ask how much additional capacity they have and they don't know. So it's...I think that part of the LB840 plan is going to be essential moving forward, particularly with natural gas prices as low as they are. [LR152]

SENATOR CRAWFORD: Could you imagine use of LB840 for workforce housing? Could you see that as something you might want to use in this community? [LR152]

COURTNEY DENTLINGER: Yes. Housing is a desperate situation in outstate Nebraska right now. I don't think that the metropolitan areas are seeing the housing shortage as much as we are. Anyone that moves into this community, the first question I have for them is how was your housing search, and then I offer them tissues as they relay their stories because it's desperate. We have nothing to offer folks. And I came to know about the issue because I deal with employers on a weekly, if not daily, basis. And so many of them are telling me about positions that they have open, and they're out there recruiting and finding great candidates who actually accept the job, then come to town and try to find a place to live. They start with homes to buy and don't find anything. They move then, just to see if they can find anything to rent for the interim until something comes on the market to buy, don't find anything suitable there, and then they turn down the job. We have upwards of 500 open jobs at any given time that we can't fill. We have folks who are interested in moving into the community, but we have no place for them to live. We actually put together a housing task force approximately a year ago, because we see all this demand and we're wondering why the market isn't responding. And what we determined was there are a number of issues. We talked to realtors, land developers, bankers, builders, anyone who might be involved in this process and there's no one issue, unfortunately. There's myriad issues affecting this, including land costs, infrastructure costs, taxes, assess valuations once they

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

actually develop the properties, wages not keeping pace with the cost of construction. So we don't see much in the way of speculative building here, and anyone who wants a custom home doesn't have a place to live in the interim. We've tried to recruit in apartment developers to address the issue, so we could at least have suitable rental housing available, and they've indicated to us that they can get higher rents in Lincoln or Omaha and that the cost of construction is the same if not higher here. So it's difficult. Lenders aren't as readily lending out money for speculative builds after the housing crash in 2008, so there need to be programs. This is a community issue, it's affecting everyone. We can't expect builders and land developers to solve this for us. So tools would be helpful. And unfortunately, most that are available through the state, are specifically geared toward low to moderate income. There's a need there too, but there's nothing for folks who need market rate housing. [LR152]

SENATOR CRAWFORD: Thank you. Other questions? Thank you for testimony. Appreciate it. [LR152]

COURTNEY DENTLINGER: Thank you for the opportunity. [LR152]

SENATOR CRAWFORD: Next on LR152. Go ahead. Thank you and welcome. You can start whenever you're ready. Just begin with your name, please. [LR152]

KELLY FLYNN: Okay. Good afternoon, members of the committee. My name is Kelly Flynn, that's K-e-l-l-y F-l-y-n-n. I'm the director of economic development in South Sioux City. I'm also a member of the Nebraska Economic Developers Association--the NEDA statewide organization. I'm here to deliver testimony on their behalf and also share our vision, plans and goals for South Sioux City. I appreciate the opportunity to testify regarding the Local Optional Municipal Economic Development Act also known as LB840. It's a program that we know works, as communities all across Nebraska are utilizing this program to help jump-start investment, development, and to grow their local economies. While the Legislature needs to be watchful that implementation of the program meets the intent of the original LB840 legislation, it has proven very successful and supportive for the many communities that voted to implement the program, including South Sioux City. While the law provides for safeguards and makes sure the communities supports the activities, local group of citizens are in charge of overseeing the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

funding as well. Voters liked the idea that locally they were in charge of this program, the idea that there is the check and balance in place with the Citizen Advisory Committee. At South Sioux City, now that the program is in effect, when a project comes to our community, we take a look at it, see if it's an eligible business or eligible activity. Being a border state with Iowa and South Dakota, where they have several tax advantages, tax abatements, it is good to have something like LB840 to allow for that small measure of competitiveness to maintain and add to our population and tax base with these recruitment resources. We spent some of our money to purchase some land to help current business to expand, which will offer high paying white collar jobs for our community. Also working on a second project to purchase ground and build an access road for expanding projects that will create numerous jobs, housing, business opportunities for South Sioux City. The highly competitive nature of this business, any incentive can help make the difference in landing a project or having it go elsewhere. So thank you for allowing me to testify today on behalf of the other economic development directors and communities. We ask lawmakers to please keep the flexibility of this program. Respectfully ask that LB840 be retained as is. Thank you. [LR152]

SENATOR CRAWFORD: Senator Coash. Thank you. [LR152]

SENATOR COASH: Thank you. You know, your testimony made me think of this question. Is there a particular need in the community that you represent, or like communities, that you're sitting out there going, you know, I wish the Legislature would put that as part of what we could do because that would really help our community, but we can't because it's not on that list yet? [LR152]

KELLY FLYNN: Well, the one thing that we run into, I think, a lot, that maybe they don't in the middle of the state and stuff, when you do sit on the border of the state, you really do run into some different complications. And it's one thing when it's a level playing field. But like Courtney was just talking about with the housing, we have a real need for that as well. And we are in this process of look like we're going to be getting quite a bit of housing next year. But up until this time, we've struggled with that a lot. And we've lost some people to South Dakota who has the zero income tax, and to Iowa which has the tax abatement. So they have some of those advantages where we've lost some really, really good people that, you know, are very, very

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

honest about how it's hard to not take advantage of the 10 years of abatement or the step down to the fact...however they have that in place. Or because you can live, I mean, it's just right across the river. You can drive across the bridge and live in Iowa or South Dakota. And so that would be the one thing that I would say if we could ever really think about those kind of things with us on the border. [LR152]

SENATOR COASH: Is housing on the list? Or is housing an allowable expense? [LR152]

TREVOR FITZGERALD: Just low-income. [LR152]

SENATOR COASH: Okay. Well, I guess... [LR152]

KELLY FLYNN: There's a lot of different things for the low-income. And I think a lot of them that we've lost is like to the Dakota Dunes, which is the really, really nice housing, and to the Whispering Creek over in Iowa. And a lot of times...our school now is starting on an idea to try to keep the administrators in town. And I had an opportunity to be one of them for years there at the school. And we were always trying to encourage that, but a lot of times it was difficult where an administrator maybe did have a spouse that they lived at the Dunes and they were willing to move into South Sioux City and look for a \$300,000, \$350,000 house, but there really wasn't that availability. There might be a few sprinkled here and there, but there isn't like the entire Dunes area or Whispering Creek. [LR152]

SENATOR COASH: Well, I guess what I would encourage you and your peers to do is to put your heads together, look at those allowable expenses under what LB840 is, because you've already got the plan. I think this committee is going to work on what kind of flexibility the plan can give you, but there's still...there's a stance today, legislative authority needed to add to that list of allowable expenditures under that plan. And what that would look like should really be driven by you and your peers, the ones that are trying to utilize these funds in order to move your community forward. So I would be interested, as I think the committee would be, in hearing from the people in your position: look, if you could just add these three things, that would be very helpful to what we're trying to get done in our communities. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

KELLY FLYNN: Okay. [LR152]

SENATOR CRAWFORD: Confirm that. Other questions? [LR152]

SENATOR HANSEN: Senator Coash stole my question, so I'm good. (Laughter) [LR152]

SENATOR CRAWFORD: Now, do you know what the time frame is for your LB840 plan? Do you know how long it is? [LR152]

KELLY FLYNN: No, I don't know exactly. But Lance did tell me if you have any questions, I can get those answers and get back to you. [LR152]

SENATOR CRAWFORD: Okay. Excellent. Thank you. [LR152]

KELLY FLYNN: Thank you. [LR152]

SENATOR CRAWFORD: Just for the record, legal counsel, I believe all plans must have an expiration date. Is that correct? (Inaudible) check that. I read that somewhere. [LR152]

TREVOR FITZGERALD: I'm not entirely sure. [LR152]

SENATOR CRAWFORD: Okay. All right. [LR152]

TREVOR FITZGERALD: It might be because most of the plans were done in conjunction with an increase of the local option sales tax. It might be the sales tax that has an expiration date. But I can check with that. [LR152]

SENATOR CRAWFORD: That has an expiration date? Okay. All right. Anyone else wishing to testify? Come on up. [LR152]

TRACY KRUSE: Here are some copies. I also have testimony for another person who couldn't be here. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR CRAWFORD: Okay. [LR152]

TRACY KRUSE: If I could submit this sheet and (inaudible). Thank you. [LR152]

SENATOR CRAWFORD: You can begin whenever you're ready. Thank you. [LR152]

TRACY KRUSE: (Exhibits 3, 4) Hello. My name is Tracy Kruse, that's T-r-a-c-y K-r-u-s-e, and I'm the associate vice president of development and external affairs here at Northeast Community College. I'm here to speak to you about the recent clarifications of the LB840 act, which state that loans and grants under the act may not be made to political subdivisions, state agencies, or other governmental agencies. Although the bill does speak to the exception for the rule: natural gas infrastructure, we believe that there are other public projects which could be allowed under this act as economic development. This legislation was primarily created as a tool for local economic development offices to use their own resources to incentivize job creation and local community growth. We all agree that this is important, but where it seems we may differ is in what projects are best to invest in to deliver that growth. I think we can all agree that what works in one part of the state may not work in another region of Nebraska. Likewise, what works in urban areas like Omaha or Lincoln, may not work in rural areas such as O'Neill, West Point or Valentine. In order for this tool to work as effective as possible, I believe it's uses should be open as possible to be determined by the local leaders and citizens of that particular area. Should it not be up to them to determine how best to use their own funds, whether it is public or private? If they are voting to put an extra tax on themselves, then I believe that it should ultimately be up to them to determine how those funds are used. In O'Neill, in particular, they decided collectively to use their LB840 funds to support the creation of a new extended campus. When they campaigned to pass the fund, they used Northeast Community College as a shining example of how this fund could work. They set up a very deliberate approval process for going through various committees. We not only had to go through a systems advisory committee, but we also had to go through a finance committee and it ultimately was approved by the city council. We heard from residents throughout the process. They were all very supportive of how these LB840 funds were used. In fact, I believe without this significant source of funds, this project would not have been successful. Because of the city's leadership support, we were ultimately able to support the addition of a technical training facility in addition to a classroom facility. That facility has large

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

double doors that can bring in heavy and industrial and agriculture equipment. We also have a welding lab with eight stations. You've heard everyone talk about the workforce skills that exists. And it's often stated that we have more jobs than we have qualified people to fill those gaps. It's predicted that 66 percent of all jobs in Nebraska are going to require some form of postsecondary education by 2018, yet only 42 percent of Nebraskans meet those qualifications. Therefore, many of the jobs we have go unfilled, and many more that could be created are not, due to lack of qualified workers necessary to fill them. In places like O'Neill, that don't have ready access to higher education that the urban counterparts have, without the extended campus they're 75 miles away from Norfolk, they're 93 miles away from Wayne, 115 miles away from Grand Island, 150 miles away from Kearney. With our 18 and under population declining, we know we need to focus more on the education of our adults. Yet, most of them have family and full-time work responsibilities and cannot drive those distances to get their education. City leaders in O'Neill know that the more they can educate their local citizens, the better off they will be long-term as a community. In fact, I would argue that without a more educated populace, many of these jobs you are trying to recruit to the community will never materialize. In addition, current law supports that the use of these funds go to job training for these businesses. It certainly would make it easier to provide that training with appropriate facilities and higher education available locally. Perhaps projects like this should even be seen as public works improvements, which are essential to the location expansion of qualifying businesses. If the legislation is truly about job creation and growth in rural communities, then you need to allow local residents to determine the best use of those funds. Who knows better than the local taxpayers and leaders what will be best and work best in their community? Thank you for allowing me to testify in front of you today. I'll be happy to answer any questions. [LR152]

SENATOR CRAWFORD: Excellent. Thank you. Questions? Was there a particular partner in O'Neill that the jobs were being...that the training was being created because that particular business wanted those kinds of jobs? [LR152]

TRACY KRUSE: No. [LR152]

SENATOR CRAWFORD: No. Okay. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

TRACY KRUSE: We did an extensive assessment study of what all types of jobs were needed there. We partner with a lot of different...agriculture is very big there, healthcare. We already train a lot of nurses partnering with the hospital. They were one of the big partners in the facility, as well as a lot of manufacturing and welding types of needs. So we really had across the board...we're bringing truck driving out there, just a number of different areas. So no one area in particular. [LR152]

SENATOR CRAWFORD: So the college really was the central entity. It wasn't the case there...you know, one of the other options is if there had been a nonprofit that had pulled on...or a particular business partner, it could have funneled through there. But in this case, it was really the college was the key. [LR152]

TRACY KRUSE: It was a partnership with the city. [LR152]

SENATOR CRAWFORD: It was the city and the college were the key partner members. [LR152]

TRACY KRUSE: Yeah. Correct. Correct. [LR152]

SENATOR CRAWFORD: All right. Thank you, I appreciate that. [LR152]

TRACY KRUSE: Okay, thank you. [LR152]

SENATOR COASH: It's not a hearing in Urban Affairs until Gary shows up. (Laughter) [LR152]

GARY KRUMLAND: You can't have a hearing without me. Senator Crawford, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d. I represent the League of Nebraska Municipalities. I guess the bottom line is we support as much flexibility as possible. There are some problems with that in LB840, simply because of the history of it. And for that reason, clarity is also important. As Senator Crawford mentioned, the history of this is the Nebraska Constitution and the Nebraska Supreme Court basically said cities have no authority to give or loan money to private businesses. And up until 1990, they really were very limited on

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

what they could do on economic development. In 1990, the voters passed a constitutional amendment that said they could do economic development, give local funds to private businesses with the vote of the people, and then the next year the Legislature passed LB840. One of the problems, I think, was that at the time, because it was new, the Legislature didn't know what was going on. They made it very tight, both in terms of what the constitutional provision says and then in the original bill. And I think that's why it's been amended so many times. And so within that structure, I think we would like as much flexibility as possible. And this question about can you amend it, you know, after you adopted it? Generally, the Attorney General says no, but the Opinion did have some flexibility for some things. So I think it's something at least exploring to see if there's some areas that we may be able to make it clear in the statutes that in these areas, a city council could add that to the plan. So we would support that. One thing we probably do not support, and actually we probably strongly oppose, is adding other political subdivisions to this. The constitutional amendment and the bill itself were in response to prohibitions of getting money to private business, and that's what this was the exception for and that's what this is intended to. It's not that we don't think cities should work with other local entities. Right now they can, they just don't need to use the LB840 process. We think that should be left for private businesses and private economic development. Under the Interlocal Cooperation Act, under the Joint Public Agency Act, entities can get together and do anything that one of the entities can do. So there's already ways to work together to do these things. I just...we think that LB840 though, should be left for this specific purpose that it was started for. [LR152]

SENATOR CRAWFORD: Questions? Senator Coash. [LR152]

SENATOR COASH: Thank you, Senator Crawford. Gary, a couple of questions. Why doesn't Lincoln or Omaha have an LB840 plan? [LR152]

GARY KRUMLAND: I don't know the answer. I know they both looked at it. Part of it, I think, is just the size of the city. There's, you know, so much going on. But from time to time they do talk about it. But why they haven't actually asked the voters for it, I just don't know. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR COASH: Okay. Has there ever been a challenge in court with regard to a city...somebody challenging a change in the use without going to the vote of the people? [LR152]

GARY KRUMLAND: No. Nothing has ever been challenged in LB840. I guess I may be a little paranoid, because if you use the tax increment financing example every time the cities decide to push the envelope, somebody in the Legislature will introduce a bill to take authority away. And so we're a little uncomfortable about pushing the envelope too much. But no, as far as I know they haven't. Before the constitutional amendment passed, there was a challenge, and the classic case is Chase v. Douglas County, which I think is from 1975, where the Legislature passed a law that said a city can and a county can spend money to purchase property to give to a business as an incentive. And the Supreme Court said, no, you can't do that. The Constitution does not allow that to happen. And that's why we had to come in with the amendment and LB840. [LR152]

SENATOR COASH: Have...I asked Kelly about this, and so I'd like to ask you. Have you worked with your members to...the 80-some communities that are your members that have LB840 authority to survey them and work with them on what additional uses that they would find helpful for those communities that they don't have currently under the law? [LR152]

GARY KRUMLAND: We haven't done a formal survey--and we could do that fairly quickly. But I would probably repeat what you've already heard. The thing that we hear more than anything else right now is the lack of housing. And if there was more housing out there, that would help bring people in. It would help fill jobs that are out there right now. [LR152]

SENATOR COASH: Well, I'll encourage the League to do that. Because I think this... [LR152]

GARY KRUMLAND: Okay. Well, we would be happy to do that. [LR152]

SENATOR COASH: Because you certainly can reach out to these 80-some communities with an e-mail, much easier than...I mean, I guess we could make (inaudible) do it. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

GARY KRUMLAND: Yeah, well, and I mean we'll do that or we'll work with the committee staff and see... [LR152]

SENATOR COASH: Thanks. I appreciate it. Thank you. [LR152]

GARY KRUMLAND: Sure. [LR152]

SENATOR CRAWFORD: Yes, Senator Hansen. [LR152]

SENATOR HANSEN: Gary, have there been many or any cities where the voters have voted down an LB840 plan? [LR152]

GARY KRUMLAND: There have been a couple. When was it? Was it two years ago, four years ago, the city of Bellevue had one up that failed. Several of them that did fail have come back and put it on and it was passed after that. So it's not...the majority of those have passed that had been put before the ballot. [LR152]

SENATOR HANSEN: Okay. So very high success rate when voters are actually given the choice? [LR152]

GARY KRUMLAND: Yeah. But there have been...I think Scottsbluff put one on that failed. I just can't think of all of them, but there have been several, so. But the majority of those that have been put before the voters have passed. [LR152]

SENATOR HANSEN: All right. Thank you. [LR152]

SENATOR CRAWFORD: I want to come back to the question about political subdivisions. So you're arguing there's other authority that municipalities have to work with other political subdivisions. Now, I think that one of the issues that municipalities face is the use of their local option dollars. Like it's that's the money that they have. Like they could do a local...they could do an interlocal agreement with general fund dollars. But do you have authority to use those other

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

tools with local option sales tax dollars, or are local option sales tax dollars only allowed to be used in LB840 plans? [LR152]

GARY KRUMLAND: No. Local option sales tax is a general source of revenue for cities. There's...under the law, a city proposes to the voters to adopt a sales tax. And you can do it at half-cent, one cent, or one percent, or one-half percent, and you can even now go up to two percent with certain restrictions. And it's a general source of revenue. The question is, shall this city adopt a sales tax and it goes into the city's general fund? The law does provide that cities can put restrictions on it to say, for example, the sales tax revenue will only be used for this project. Some of them say property tax reduction, some say law enforcement, some say infrastructure. And then, with LB840, some of them do say LB840. I guess it's always my recommendation if they can get it passed without it, not to put restrictions on, because if you adopt the LB840 plan, you're already appropriating money for the economic development program and you don't really need it in the sales tax. Although, some people have found that to sell the program, they need to have the restrictions. But they need to give the greatest flexibility. I would always argue that you put less restrictions on yourself. There's been example where a city passed an LB840 plan and a local option sales tax, and they voted all the money to the plan. The problem is, they brought in a whole lot more revenue than they expected, and they were limited by the plan on the amount that they could spend. But they were limited by the sales tax question on what else they could spend it for, so they had all this money building up that was in limbo that couldn't be spent. So they had to go back to the voters to alter the questions. So with this again I argue for flexibility and local control. [LR152]

SENATOR CRAWFORD: So if the municipality has the money that's been generated from the local option sales tax and initially passed with LB840 restrictions, they could go back to the voters... [LR152]

GARY KRUMLAND: Yeah. Go back and do it again. [LR152]

SENATOR CRAWFORD: And say we would now like to direct some of this money to housing or to job training. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

GARY KRUMLAND: Or, yeah, some cities will say one-half of the money from the revenue of the sales tax will go to LB840, the other half will go to something else, infrastructure or whatever. [LR152]

SENATOR CRAWFORD: Does the local option sales tax have to have an expiration date? [LR152]

GARY KRUMLAND: No. [LR152]

SENATOR CRAWFORD: No. Okay. [LR152]

GARY KRUMLAND: A lot of cities put one on. It's one of the conditions they can put on, but it doesn't have to do that. [LR152]

SENATOR CRAWFORD: Other questions? [LR152]

SENATOR COASH: I do. [LR152]

SENATOR CRAWFORD: Yes. Senator Coash. [LR152]

SENATOR COASH: Gary, back to the LB840 plans, can you give me an idea of the range of...I mean we have...this map's very helpful, because, you know, I'm sure North Platte's got a bigger pot of money sitting in their LB840 plan than--I saw a village on here like Sutton, you know. Can you give me kind of an idea of the range of what communities are sitting on? I mean, with regard to...I mean, if you're going to do a big housing development project, and you've only got \$10,000 sitting in there, it doesn't go very far. But... [LR152]

GARY KRUMLAND: Yeah. The reason I'm paging through here is the act itself puts limits on the amount that cities can expand, based on the classification of the city--the size of the city. There is a percentage of property tax valuation, and then there's a couple other...then there's a dollar limit on the amount, based on the size of city, and then the third limit is the amount approved by the voters. Most cities will do it one of two ways: they'll put in the highest they can

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

get or they'll get an estimate of how much revenue the property tax will raise. Or the, excuse me, the sales tax will raise, and that's what they will base it off of. So I can't give you dollar amounts, but if I can find the...let's see here. Appropriations...yeah, it's 18-2717 is the statute. And you can't exceed four-tenths of one percent of the taxable valuation. Metropolitan classes can go up to \$5 million, first-class cities can go up to \$4 million, second-class cities can do \$3 million. [LR152]

SENATOR COASH: Well, we don't have a metropolitan or first-class city even with a plan, right? [LR152]

GARY KRUMLAND: Metropolitan and primaries do not have it, yeah. But I mean, they do have...those are what the limits are. [LR152]

SENATOR COASH: Are all those caps--those are all from statute, correct? [LR152]

GARY KRUMLAND: Yeah. And... [LR152]

SENATOR COASH: Do you want to comment on those caps? [LR152]

GARY KRUMLAND: The...and I don't remember the exact year. A couple years ago, maybe it was 2011. [LR152]

TREVOR FITZGERALD: It was 2011. [LR152]

GARY KRUMLAND: The Legislature increased the caps. There were a couple cities that were getting close to it, and they wanted to increase. And a bill was introduced, and those caps were increased. I haven't heard from anybody recently that is arguing that the caps need to be increased again, but if we start hearing that, I'm sure we would. [LR152]

SENATOR COASH: I probably voted for it. [LR152]

GARY KRUMLAND: Yeah, probably. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR COASH: All right. Thanks, Gary. [LR152]

SENATOR CRAWFORD: Excellent. Thank you. Thank you very much. I appreciate that. Anyone else wishing to testify on LR152? [LR152]

GREG PTACEK: Good afternoon. Greg Ptacek with the city of Neligh. It's G-r-e-g P-t-a-c-e-k. And I have no handout, so you have to take notes and listen. (Laughter) Neligh is a community of 1,600, and we're located about 30 miles west of Norfolk. We recently passed LB840 in 2011. And since then, we have dedicated it mostly towards loan projects. Since 2012, we welcomed 15 new businesses in a town of 1,600, and transitioned 10 businesses to new owners. Three of those projects so far were utilizing LB840 programs. We've leveraged about \$93,000 into \$1.1 million worth of capital investment, creating about 19...or 12...excuse me, 17 jobs and retaining 19. Some businesses were looking at leaving, and so we leveraged the funds to help them...incentivize them to stay. And we're currently working with two businesses that would be looking at about \$40,000 worth of loans and generating about 5 or 6 positions in Neligh. I...Senator Coash, to answer your question on what Neligh gets for LB840 funds, we get about \$48,000 a year. And we also work with the village of Clearwater, which I believe is the smallest municipality to have LB840. It's a community of about 400, and they, I think, pull in about \$25,000 a year. One thing that I'd like to reiterate would be, with housing, we have had several entities that have been looking at trying to increase housing. We did a housing study about two years ago, and one of the findings in the study was that if we were going to grow at a half a percent growth a year, we would need to add about 150 housing units to Neligh. And even if we continue to decline half a percent, we would still need to add 80 units, just because of dilapidation in some of the housing. And with the way that LB840 is written currently, we cannot give a loan to a housing unit unless their primary income comes from housing. So we have several entities that are looking at trying to do housing, but in a rural community you wear a lot of hats. So the entities have been actually construction companies who do rentals on the side, and would be able to build the houses for a little bit cheaper or build the multifamily units for cheaper. But we can't help them with any of the loans. And most of the time, you can't get more than \$350 a month for rent, so it's tough to try to dump a couple million dollars into a project without a little bit of assistance from the city. So that would be a specific improvement that I could see coming from LB840. And that is it. [LR152]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR CRAWFORD: Excellent. Thank you for those great success stories. I appreciate that. Questions? Thank you. [LR152]

GREG PTACEK: Okay. [LR152]

SENATOR CRAWFORD: Anyone else wishing to testify on LR152? All right. And we will close the public hearing on LR152 and open the public hearing on LR155. And this was a committee interim study, so our legal counsel will offer the opening. [LR152]

TREVOR FITZGERALD: Good afternoon. Good afternoon, Chairwoman Crawford and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, introducing LR155 on behalf of the committee. The purpose of LR155 is to take a comprehensive look at the economic development tools that are currently available to municipalities in Nebraska, as well as examining tools available to be used by municipalities in other states. While a wide variety of state and federal programs can be considered tools for a local economic development, the focus of the materials that have been prepared for you is on those programs which are laid out in state statute. At Senator Crawford's request, the League of Municipalities has prepared a comprehensive binder, which highlights and summarizes what they feel are the key economic development tools currently available. The committee heard testimony just now on the Local Option Municipal Economic Development Act, commonly referred to as LB840, so I won't present very much information on that, unless committee members have additional questions for me in that regard. Aside from LB840, the most prominent municipal economic development tool in statute is tax increment financing or TIF, under the community development law. TIF was the subject of one of two interim study hearings held by the Urban Affairs Committee last fall, and as committee members no doubt recall, this past session's hearing on three TIF related bills was the longest of the session for the committee. Because language authorizing TIF appears in Article VIII Section 12 of the Nebraska State Constitution, two of the major TIF discussions in recent years have focused on amending that constitutional language. Twice in the last few sessions, a proposed amendment to Article VIII Section 12 has been introduced that would do two things. First, replace the requirement that property be designated "substandard and blighted," in order to be TIF eligible, with language stating that the property instead must be "in need of rehabilitation or redevelopment." The second change

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

included would extend the maximum length of time to repay TIF bonds from 15 years to 20 years. The substandard and blighted requirement has been a perennial issue heard by the committee, as many property owners believe that declaring their property substandard and blighted negatively impacts their property values. Discussion of TIF repayment periods has only occurred in the past few years, and according to information received by the committee, both at last year's interim hearing, and at the September hearing, Nebraska is currently one of just three states with a TIF repayment period of 15 years. Since 2012, at least one proposal to limit the use of TIF by municipalities or establish state level oversight of TIF projects, has been heard by the committee each session. While language clarifying that the State Auditor has the authority to audit TIF projects was adopted last session, the committee can likely expect to see TIF legislation introduced again next session. Outside of TIF, another area of the community development law provides municipalities with a financing option for infrastructure and other improvements. Passed in 2007, the enhanced employment area provisions allowing municipality to enter into an agreement with a developer for the development of a defined enhanced employment area. An occupation tax is then imposed on businesses within the enhanced employment area with revenues from the occupation tax pledged to pay off revenue bonds issued by the municipality to finance improvements within the designated area. One of the more recent economic development tools for municipalities is the Nebraska Advantage Transformational Tourism and Redevelopment Act--another long one. I prefer to call it NATTRA, although others will refer to it as LB1018. NATTRA, which passed in 2010, allows municipalities to rebate a portion of the local option sales tax dollars generated by a qualifying development to offset the cost of that project. Similar to LB840 programs, the use of NATTRA is subject to voter approval and must follow the authorizing language in Article XIII Section 2 of the Nebraska State Constitution. One issue the committee heard testimony on in its September hearing is the Uniform and Proportionate Clause in Article VIII Section 1 of the Nebraska State Constitution. Committee members may recall that during the TIF hearings last session, a handout was distributed listing the economic development tools that are available in Kansas City. One of the primary reasons that the Kansas City list is significantly longer than a comparable list for Nebraska municipalities is the Uniform and Proportionate Clause, which requires that property taxes must be valued and collected in the same way. The Uniform and Proportionate Clause effectively prohibits municipalities in Nebraska from offering property tax abatement, a type of incentive prevalent in other states, where municipalities reduce the taxes otherwise owed to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

businesses to induce the business to relocate or to expand within the municipality. Since this provision appears in the Constitution, the only limited exceptions to the Uniform and Proportionate Clause are constitutional amendments, the most notable of which are agriculture and horticultural land, homestead exemptions, and of course, TIF. The committee received a number of suggestions for potential economic development legislation at its September hearing, including first expanding the eligible uses of LB840 funds to include workforce housing. And to note to Senator Coash's question, in 2000...or sorry, in 1995, it was added to the LB840 programs that construction and rehab of low-income housing could be done. But it can only be done for low-income housing under current law. Second suggestion that was heard by the committee was of updating the county industrial area statutes, which I think Gary Krumland will give a little background for the committee today. And the third suggestion that was thrown out, that I would just include at this point, was allowing the creation of transportation development districts. That is, I think, legislation the Urban Affairs Committee has heard before, I think, in 2010. So a complete listing of those suggestions, as well as any other additional suggestions presented at today's hearing, will be included in the committee's report at the conclusion of the interim study in December. So I think there was one other question...there was a question about the LB840 cap, that I think Gary answered that effectively, so I will thank you for your time. And I'd be happy to answer any other questions you have. [LR155]

SENATOR CRAWFORD: Questions? I have one question. The enhanced employment areas. [LR155]

TREVOR FITZGERALD: Yes. [LR155]

SENATOR CRAWFORD: So that allows occupational tax for infrastructure and other improvements. Would that be an option for workforce housing? [LR155]

TREVOR FITZGERALD: Possibly. [LR155]

SENATOR CRAWFORD: Okay. [LR155]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

TREVOR FITZGERALD: I might defer to Gary on that one, because I wasn't around for that one. But I know he was. [LR155]

SENATOR CRAWFORD: Okay. Is most often that that would be used probably for infrastructure, maybe? But it...the question... [LR155]

TREVOR FITZGERALD: Yeah. I mean, because it's occupation tax based, housing isn't going to be something that generates a lot of occupation tax revenue. You wouldn't want to charge occupation tax on new residents, so it probably wouldn't be the best option available. [LR155]

SENATOR CRAWFORD: Occupation tax on your rent, yeah. Okay. [LR155]

TREVOR FITZGERALD: So. [LR155]

SENATOR CRAWFORD: Okay. Any other questions? Thank you. [LR155]

TREVOR FITZGERALD: Yeah. [LR155]

SENATOR CRAWFORD: Now. Anyone wishing to testify on LR155, which is our broader study, just looking at suggestions, comments on other economic development tools. [LR155]

RANDY GATES: Good afternoon. [LR155]

SENATOR CRAWFORD: Good afternoon. [LR155]

RANDY GATES: (Exhibit 1) I'm Randy Gates, R-a-n-d-y G-a-t-e-s, and I'm finance officer for the city of Norfolk. As people mentioned that testified earlier, there's two basic tools that are widely used by municipalities for community and economic development and redevelopment-- those being LB840 and TIF or tax increment financing. Our economic development director, Courtney, testified on how the city of Norfolk has been using the LB840 dollars. I'm going to focus my testimony on how we use TIF, and also talk about what steps you have to go through to use TIF, and reiterate the fact that we don't think there needs to be more impediments or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

restrictions put on what we already consider to be a pretty lengthy process to use tax increment financing. The handouts I gave you are primarily pictures of what we have used TIF for in Norfolk. We've only used it seven times--had seven tax increment financing bond issues. One of those is not included in here. It's the first one we did in 1987, which was a Southfork Industrial Park Redevelopment Plan, and that was for a meat packing plant. We did \$440,000 of TIF bonds for that. They were used for water, storm, sewer, paving and site compaction. We payed those off with eight years of incremental taxes. We increased the assessed valuation from \$100,000 to \$4.6 million during their redevelopment project...created for that project. The rest of the pictures in the handouts are for the other six TIF bond issues we've done. The first of those were the Southfork West Norfolk Redevelopment Plan, which is a retail area that includes a Walmart, a Menards, Hy-Vee. We did \$676,000 of TIF bonds for that, used for drainage and relocation of Market Lane. We paid those off in only three years of incremental taxes. The assessed valuation of that area increased from \$1.8 million to \$16.7 million. In 1995, we did the Meadow Ridge Redevelopment Plan, and that was used for our local match on \$480,000 of community development block grant money for a low-to moderate-income housing project. And we included both apartments in that and single-family housing. We had \$815,000 of TIF bonds used for grading, sewer, water, paving, and parking, paid with 13 years of incremental taxes. And those increased the assessed valuation of \$8,000 to \$6.3 million during the redevelopment period. In 1998, we did the Hy-Vee Redevelopment Plan for a new Hy-Vee that anchored the east end of downtown Norfolk. We did \$410,000 of TIF bonds for that. They were used for the utility relocations, paid with 12 years of incremental taxes. Increased the assessed valuation from \$773,000 to \$4.6 million. In 2001, we did a smaller project that a one laundry company redevelopment plan for a 10,000 square foot additions to an existing Dudley laundry company facility--\$70,000 of TIF bonds were used for site clearance, utility relocations and access improvements, paid with 11 years of incremental taxes. Increasing the assessed valuation from \$348,000 to \$732,000. And again, there's pictures of these projects both before and after so you can get a good idea at what these...how this improved the appearance of the community and what was used to alleviate some blighted and substandard conditions. In 2007, we did the Crafts development plan on a 2,000 square foot truck center--\$142,000 in TIF bonds. We used this to demolish an old Roman Packing facility, including asbestos removal and site fill. These bonds are still outstanding, and they increased the assessed valuation from \$246,000 to \$1.4 million. The most recent one is the 2012 Big Game LLC Redevelopment Plan, that provided for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

construction of a Perkins restaurant. We did \$140,000 TIF bonds for that, used for water, sewer and paving. Those bonds are still outstanding, and the assessed valuation of that project area increased from \$198,000 to \$876,000. We've got one redevelopment plan that we've approved that has not yet had TIF bonds issued for it. That's the McIntosh Family LLC Redevelopment Plan, which was approved earlier this year. This project is expected to provide 53 units of moderately priced housing, a combination of single-family attached, and single-family detached. And as Courtney talked about at some length, housing is a very pressing issue in Norfolk, and this will help alleviate the need for some moderately priced housing in Norfolk. Last year, there were three bills introduced in the Legislature, which would have placed additional restriction on the use of TIF. This seems to be a recurring theme that new bills are introduced almost every session to farther clamp down on feasibilities to use TIF or put additional restrictions on how we can use it or additional steps we got to jump through. The bills that was introduced this last year did everything from providing for audit requirements, either from the Department of Revenue or the State Auditor's office, or restricting what you could use TIF for. There was a whole lengthy list of things that those bills were going to put additional restrictions on the city. We think that we already have a lot of restrictions on us and our use of TIF. And some of those things that were in the bills, I'm just kind of surprised to see, particularly the one about the audit requirements. State Auditor's office has audited TIF projects in the past. They audited one of our TIF projects in 2009, which was the Meadow Ridge Redevelopment Plan project that we did for housing back in 1995, and we issued those TIF bonds in 1996. So we weren't surprised that the State Auditor could audit us. We expected they could if they wanted to. We cooperate with them fully, and I don't think there was any problems found with our TIF issue at that time. The only real concern I had with that audit was length of time--it was 2009 for something we did back in the mid 1990s. We had to go digging pretty deep to find some of those files and blow a lot of dust off of those files to get the information that they wanted. But we were able to find it and we got them what they wanted. So I think some of these things are already out there and already being done and we don't really need to put those in statutes again. And to go through some of the steps we've got to do (inaudible) for TIF, under current law, I think you should see what those are. And I think when you look at them, you'll see that they're relatively lengthy and they're relatively long period of time involved--a whole bunch of different government meetings, different government agencies involved. And I'll just step you through what we normally see when we do a TIF project. The TIF area must be declared blighted and substandard, that normally starts with a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

blighted and substandard study. After you get the blighted and substandard study, the city council then submits that to the planning commission, the question of whether or not this area is blighted and substandard. The planning commission has 30 days to review it and make its recommendation. The city council then holds a hearing and declares the area blighted and substandard, which we're going to go through and be able to do TIF in that area. And a redevelopment plan must be prepared and approved, and this starts with the community development agency or authority submitting the proposed redevelopment plan to the planning commission for their review and recommendation. Once again, they have 30 days where they can study that before they need to make their recommendation to the agency. The agency must then conduct a cost-benefit analysis for the redevelopment project and then recommend the plan for approval to the city council. And then the city council holds a hearing on that plan. And there's some fairly tight hearing requirements...notice requirements for this hearing, more so than you see in most cases. In this case, you've got to publish at least once a week for two consecutive weeks the hearing notice...hearings held at least 10 days after the last notice of publication. But in addition to that, you've got to send the hearing notice to any registered neighborhood association within a mile radius of the redevelopment project area and to the president or chairperson of each of the following governmental agencies who have their territory within the redevelopment project area: that includes the county, school district, community college, educational service unit, natural resources district. So all of them get a detailed map of the area and notice of the hearing on the redevelopment plan. Go through all those processes and get that hearing notice, hold a hearing, and the city council can approve the redevelopment plan. It's at this point then the agency can go back and enter into a contract with the redeveloper. In the case of the city of Norfolk, we normally also have the city council approve that redevelopment contract. So as you can see, this process is lengthy. It requires consideration by the planning commission, community development agency, the city, and there's numerous public meetings with some extraordinary notice requirements on some of those meetings. And in that entire process, it requires the preparation of a blight and substandard study, cost-benefit analysis, redevelopment plan, redevelopment contract, all of which are reviewed at various public meetings. And we feel this current process is more than adequate. It has adequate safeguards, and further restrictions and requirements would only slow down and complicate the process and be counterproductive. So I'd be glad to answer any questions. [LR155]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR CRAWFORD: Thank you. Questions? Senator Coash. [LR155]

SENATOR COASH: So do you like those bills that were introduced last year? [LR155]

RANDY GATES: No, I do not. (Laughter) [LR155]

SENATOR CRAWFORD: I have a question. How do you communicate with and work with school districts as you develop these proposals? [LR155]

RANDY GATES: We communicate with the school districts when we were looking at some of our recent TIF projects. We've had meetings with school districts going over what the project is, what impact we expect it to have on the schools. As you kind of allude to there, usually the taxing entity that has the largest property tax levies to the taxing entities most directly impacted by TIF, so we do work with the school district. [LR155]

SENATOR CRAWFORD: Is the Menards and Walmart still operating? [LR155]

RANDY GATES: Yes, they are. [LR155]

SENATOR CRAWFORD: I notice that that just took three years to pay off, so that was (inaudible) quick. [LR155]

RANDY GATES: Yes, that was quick. Yeah, huge increase in assessed valuation, we're able to pay off that project very quickly. [LR155]

SENATOR CRAWFORD: Other questions? Thank you. Appreciate your testimony. Welcome. [LR155]

JOE KOHOUT: (Exhibit 2) Chairwoman Crawford, members of the Urban Affairs Committee, my name is Joe Kohout, K-o-h-o-u-t. And I appear today as a registered lobbyist, and on behalf of my client, the United Cities of Sarpy County. I am passing out to you a letter under the signature of mayor Douglas Kindig of the city of La Vista that is on behalf of himself and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

mayors David Black, Jim Timmerman and Bob Roseland, agreeing with the contents of the letter. The letter does address both LR152 and LR155, so Madam Chairwoman, we would ask that the letter be include as part of the record on both resolutions. You'll note that the letter, in paragraphs one and two, address the only city that has an LB840 claim, which is the city of La Vista. And I would note that in La Vista's case, the investment that they made under the LB840 plan has rendered a significant benefit, not just to the city of La Vista, but to the people of Nebraska. But also to the taxpayers of Sarpy County, with the John Q. Hammons facility in La Vista, which is the third largest property taxpayer in Sarpy County at this point, so. On other economic development tools, I would note that both the city of La Vista and the city of Gretna have both received voter approval to utilize NATTRA, as it is referred. And it would be remiss, if I didn't at this point recognize Senator Coash for prioritizing NATTRA when it was originally introduced, and ensured the passage of that bill back in 2010. I would note that in the case of Gretna, since they brought the Gretna Crossing Outlet Program on-line, they have increased property tax value of the site from \$3 million to \$67.5 million. And the increase in the city's sales tax was 63 percent. So those are rendering significant benefits. Both the city of Gretna and the city La Vista have TIF programs in place. The Crossing...the outlets were TIFed, but also La Vista has put itself in a position to utilize tax increment financing on its 84th Street Corridor for the redevelopment of the 84th Street Corridor. It is important to my client, the United Cities...by the way, Mayor Kindig had really hoped to be here today, but unfortunately, he's at the National League of Cities and I think, right now, on a panel discussion with Mayor Black. So even as I testify before you today, so I apologize for that. And he apologizes. But the one thing I would say about the consistent opinion of the United Cities is this: that the use of incentives need to be transformational. And that that should be the guiding principle when the state and when the Legislature is considering whether or not to give incentives. So first of all, they should be transformational--that the city should be provided a refund information under Nebraska Advantage. I think you've heard us say this for years, that there should be accuracy and transparency in the sales tax reporting. And that it should be very clear at some point...we believe there is some grey area on the ability of the state, whether or not they can keep and refund that half-cent of sales tax under LB840 plans when the voters have authorized one, whether or not that is subject to recapture by...under Nebraska Advantage. So that's something that has been of concern to my client. So with regards to any improvements, we believe that we should have access to incentive contracts and the information in those incentive contracts. And

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

that jurisdictions should be notified of any changes that, in those cases where a NATTRA project is conducted and certified, that those individual...that those cities that have that authority should receive some sort of electronic transmission on a monthly basis from cities...or from the state with regards to how much sales tax is being paid, since that is funding part of the project. And require independent, third-party audit of the Department of Revenue to ensure controls related to security, availability and processing, integrity, confidentiality, and privacy. And then we also think that there should be a prohibition on the state from accessing the city voter designated sales and use tax, as I mentioned before. So with that, I will try to answer any questions that you might have. [LR155]

SENATOR CRAWFORD: Thank you. Questions? [LR155]

SENATOR COASH: I do. [LR155]

SENATOR CRAWFORD: Senator Coash. [LR155]

SENATOR COASH: Have any of these communities had a problem with the state grabbing their money? [LR155]

JOE KOHOUT: That is a very good question, Senator Coash. I think there is a certain amount of trust us, that we're not refunding that money, to be honest. Coming at...in our experience with the Department of Revenue. We get very concerned about that. We don't know. Because again, cities are notified of a reduction in what they are going to receive. They get a notice from the Department of Revenue saying, hey, you're not going to get...this is what you're going to be short this month. And so to that extent, we don't know what is being grabbed and what is not being grabbed, frankly, where that sales tax revenue is coming from. [LR155]

SENATOR COASH: You think the state's skimming? [LR155]

JOE KOHOUT: Well...we have... [LR155]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR COASH: That's what it sounds like. I'll say it. I think the state may be skimming.
[LR155]

JOE KOHOUT: Well, and this is something that we have...and it's coming onto your radar screen only in the sense that we're talking about incentives. This is something that we have...and I know the League, and maybe Gary can offer some additional when he gets up here, but it is something that we have worked with the Revenue Committee for the last two years on trying to get clarification on that. So to that extent, we just put it on your radar screen with regards to incentives, when we're talking...when we're moving to the Urban Affairs Committee, we thought it was important just to note that for you. [LR155]

SENATOR CRAWFORD: So a bill to clearly say that they are not authorized to take those sales tax dollars would be appropriate? [LR155]

JOE KOHOUT: I believe under...specifically in regards to the enabling legislation under LB840, it could be a consideration. [LR155]

SENATOR CRAWFORD: Okay. [LR155]

SENATOR COASH: I think if we introduce the bill, we won't find out if the state's (inaudible) (laughter). [LR155]

JOE KOHOUT: There's a fiscal note on it. (Laughs) [LR155]

SENATOR CRAWFORD: But you're suggesting, I believe, in addition, we need some of the transparency provisions as well. [LR155]

JOE KOHOUT: Correct. [LR155]

SENATOR CRAWFORD: Okay. Thank you. Other questions? Thank you. [LR155]

JOE KOHOUT: Thank you. [LR155]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

SENATOR CRAWFORD: Other testifiers? [LR155]

LUCAS VIRGIL: Good afternoon. [LR155]

SENATOR CRAWFORD: Welcome. [LR155]

LUCAS VIRGIL: Senator Crawford and members of the committee, my name is Lucas Virgil, L-u-c-a-s V-i-r-g-i-l. Thank you for being here today. Thank you for allowing us to testify. I am here on behalf of the city of Laurel, Nebraska. We participate in tax increment financing. I'd like to reiterate what Mr. Gates said. Please do not add any more restrictions to the process. I feel that there is enough rigor in the process to keep everybody in check. Our community has been able to do several TIF projects in the last eight years, since we incorporated a community redevelopment authority, and we put together a blighted and substandard area. Our most...one of the biggest projects that we were able to do was a grain facility that brought in a \$25 million capital improvement. And we utilized tax increment financing for that. So the meetings are tough to get through sometimes, because you have so much rigor in place already. And I just would appreciate if that stayed the way it is and not have any extra added to that. So. [LR155]

SENATOR CRAWFORD: Thank you. Questions? How is your housing situation? [LR155]

LUCAS VIRGIL: Rough. [LR155]

SENATOR CRAWFORD: Is that an issue in your community as well? [LR155]

LUCAS VIRGIL: It's an issue in our community too. But in our tax increment financing guidelines, we are not allowed to use TIF for housing. I know in some communities, that is the case. And we do not have an LB840 program. It was attempted, I think, in 2005, which predates my tenure, but it failed within the community. So. [LR155]

SENATOR CRAWFORD: Thank you. I appreciate your testimony. Anyone else wishing to testify? [LR155]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

GARY KRUMLAND: Senator Crawford, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, with the League of Nebraska Municipalities. I won't go over everything, like you heard in Lincoln, but I have been...there's a couple questions that I've either been asked to address or that were brought up here that maybe I'd talk about. One thing that was mentioned at the last hearing and Trevor mentioned it now, are county industrial areas and just what they are and what the problem with them is. The statutes on those are in the binder under tab 13 on page 10. County industrial areas--the law was originally adopted in 1957 and it was considered an economic development tool at the time. And what it did, it allowed the county board to designate certain areas outside of a city as a county industrial area. And that area cannot be annexed by the city, therefore, it could never be subject to the city property tax. So the thought was, well, that would be an incentive for business to locate there, because they'd only have to pay county taxes and they won't have to pay city taxes. And at the time it was first adopted, a county could do it without any input from the city. Several years ago, the law was changed to say that they could not designate one without...in the city or within the city's joining jurisdiction without the city approval. The problem has become is that some of these industrial areas were designated and the cities have grown up to them or around them. There are several cities that have pockets within the city that are completely surrounded by the city that the city can't annex. And there's nothing in the law that has a termination date or expiration date on these things, so they can continue. There's a process that if they're no longer used for the original purpose, the county board can hold a hearing and make some designations. But the termination that it no longer fits the criteria and take it away, but as long as it's continuing it can do that. It has caused some problems. And a couple years ago, some legislation was introduced that didn't pass, it remained in the Government Committee, to put a process to put a date on these or to say after a certain amount of time they would go away. The concern is that in several cities, you have an area that is within the city, it is completely surrounded by the city, but the city can't annex it. It's complicated because the law says that the city has no obligation to provide services to these areas, but if there is a fire or a crime or something going on, the city can't just ignore that. They will have to respond anyway. Sometimes these areas will pay a fee for those services, sometimes they don't. But it's additionally complicated by the fact that if you have a city that is served by one electric utility and immediately outside the city is served by another electric utility, like a rural electric association or a rural electric district, and you can't annex it, that area would be served by a separate electric company. There's also a situation in some cities where the city

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

school district is based on the corporate limits of the city. And outside of the corporate limits is another rural school district. And so you have an area within the city that is actually in the rural school district. So if a city would like to take that over, you not only are dealing with the county, but it has an effect on school property valuation and on the ability of certain electric utilities to serve that area. But it is causing a lot of concern in several cities that have these totally within the city. And it's an issue that I think needs to be addressed. But I just wanted to let you know it's not a simple issue that...I think if it was just cities and the counties that could get together, we could probably work something out, but you bring in schools and electric systems and everything else, it makes it much more complicated. [LR155]

SENATOR CRAWFORD: So I was just going to ask if you have a recommendation of... [LR155]

GARY KRUMLAND: Well, we do...well, and this is from our biased point of view. [LR155]

SENATOR CRAWFORD: Sure. [LR155]

GARY KRUMLAND: That there is nothing...virtually every incentive program, both on the state and local level, has a termination date that needs to be renewed. This doesn't. That alone, even if it was set 10 years, 15 years in advance from now, would be helpful, and at least give notice to people that you continue doing this, but at some point it's going to go away. And the city would be able to annex it and then take care of it. That would give everybody notice. There may be other ways to do it, but that would be at least one way to deal with it. [LR155]

SENATOR CRAWFORD: Do you know about how many communities you have been hearing from that have an issue with this? [LR155]

GARY KRUMLAND: I know there are four or five: Columbus, Fremont, Crete, Blair, who have had big enough problems that they would like legislation changed. I mean, there may be others that have them, but it hasn't raised to the point where they really have some problems. [LR155]

SENATOR CRAWFORD: So we may need some discussion? [LR155]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

GARY KRUMLAND: Yes. [LR155]

SENATOR CRAWFORD: Okay. And I would trust you will be involved in those discussions?
[LR155]

GARY KRUMLAND: Yes. [LR155]

SENATOR CRAWFORD: Other questions? [LR155]

GARY KRUMLAND: And you raised a couple questions if I could just quickly address them.
[LR155]

SENATOR CRAWFORD: Sure. [LR155]

GARY KRUMLAND: And I think Trevor has probably answered this, but you talked about the enhanced employment areas, whether that could be used for housing. The way those are structured is that the businesses within the enhanced employment area can impose an occupation tax upon themselves, and that raises the money for the infrastructure. And as Trevor's mentioning, if you're doing it for housing, you're either taking it from one business and putting it for everybody else or you're closing out houses. That may not be the most efficient way to do it, but I like the idea of everybody thinking about ways to reach this. The other thing you were talking about, the state incentive programs that are taking away the local option sales tax. And both under LB775, the old incentive program or the Nebraska Advantage Act, now, a businesses who applies for state incentives can receive sales tax reductions. It includes not only the state sales tax, but it's the local option sales tax. And for a while, the cities found out about it--they got like a 30-day notice from the state saying, oh by the way, next month, your sales tax revenue is going to be cut in half because of the incentives that we're paying to some business. Under LB775, there was a 22-year window that they could apply, and you don't know who these businesses are, so it's very hard to plan for that. As you know, the Legislature, just a couple years ago, passed a bill that in effect gave a year's notice to cities. So at least, they know that it's coming and they can start planning for it in the budget process. But it still could be...some cities it's a major hit. I mean, it's 20 and 30 and 40 percent of their sales tax revenue. So that makes a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Urban Affairs Committee
November 05, 2015

major hit on their budget. And it also is a real problem when, like was mentioned, you've passed the local option sales tax and dedicate it to a specific project--either economic development or to pay bonds for a swimming pool, or something like that, and suddenly that revenue is decreased. So it is a problem. I mean, the notices help, but it still is a problem. So. [LR155]

SENATOR CRAWFORD: So for the record, the Nebraska Advantage Act would go before the Revenue Committee, but the notification--there are municipality issues with it in terms of sales tax and transparency that many municipalities are concerned with. So that's part of why we're discussing it here, as we're discussing economic development. Thank you very much. [LR155]

GARY KRUMLAND: Okay. [LR155]

SENATOR CRAWFORD: Other questions? Thank you. Anyone else wishing to testify? Well, I want to echo Senator Coash's invitation. If you have other suggestions for the LB840 uses or other ideas that you would like to share with us on any of the economic development tools, you are welcome to e-mail us and let us know those suggestions. We appreciate that. And with that, I will close the public hearing. And thank you again for being here today. I appreciate your testimony and your attendance. [LR155]