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Revenue Committee
March 05, 2012

[LB1071]

The Committee on Revenue met at 12:00 p.m. on Monday, March 5, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on AM2148 to LB1071. Senators present: Abbie Cornett, Chairperson; LeRoy Louden, Vice Chairperson; Greg Adams; Lydia Brasch; Deb Fischer; Galen Hadley; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to Revenue. My name is Senator Abbie Cornett and I am from Bellevue. To my left is Vice Chair Senator LeRoy Louden from Ellsworth. To his left is Senator Deb Fischer from Valentine. Senator Greg Adams from York will be joining us. On my far right is Senator Schumacher from Columbus, Senator Lydia Brasch from Bancroft, Senator Pete Pirsch from Omaha, Senator Galen Hadley from Kearney. The research analyst today will be Steve Moore. The committee clerk is Bill Lock. Matt Rathje...or, I'm sorry, the other committee research analyst is Bill Lock. Committee clerk is Matt Rathje. Our pages today are...

JUSTIN SPOONER: Justin.

SENATOR CORNETT: ...Justin, thank you. Before we begin, can I ask you please to turn your cell phones to either an off or vibrate position while in the hearing room. Sign-in sheets for testifiers are on the table by both back doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete form prior to coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clipboards by the back of the room to sign in if you do not wish to testify but would like to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda placed...posted on the door today, the introducer or representative, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have copies or handouts, please bring ten copies for committee and staff. If you do not have copies, we will make copies for you. When you come up to testify, please hand your handouts to the page to hand out. With that, we will begin the hearing on the amendment to LB1071. One quick note: I apologize, but I've ordered lunch in, or had lunch ordered in, for the senators since we have to go right back to floor debate. Good afternoon, members of the Revenue Committee. My name is Senator Abbie Cornett, C-o-r-n-e-t-t, and I represent the 45th Legislative District and I am before you today to open public hearing on AM2148 to LB1071. Before I begin, I would like to thank each of you for your willingness to work through the lunch hour so we can conduct an additional hearing on LB1071, specifically the AM2148. It is important that the public has an opportunity for input on this bill. There have been previous occasion issues like the CIR, workers' comp issues before Education that have brought forth late amendments that have replaced

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bills and require additional hearings. In the case of LB1071, it is before us because it brings forth a rare opportunity to begin to address the over \$1 billion Nebraska loses each year to other states as Nebraskans travel to Kansas City, Chicago, Denver, and other markets, leaving significant dollars behind. Not only is Nebraska experiencing a significant revenue bleed of its sales tax, it is also losing out on an increasing number of opportunities to lure visitors and travelers to stay longer in Nebraska and leave more of their dollars behind. LB1071, via AM2148, attempts to do the following: slow down the revenue bleed; capture significant new dollars from people outside the state of Nebraska; and fund tourism so Nebraska can compete with other states and help bring more visitors and money here. Before I end my opening comments, there are a few points I would like to draw your attention to regarding this amendment and its underlying concepts. This legislation does not ask for any existing state dollars, it does not ask the state to back any bonds. This legislation is simply enabling. You are not passing a bill that would only impact one project. By establishing a new financial method by which to fund strategic and necessary redevelopment projects, this proposal would allow for the creation of redevelopment districts and subsequent projects to help our cities and communities grow. AM2148 does not support a single project but is instead a statewide tool that allows for public-private partnership to finance a project that will redevelop a key area of their community. Included in that project are the number of requirements, including private investment, infrastructure and technology standards, creation of jobs, and approval by local and state public boards. AM2148 to LB1071 would authorize the use of a percentage of new state sales tax increment to be turned back to an approved Envision project within a designated redevelopment district. The amendment, which becomes the bill, would provide a number of checks and balances for a project's approval, including state and local approval of a designated Envision project, lease agreement with prospective new-to-market destination retailers, and public-private partnerships to develop the financial agreement. AM1071--or, pardon me--LB1071, via AM2148, provides cities of all sizes across the state to access strategic economic and redevelopment tools to improve a failing area of their community, strengthen their local economies through job creation, quality of life improvements, and retention of young professionals and others, and increase the state's General Fund through the growth of its sales tax base. Aside from these direct benefits, AM2148 will increase our state's third largest industry, which is tourism, by providing new-to-market destination and retailers and slowing down the annual loss of more than \$1.2 billion in sales tax dollars to outside markets. I believe that LB1071 can begin to address a critical need that communities have for a substantial redevelopment funding mechanism that provides an increase in both local and statewide economies and is truly an opportunity to increase jobs, recruit and retrain young people, and improve Nebraska's image and quality of life. I appreciate the many good questions and comments that were brought forth at the first hearing. We have had several follow-up conversations with more to follow. A key question: Is there time for this issue this year? It is a fair question and one that this committee will ultimately decide. Does this bill need more work? Absolutely, just as the CIR, workers' comp, and education issues came down to the wire. There is one

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significant difference. This opportunity addresses a serious and significant issue facing our state. How do we slow down the loss of revenue? Is there an opportunity to bring in new dollars to our state? And the answer is yes. I believe this legislation can help new sources of much-needed funding for K-12 education, child welfare reform, roads, and many important issues on our plates. For this reason, I ask you to keep this bill in...through the...in progress, alive through the progress. There is great value here, it just needs to be polished. I thank the committee for its patience and indulgence and would like to remind the committee that all of the numbers in this bill are flexible--that's why you will see X, X, for the input for the communities--and I'm more than willing to look at the percentage of turnback sales tax, sales tax turned back, the new sales tax. With that, I'd be happy to answer any questions. [LB1071]

SENATOR LOUDEN: Questions for Senator Cornett? Seeing none, thank you. [LB1071]

SENATOR CORNETT: Thank you. [LB1071]

SENATOR LOUDEN: How many proponents do we have? Okay, we'll go with the five-minute system here on the lights, and I guess the first proponent. [LB1071]

BOB FREEMAN: Good afternoon, Mr. Chair, members of the Revenue Committee. My name is Bob Freeman, F-r-e-e-m-a-n, and I'm here testifying in support of LB1071 and the proposed AM2148. Thank you for your time today and, in particular, for agreeing to hold the hearing open again and allow additional testimony. My comments will be very brief because you've already heard from me. I'm here on behalf of OTB Development (sic) and Century Development. For our part, we've spent the last ten days working to refine some of the thinking that's gone into the drafting of this bill and we've had productive discussions. There remains some work to do. After you close the public hearing today, it would be my hope that you would give us this week to continue working on some refinements to the bill that will help you focus your discussions and prospective approval. I think that we all recognize that while Nebraska has a lot of great and unique things going for it, one of those in particular is we have a growing cadre of successful citizens across our state, who are willing to reinvest in their home state and their home communities, and this amended bill is intended to help incent those folks to originate and lead projects in our communities, with follow-on state participation, by rebating to those projects newly created sales taxes in those communities. While I'm happy to answer any questions you might have today, I know the main purpose of today's hearing is to allow others to speak, and so I will close my comments. I thank you for your consideration. [LB1071]

SENATOR LOUDEN: Any questions for Mr. Freeman? Senator Adams. [LB1071]

SENATOR ADAMS: Thank you, Senator Louden. Thank you for coming in again today.

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You know, a very fundamental question I have to have resolved in my mind, and maybe you can help me, maybe you don't want to comment. It bothers me some that we did sales tax turnback on the Qwest Center and it really bothers me a little bit more that some of that went to a hotel because there's this structure that attaches, but it was a public entity. So why would we want to give turnback to a private entity? Help me with that, from a policy standpoint. How do I philosophically make that leap of faith? [LB1071]

BOB FREEMAN: Thank you, Senator. I'll try to give you a succinct answer... [LB1071]

SENATOR ADAMS: All right. [LB1071]

BOB FREEMAN: ...because you...there are...there's some interesting philosophical issues. I'm pretty familiar with the financing on the...Omaha's arena/convention center project. The hotel was viewed as an integral part of that from day one. There was probably not a willingness to proceed with the arena/convention center unless there was a new hotel built in immediate proximity to it because of the location selected down in the UP rail yards and its distance from the existing hotels in Omaha, and the fact that we ended up with a hotel that is linked to the arena has been a significant advantage for attracting major national conventions and sporting events to Omaha. So I would submit that the link, the financial linkage there, made sense. But the other question you raised relative to the public support for private projects, we certainly have to identify, and in the initial project that is the catalyst for this legislation have identified significant public components to the project. It would not be, should not be an entirely private project; there will be public components to it. But in addition to that, there would be some public support that ultimately would be devoted to what are traditionally private aspects of the development. Many cities, counties, and states around the country have already moved in this direction of identifying significant assets that will not come to their community without some additional support beyond what the private sector is willing to invest in an at-risk economic development project. This would be one of those. All of those issues would be fully vetted in the local--whether it's in Omaha or any other city--public hearing process and approval process. And ultimately, before any financing of bonds--in most cases--could be put into place, the marketplace will dictate whether those are worthy projects or not. [LB1071]

SENATOR ADAMS: So help me out. I've not had my hands on the amendment until now, so I haven't had a chance to really go through it. So if it's a TIF project, we are, in a sense, helping private investors do something. But for TIF, it wouldn't happen, and I suspect an argument could be made on this. But it would seem to me that at least in law, those...the increment that's captured goes back into public benefit. It may be the parking lot, it may be the street, it may be the fire suppression system where there is public benefit. So not having read this yet, is there public benefit that is mandated for the turnback dollars that go into this? [LB1071]

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BOB FREEMAN: No. [LB1071]

SENATOR ADAMS: Why not? [LB1071]

BOB FREEMAN: There is an allowance for private sector project development cost to be covered by the turnback money. [LB1071]

SENATOR ADAMS: And so if there's going to be any public infrastructure benefit, it would have to come through a TIF increment, if this project were going to be TIFed. [LB1071]

BOB FREEMAN: The project--any of these projects--might also apply for tax increment financing. [LB1071]

SENATOR ADAMS: Right. [LB1071]

BOB FREEMAN: Some might say if we can qualify for this Envision Fund,... [LB1071]

SENATOR ADAMS: Um-hum. [LB1071]

BOB FREEMAN: ...then we don't need to use TIF. I mean, we've already had that preliminary conversation in Omaha with our planning department. There are reasons in any community why you might elect not to use up some of the eligible TIF and instead, if you can qualify under Envision and allocate money for the public parts of the project--things that would be covered, as you identified, by TIF--you might simply elect to do that. [LB1071]

SENATOR ADAMS: Thank you. [LB1071]

SENATOR LOUDEN: Other questions? Senator Pirsch. [LB1071]

SENATOR PIRSCH: And I have a series of questions. I'll try to be brief. But is there anything in here that requires a but-for consideration? You know, in TIFing, the but for the structure of financing in this, this deal would not go through? In other words, kind of the TIF, you know, filter that says we can't draw these projects into the city, is that a necessary requirement or not, under the current language? [LB1071]

BOB FREEMAN: Well, there are...it's not written as but-for language, but there are thresholds identified which have to be exceeded in order to qualify. [LB1071]

SENATOR PIRSCH: Okay, and that's talking...are you...starting on page 8, I think, I mean, there's some prefatory type of statements at the beginning that I don't think hold,

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are legally binding. It just states underdeveloped...the rationale for developing--that's on page 1--underdeveloped, underutilized, deteriorated, substandard, outdated commercial and retail. But that's just kind of the explanation of why this legislation is brought forward and not...doesn't give specific guidance. It does, I think, fall then to page 8, where it talks about what these projects must look...I mean in (2) on page 8, line 3, submit an Envision district application... [LB1071]

BOB FREEMAN: Right. [LB1071]

SENATOR PIRSCH: ...and then it says (a), (b), (c), (d), and a number of those. And so one of the things that it says, you have to include a minimum capital investment in (d) and something called next-generation technology infrastructure in (e), whatever...I'm not sure what that means. What does that mean, just briefly, if you...or do you...is... [LB1071]

BOB FREEMAN: Where? [LB1071]

SENATOR PIRSCH: I'm sorry, page 9, line 8,... [LB1071]

BOB FREEMAN: Right. [LB1071]

SENATOR PIRSCH: ...(e), one of the requirements for this plan must include a minimum investment in what...the term is next-generation technology infrastructure and facilities. And that is a lesser amount, some portion of the overall capital investment, and I'm not sure what that means, next-generation technology. [LB1071]

BOB FREEMAN: That's an expression of a desire to make sure that Nebraska's money is invested in things that are going to last for a long, long time. [LB1071]

SENATOR PIRSCH: Okay. [LB1071]

BOB FREEMAN: And so we continue to modernize the technology. [LB1071]

SENATOR PIRSCH: So...and then in (f), total development costs, there's a requirement there of \$200 million. So minimum capital investment, \$100 million, total development costs of \$200 million. Is that...and then in (h) it says--which is on page 10, line 3--it says--in (i), it says--35 percent of sales within the division, within the district, may be made to persons residing outside the city limits. I suppose that says may so that--it's not must--so that isn't a catch. In (i), it says at least 50 percent of the end users of the project may be new to the state and again, it uses may. What does end users necessarily mean? I take it that's in the case where it is not retail, right, where it is...or is that? And I apologize, page 10, line 12, and one of the application requirements is that you can demonstrate that upon initial completion of the project, at least half of the end

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users of the project may be new to the state. [LB1071]

BOB FREEMAN: "End user," it happens to be a defined term on page 4, (9), for...when you go back and refer to that. [LB1071]

SENATOR PIRSCH: Okay, okay. Thank you, that's very helpful, that...I appreciate that and apologize for the question. And then a...you have to have spending, a commitment to annually spend an amount of--in (i)--\$100 million...or, I'm sorry, \$1,500,000 if it's a metro-class city. And the... [LB1071]

BOB FREEMAN: That would be a marketing commitment. [LB1071]

SENATOR PIRSCH: That would have to be? Because does the language confine it in this text or is it just...as it currently says, it just actively promote the Envision district. Okay, so that would be actively promote...your interpretation, actively promote is marketing like that? [LB1071]

BOB FREEMAN: Yes, sir. [LB1071]

SENATOR PIRSCH: Okay, and I guess then, with that, that's all the questions I have at this time. Thanks. [LB1071]

SENATOR LOUDEN: Any other questions for Mr. Freeman? Seeing none, thank you for your testimony. [LB1071]

BOB FREEMAN: Thank you. [LB1071]

SENATOR LOUDEN: Next proponent, please. [LB1071]

LYNN REX: Senator Louden, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I testified in favor of this measure at the first hearing, so I'm not going to spend a lot of time today other than to say we continue to support the concepts. We're prepared to continue working with this committee to determine what the appropriate thresholds might be for municipalities across the state. And I just want to underscore the fact that the way that this process works is that it also not only has an application by the city, but it does go to a state board, including the Governor and the head of the Nebraska Investment Finance Authority, and there's a whole board process involved. It's not just a city deciding to do this. With that, obviously the overall intent of this bill is to make sure that we try to capture the sales that are now going to Kansas and surrounding states and that's the purpose, is to stop the bleeding. With that, I'd be happy to respond to any questions you might have. [LB1071]

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SENATOR LOUDEN: Any questions for Senator...for Lynn? Senator Hadley. [LB1071]

SENATOR HADLEY: Thank you, Senator Louden. Ms. Rex, thank you for coming. It would...it's set up to capture out-of-state sales. Will it capture in-state sales from Kearney, Grand Island, Bellevue, La Vista, Papillion? [LB1071]

LYNN REX: Well, I think there's a...I think the numbers show that--and I believe it's in the entire state, but certainly in the Omaha area--it's over \$1 billion that we're losing in sales to other states. And they're folks that are going from Nebraska--not just Kearney, but Omaha, Lincoln, all over the state--going down to Kansas, going to other areas. And the purpose of this bill is to try to stop that bleeding. It's trying to create the kind of market that we have here by bringing the types of stores, frankly, that we don't have in the state right now. I mean, the purpose of this bill is to really bring forward the kind of destination, if you will...I'm going to call it destination shopping, which is my sport. So this really would allow the types of entities that we don't have in this state, that no other city in this state, frankly, is able to attract, other than Omaha. [LB1071]

SENATOR HADLEY: So you're saying that this would not take any sales from Lincoln, Kearney, Grand Island, Papillion, La Vista, or anything like that, but you're...because you're talking about out of state. [LB1071]

LYNN REX: Oh, I'm sure it would. No, I'm sure it would. [LB1071]

SENATOR HADLEY: Okay. I didn't... [LB1071]

LYNN REX: I'm sure it would. I'm just saying that obviously we're losing, the state of Nebraska is losing a lot of sales. And in the same way that a Neiman Marcus would be a great venue for the city of Omaha, it would be great for some of our other cities to even get a Kohl's store, to get a Target store. This bill would work for them too. But we understand this bill, as Senator Cornett indicated, needs a great deal of work. We're prepared to commit the time and effort with this committee to make sure that the thresholds are appropriate and that this committee is comfortable with that. But I'm not implying, Senator, that other folks wouldn't lose money. [LB1071]

SENATOR HADLEY: Because I just think of Omaha, that, you know, they have Dillard's, they have Von Maur, and I would guess they're probably not real excited about the state turning back sales tax to support competition in the city of Omaha. Is that...would that be a fair statement? [LB1071]

LYNN REX: Well, I guess my answer to that is it depends. I don't for sure, obviously. But I can tell you that whenever you have...it's going to bring more people. When you create new venues like we're talking about with this bill, you're going to bring other people that normally would not be going to Omaha to shop. These are folks who would

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be going to Kansas City to shop. That's the difference. [LB1071]

SENATOR HADLEY: Okay, thank you. [LB1071]

LYNN REX: And with respect to a question, Senator Adams, that you asked on the retail side, the Legislature expanded authority for all cities to use retail on LB840 programs, and, of course, that's a local economic development program with a local vote of the people, and those have been passing on the local level. And again, it's very targeted, it's very limited, but there is a history and there is a precedent for allowing public dollars for retail in certain circumstances. With that, I'd be happy to answer any other questions and thank you for your time today. [LB1071]

SENATOR LOUDEN: Senator Fischer? [LB1071]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Ms. Rex, for being here. You just brought up the LB840 money, that cities can do that right now. So any city that would like to help a retail business come to their area, they could designate that money for that now on their own? [LB1071]

LYNN REX: Well, first of all, you have to look at what the LB840 plan requires, and that goes through a process just like the Budget Act does. So you've got to have a hearing, you've got to have a plan, you have to vote on that plan, and you are bound by that plan. So in order for those cities to do that, that means that those municipalities would have placed on the ballot not just the requirement, but the authority for them to use certain amounts--usually it's a percentage amount--for...to assist in local...to maintain and retain local businesses, and retail is among those businesses that can be retained. [LB1071]

SENATOR FISCHER: So that is available for cities now and it wouldn't be a policy shift by the state to have this turnback money for retail and commercial that this amendment is doing, correct? [LB1071]

LYNN REX: Well, in terms of throwback sales tax, I mean obviously I think this would be the first time that it would be used for retail. I'm just telling you in terms of public dollars being used for a retail purpose, that precedent was set some time ago across the state of Nebraska. [LB1071]

SENATOR FISCHER: Right, which the state is already allowing those cities to do. [LB1071]

LYNN REX: The state is allowing local voters to vote as to whether or not to do that. But again, the types... [LB1071]

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SENATOR FISCHER: So the option is out there that retail can be attracted to a city. [LB1071]

LYNN REX: Yes. But again, when you look at the application of this bill, we're talking about huge, huge projects. LB840 programs by definition are not that large, but still it's important for those communities. [LB1071]

SENATOR FISCHER: Okay, thank you. [LB1071]

SENATOR LOUDEN: Okay, Lynn, seeing none, thank you for your testimony. [LB1071]

LYNN REX: Thank you. [LB1071]

SENATOR LOUDEN: Next proponent? Is that all of the proponents? [LB1071]

SENATOR FISCHER: Yeah. [LB1071]

SENATOR LOUDEN: Any senators wish to make a comment or any time...at this time? Okay, then we will go with opponents. [LB1071]

DOUGLAS KINDIG: (Exhibits 1 and 2) Good afternoon, Senators. I'm Mayor Douglas Kindig, K-i-n-d-i-g, of the city of La Vista. I'm here today on behalf of the city of La Vista, to oppose LB1071. This is a very unusual position for me to appear before you today. You've seen me here several times in the past, supporting measures that would enhance our economic development toolbox. In fact, La Vista was one of the cities in a coalition that brought you LB1018, to adopt the Nebraska Advantage Transformational Tourism and Redevelopment Act. In this case, it is our contention that LB1071, with AM2148 in its current form, will be detrimental to the cities, especially if utilized with other incentives such as tax increment financing. We further contend that the amount of work necessary to make this legislation useful for municipalities without becoming a developer's cash cow would require time far exceeding the current legislative session. Frankly, this legislation seems to have come from nowhere. The one-line description for LB1071 is to "extend the deadline for acceptance of applications under the Convention Center Facility Financing...Act." We learned of the 31-page Envision Nebraska amendment less than 24 hours before the February 24 hearing and actually saw a draft of the amendment only a few minutes before that same hearing. We obviously did not have time to prepare. We appreciate your willingness to hold a second hearing. However, we still argue that there has not been adequate time to vet this legislation. We also believe that because of how this process has evolved, there are very few municipalities in the state that know anything about this developer-driven initiative. While there has clearly not been adequate time to properly study AM2148, in addition to all the Xs are under my--or, excuse me--undetermined thresholds for cities other than the metropolitan class. I can identify three significant areas that are of immediate

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concern: number one, the definitions of approvable projects and the Envision areas are too broad and vague; number two, the process by which a project can get approved is broad and vague; and number three, governance and control of funds is sketchy. I have been told that this amendment would also apply to new development but have yet to see for myself where in the legislation this is made clear. As such, we have contemplated how this incentive might be used for the redevelopment of our 84th Street corridor. We recently completed a blight study and are currently in the process of preparing a redevelopment plan, which we...hopefully, will put us in a position to consider the use of TIF as a financing tool. If a developer approached us to utilize both TIF and Envision Nebraska, we would be essentially giving away our increases in property tax and sales taxes for the next 20-25 years. When would the city see a return of our investment? As I indicated earlier, I am typically here to support economic development initiatives. We actually discussed internally the possibility of testifying in a neutral capacity. However, at the end of the day, LB1071 with AM2148 is poorly drafted legislation and, in our opinion, not good for cities. It's with a heavy heart that we must oppose LB1071. I thank you for your time and consideration this afternoon and I'd answer any questions if I could. [LB1071]

SENATOR LOUDEN: Senator Hadley? [LB1071]

SENATOR HADLEY: Thank you, Senator Louden. Thank you, Mayor. Were you mayor when the financial arrangements were made with Cabela's and that area? [LB1071]

DOUGLAS KINDIG: Yes, sir. [LB1071]

SENATOR HADLEY: The reason I ask, I did some reading this weekend and I believe there was a...before the Legislature was a bill that was going to give some tax incentives, and I read that the senators from Omaha threatened to filibuster the bill, and so the bill was dropped. Do you remember, what was that, the nuance of the bill that they...was going to be filibustered? [LB1071]

DOUGLAS KINDIG: You know, I'm not sure if I know all the nuances, Senator. I know that was kind of called the "Scheels bill" because they didn't want Cabela's to be incented then to hurt their business. The nuances of the bill I'm not familiar with. I can tell you that La Vista was not a location that Cabela's was considering. After that bill was defeated or...by the senators, La Vista was able to come in and with the use of LB840--and then also we created a parking lot improvement district--we were able to attract Cabela's then to our city. [LB1071]

SENATOR HADLEY: Okay, I just...you know, one of the things about having term limited Unicameral members, we don't have that knowledge of what happened. [LB1071]

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DOUGLAS KINDIG: Right. [LB1071]

SENATOR HADLEY: Maybe some do, but I did read very distinctly that this bill was withdrawn because of the threat of a filibuster by... [LB1071]

DOUGLAS KINDIG: Right. [LB1071]

SENATOR HADLEY: ...it said an Omaha senator, and the worry was that it was going to draw business from the city of Omaha. And I find it unique, now we have a project that Omaha wants, that potentially will draw from other ones, so I just find that unique. [LB1071]

DOUGLAS KINDIG: I would agree with you. [LB1071]

SENATOR LOUDEN: Senator Pirsch? [LB1071]

SENATOR PIRSCH: Yes. And thank you, Mayor Kindig, for your testimony here today. I just wanted to talk with you in general concept. Now obviously, you have problems with the specific language here, the approach that is reflected with the language in this bill. But I just wanted to ask you a different question with respect to the general concept of attracting developments that are unique in nature and key on attracting out-of-state tourism to the state. [LB1071]

DOUGLAS KINDIG: Right. [LB1071]

SENATOR PIRSCH: And some of the projects that have been mentioned previously, in terms of the developments, include retailers that don't exist in this state: Macy's, I think Great Wolf Lodge, and I think there was a Lego playland or something of that sort. And they don't exist in this state currently and I do know that Macy's, obviously, you know, they advertise in the Omaha area,... [LB1071]

DOUGLAS KINDIG: Um-hum. [LB1071]

SENATOR PIRSCH: ...so I know they must be doing some steady book of business in the Omaha metropolitan area. And so in general, is it just an overall objection to anything within that type of category of attracting...you know, giving tax preferential treatment to attract these unique projects, or is it just this specific approach that's delineated here in the language? [LB1071]

DOUGLAS KINDIG: I think this bill, since we've got it in such a short notice, I think if we could work on this over...I don't think 20 days is definitely enough time to work at it. But I will tell you, Senator, that we do have a tool in our toolbox right now to attract those same developments that you just talked about, which was LB1018, which was the

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NATTRA bill. That allows us as a city, after a vote of the people, to be able to turn back our one-and-a-half-cent new sales tax from that development, and the purpose of that was to attract the types of businesses that are no...that aren't in our state right now, and also as a tourist destination. So we do have that tool out there and we always are looking for a new tool for our economic development toolbox, but I'm a firm believer that incentives should also be investments for the city. The LB1018 is a ten-year turnbacks of local dollars. I do disagree with the 25-year period of sales tax, possibly property tax, from not just the local level but also the state level. So this bill has a lot of issues as far as I'm concerned. I'd like to be able to be called to the table earlier and have all the cities in the state of Nebraska understand what this bill can do, but I do not want to mortgage the future with how this current bill sits. [LB1071]

SENATOR PIRSCH: Yeah, and I appreciate the...with the other economic incentive, the one-and-a-half-cent local turnback,... [LB1071]

DOUGLAS KINDIG: Um-hum. [LB1071]

SENATOR PIRSCH: ...is that...does that generate enough revenue to incentivize a project such as on the order of what we're talking here and, you know, drawing interstate tourism? [LB1071]

DOUGLAS KINDIG: You know, Senator, right now, that we have a project on our western edge at Southport, and Gretna also has a project. And the mayor of Gretna, Mayor McGuire, is here today. I hope she doesn't mind me talking on this. We have competing projects. Both of the cities have passed LB1018, and we are both in the running for a major project that will be well over \$100 million. So in answer to your question, with LB1018 and some of the other economic development tools that we always...that we already have, yes, it is capable to attract those type of projects. [LB1071]

SENATOR PIRSCH: Okay, thank you, Mayor. [LB1071]

SENATOR LOUDEN: Senator Brasch? [LB1071]

SENATOR BRASCH: Thank you, Senator Louden. Thank you, Mayor Kindig, for coming here today. As I'm hearing the dialogue here, a question came to me. The state of Nebraska, our economic forecast is slow but steady for the positive. Are you aware of what the forecast or the economy looks like for retailers in general? Would you have any comment on the direction things...you know, how does that economic climate look for...? [LB1071]

DOUGLAS KINDIG: Not being an expert--and I would never call myself one--but I know that what we have heard from the people that could call themselves expert is because

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of the state of Nebraska's economy now with low unemployment, with people are working, I think we're starting to see some more investment in construction, not only at the residential but the commercial level. I do think Nebraska is a prime state for retail expansion. I think one reason that we don't have a lot of the big stores...and I'm not a shopper, I'm a Kohl's person and I'm proud to say that, so I don't shop at Nordstrom's or Von Maur or, you know, some of the other stores that we don't have, not Von Maur. But I think because of our population numbers, that does hold some of those stores back a little bit. But I think the climate in Nebraska is receptive to those new stores coming to our state. [LB1071]

SENATOR BRASCH: Regardless of incentives. [LB1071]

DOUGLAS KINDIG: I think we've got some tools in our toolbox already that they're going to ask for and I would think that if we had even more time on this bill...I did state that we almost testified in a neutral capacity because I think La Vista has been a champion of economic development. This bill is too much, too fast. And if I can quote my dad, he told me that if you're not sure, think about it for 10 minutes. I would hope that you guys would think about this and make sure that this is the right thing to move forward for the state of Nebraska. [LB1071]

SENATOR BRASCH: Thank you, Mayor. I appreciate your testimony. [LB1071]

SENATOR LOUDEN: Other questions? Senator Fischer. [LB1071]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mayor, for being here. I appreciate you letting us know about the tools that cities already have and are able to use to attract businesses. I was here when the Cabela's bill came up and was happy to see that Cabela's went to La Vista without more incentives for businesses to come to the area. With the tools that you have available now, you expressed, though, some concerns with tying this amendment in with the TIF financing. And I guess what I was hearing from you was your concern about the impact that that would have, along with the length of time that's in here, on your city. [LB1071]

DOUGLAS KINDIG: Right. [LB1071]

SENATOR FISCHER: Do you believe that you would see a tax shift, then, to your population, your citizens in your area? If you're going to be losing this much sales tax to commercial and retail businesses, it's going to be picked up by property tax, would be my view on that. What do you think? [LB1071]

DOUGLAS KINDIG: That could be, there's two ways. Obviously, the cities, we're a service industry. We're heavily employed and we provide a service to the citizens. So the only way to raise revenue is usually through new taxes or current growth, and the

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only other way then is to cut those services. So I do worry about that if we...because the bill talks so much about redevelopment, there's a good chance it's going to qualify for TIF. And if Senator Mello's bill...and I do thank him for trying to get a constitutional amendment to extend that to 20 years because I think that fits into bond repayment better. But even at 15 years, if we throw this on top of it, of losing our sales taxes for 25 years, and if you can say, well, you know, as a city, you're going to have control, you don't have to give it all to them, if it's on the table, they will want it. And they will pit cities against each other and they will pit states against each other. If we don't have anything, Senator, we're still going to have to provide services to those areas from police, medical, streets, that type of thing. We're going to have to find the money somewhere for that. [LB1071]

SENATOR FISCHER: Right. [LB1071]

DOUGLAS KINDIG: So a ten-year investment is one thing on LB1018. A 25-year investment, I think that's just a little too far to commit that...those type of dollars. [LB1071]

SENATOR FISCHER: I liked your comment about the possibility of mortgaging the future if we get too excited about offering incentives to businesses. Did you happen to read--the Tax Foundation had a report out, I think it was, last week--that Nebraska ranks number one in our business climate that we already have in this state? [LB1071]

DOUGLAS KINDIG: I did not, but that doesn't surprise me, so. [LB1071]

SENATOR FISCHER: So I believe that's a good draw for business already. [LB1071]

DOUGLAS KINDIG: Right. [LB1071]

SENATOR FISCHER: And I'm curious. We had the representative from the League come up and support this bill. Is there a position by the League on turnback for retail and for commercial? [LB1071]

DOUGLAS KINDIG: You know, and I...respectfully to Lynn--or Ms. Rex--I talked to her on Friday about that and they have a standing policy that they've received direction in other years to support economic development initiatives. I will disagree with Ms. Rex on this one. This was not something that was brought to our League executive board this year and I do worry a little bit about the other cities statewide if they know about this and understand it to the point that they need to. But that's a policy that the League has and I've disagreed with many people, and on this one I do disagree with the League's position. [LB1071]

SENATOR FISCHER: In a former life, I belonged to a number of associations, too, and I

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didn't always agree with them, so I appreciate you coming in today. Thanks. [LB1071]

DOUGLAS KINDIG: That was experience and training for this job, Senator. [LB1071]

SENATOR FISCHER: (Laugh) Yeah, thanks. [LB1071]

SENATOR LOUDEN: Okay, any other questions? Seeing none, thank you for your testimony. [LB1071]

DOUGLAS KINDIG: Thank you. [LB1071]

SENATOR LOUDEN: Next opponent? Are there any more opponents? Anyone in the neutral testimony? [LB1071]

DANA BRADFORD: (Exhibit 3) Good afternoon. I'm not familiar with this process, so you'll have to bear with me. I'm trying to learn as I go; hopefully, that's a good start. My name is Dana Bradford, that's B-r-a-d-f-o-r-d, and I'm before you today on behalf of myself. I would say that I'm in the neutral category. I support the spirit of legislation that Senator Cornett has before you. I also share the concerns that were expressed to you by the opponent you heard from, and I also share the thoughts that several of you senators have expressed already in this session. So I'm neutral because I'm optimistic that, as a state, we can come up with a program that every community can figure out how to pull together its private sector, its local government, and its philanthropists to create value in partnership with the state, that can achieve some of the things that were talked about today. And so what I've handed out--and I believe some of you have seen this before--is a concept that has the ability to morph within the legislation that's presented to you, or was presented to you by Senator Cornett. What this gets at is a community betterment approach that is governed by a community committee. The private sector has representation, local government has representation, and oftentimes the philanthropist that will be giving money will have representation. The spirit of this is one where it attempts to activate local communities, giving them a guiding light on how to pursue opportunities to increase the general welfare and the overall economic picture of their community, and it's also a way for philanthropists to get involved with transferring dollars to the betterment of their community. This, in my opinion, will be something that, as a state, we'll see a lot of over the next 25 years. We have a number of foundations that have been created over the last ten years. I expect we'll have more and many of them will be chartered with giving their money back to the state, and most of them will want to do it within the communities that they built their businesses from within. So what this attempts to do is work within the framework of the bill that was presented, in keeping a lot of the terminology but introducing some other ones, and also provide the checks and balances that I think are needed for legislation to be sustainable. So, for example, if you have the private sector making investments, you're probably well ahead of the game. You have to have community leadership, you have to

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have private sector with material dollars at risk to make sure that the right decisions are being made. To the extent it's in the best interest of the community, the philanthropists have to step up and be willing to put their dollars behind the project. Then, if you have all of those elements of success in place, you then go before the state and say, we want you to be our partner. And what this does is gives the state an opportunity to partner with what would likely be a very successful project, in that it has tremendous support from the community, both the philanthropists and the private sector. So the intent here is to create sustainable legislation, so legislation that every community can rely on in trying to develop a program to better their community. What I've seen...and admittedly, I'm not familiar with all the things that have gone on. But what few projects I am familiar with, all this legislation has centered around project legislation, and I think as a state we need something more than that. So with that, I would say that there is a sheet attached here that lists a number of things that I think have to be present for this to work. Some of them touch on the concerns that were expressed here today. I do think that there is an opportunity to do something we would all be proud of. And with that, I'd just open it up for questions. [LB1071]

SENATOR LOUDEN: Questions? Senator Pirsch. [LB1071]

SENATOR PIRSCH: Thank you very much for being here and with your background, it...I'm sure you're going to be very helpful in helping to kind of further along my thought process. But given the state's interest, right, which is probably different, right, than the individual cities and municipalities, but I think we have to be careful in terms of this in going along and presenting incentives for projects, that we're not picking winners and losers as among our own communities. I think that's in general a concern. And so as we're looking at projects, should we be looking or focusing--the state--on projects that are, first of all, bringing in out-of-state customers only and projects that, but for the state's entrance into these type of projects, would not occur here? Are those two necessary criteria, in your mind, for the state becoming involved in the competitions that are going on between municipalities? [LB1071]

DANA BRADFORD: If I understand the question, I...with regard to funding competition, to use Senator Hadley's question from earlier today, I would say that's extremely problematic. You can't have...you can't socialize cost and isolate the benefit for the benefit of a specific tenant. You're going to end up in a situation where you have losers. And you cannot have, in my opinion, community-oriented legislation that creates losers, to go to your question. So I would be opposed to any legislation that would create a loser. [LB1071]

SENATOR PIRSCH: Yeah, and so I guess in terms of...I guess you also thought that this specific language maybe needs some looking at and work, in terms of how it would function, and you've given us some suggestions here. But... [LB1071]

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DANA BRADFORD: Yeah, but part of the...not to interrupt, but just that list would eliminate the concern that you're voicing. [LB1071]

SENATOR PIRSCH: Okay, and it puts all the municipalities on an even playing field, you think, and...? [LB1071]

DANA BRADFORD: Yes, yes. It is an accordion in terms of it can scale for any size community and any project. [LB1071]

SENATOR PIRSCH: Does it focus on bringing in new dollars, then, to the pot, so to speak, the state, or is it...how does it function then? [LB1071]

DANA BRADFORD: It focuses more on the stability of dollars. The retail environment, if you look at it, is changing. There's a number of successful projects. Papillion has a very successful project that it recently put up. So you constantly have to be looking at how you're putting your merchants in business in your market. So to me, you have to look at that, not necessarily are you bringing people out. I can't say that if Kearney, Nebraska, or Hastings, Nebraska, does a project along the lines of what's articulated here that it's going to be bringing in dollars from outside the state. But it's going to be hopefully grabbing more of the discretionary dollars from the citizens of the community that might be going outside the state, which is something not to underestimate, by the way. [LB1071]

SENATOR PIRSCH: Agreed. [LB1071]

SENATOR LOUDEN: Other questions? Seeing none, thank you for your testimony. [LB1071]

DANA BRADFORD: Thank you. [LB1071]

SENATOR LOUDEN: Any other neutral testimony? [LB1071]

JAY NODDLE: Senators, Mr. Chairman, my name is Jay Noddle, that's N-o-d-d-l-e. I live in Omaha and I'm here representing our company, Noddle Companies, and I think more fundamentally I'm here as a Nebraskan. Our company has been involved in the development industry here in Nebraska and around the country for almost 40 years. I, myself, have been involved for close to 35, I'm sorry to admit, maybe. In any case, we've worked in dozens of communities in Nebraska, currently own properties from North Platte to Omaha, we're in Chadron and all across the state. A large part of our work here in Nebraska, and the other 18 states we've developed properties in for ourselves and for our clients, has involved economic development packages. How do you retain jobs? How do you grow jobs? How do you move jobs? How does employment and sales transfer from communities within a state and between states?

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And, yes, a part of what we do, as Mayor Kindig said, is we do pit cities, counties, and states against one another at times, to see what's out there and to see what makes the most sense for our clients. In this case, I became aware of LB1071 and AM2148 a few weeks ago, I think just before you were having your first hearing, and I was asked to look at it with respect to its impact in the Omaha area initially, and how it might relate to a couple very major investments we've been involved in, in Omaha, namely 72nd and Pacific and Aksarben Village. So I began to look at it and, in my mind, I saw some things that were quite troubling; and then I tried to take a broader view of it and look at this as a Nebraskan and take my development hat off and think about the impact it could have on our state. And I am a big, big fan of economic development and I do believe, in this case and in most cases, legislation is project specific. And the trick, the magic, is to try to find a way to facilitate a specific project but offer legislation that will truly be beneficial and sustainable over time. And while I am a big fan of this and I'd love to see a certain project in Omaha go into redevelopment--I'd like to see a lot of projects across the state go into redevelopment--I do think there's some unintended consequences here and some fatal flaws, potentially, that we can't foresee in three weeks or six weeks. So I'm here to say that as someone that's been involved in the industry for a long time, we're proponents of economic development, we are proponents of public-private partnerships. Some of the very most successful projects in Nebraska and around the country are public-private partnerships structured very similar to how Mr. Bradford was describing the concept. And we've also worked quite a bit with Mr. Freeman and his colleagues over the years. So there is a way for this to be great, but I do think we need to slow down for a moment and take a hard look at it and understand what happens to North Platte, Nebraska, or what happens in Chadron or Kearney or Omaha or La Vista, for that matter, when we address 80 percent of what we're trying to accomplish and we don't dot the i's on the other 20 percent. So with that, I'd be happy to take any questions. [LB1071]

SENATOR LOUDEN: Questions? Seeing none, thank you for your testimony. Anyone else in the neutral testimony? [LB1071]

JOHN HUGHES: I'm John Hughes, H-u-g-h-e-s. I'm from Omaha, representing Magnum Development Corp., real estate, shopping center developer based out of Omaha, but we do business all over the country. The LB1071, I'm in favor of the philosophy and the concept and the incentive that goes with it, but I am concerned about a few things specific to the way it's written. And really, I think, Senators, you've touched on them, but I'll just be brief. The first is size, the size of the qualifier. Senator Pirsch brought this up about exactly how do you define the end user and forecast who that end user is. The qualifier of 100 acres inside a large metropolitan area and the \$100 million, what I'm concerned about there is any misuse of the legislation going forward and sales tax dollars ending up making subsidies that either aren't necessary or do not really benefit the public in general. And with that, you know, one of the size qualifiers is a 100-acre development, and in the city of Omaha it's hard to have a contiguous 100-acre

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development. So government and developers are going to be interested in trying to stretch what they own, which might be 50 acres to 100, and they start to include areas that maybe shouldn't be included in these zones in order to hit the qualifiers. So I think as this legislation moves forward, if it moves forward, a lot of attention to that detail and definition to those qualifiers should be given. The other concern is net gain. Sales tax is a valuable asset for the state and for all the cities and if we're not going to expand the pie, if a particular project isn't going to expand the overall sales tax, are we really just horse trading dollars from one area of a town or one area of the state to another? And we've got to hit that net gain and I think, Senator Hadley, you were kind of touching on that earlier. And then the last would just be one of fairness. As we're looking at these qualifiers, we're looking at what projects meet the Envision requirements and what areas are included. Senator Adams, you brought up the hotel, you know, associated with the Qwest Center. Is...are we going to end up with a scenario where sales tax revenues from some current successful businesses are now subsidizing other businesses that are just going to be in direct competition with them, without expanding the overall pie? And how that Envision district gets set up specifically, is the state at risk of including some current sales tax dollars there that they're going to grow naturally on their own anyway? And so as we move forward, I think if the bill can be redefined and further defined in the next 20 days, that's fine. If it can't, then let's figure out how to move it forward, you know, with those details. So that's all. [LB1071]

SENATOR LOUDEN: Questions? [LB1071]

JOHN HUGHES: Thank you. [LB1071]

SENATOR LOUDEN: Yeah, I have one. I'm not that familiar with Omaha, but when they were talking about this Crossroads the other day, they were throwing these words around like Nordstrom's and Macy's or somebody like that. If a retailer like that moved into that area, what effect would that have on your Von Maur that's already there? I mean, are these trading with the same clientele? Or what effect will that...because we've been talking about the winners and losers. Would there be a loser in something like that? Because ordinarily, you never see a Nordstrom's in the same town that Von Maur is and vice versa. [LB1071]

JOHN HUGHES: Well, I'm not a Nordstrom expert, but I would say that you certainly have two department stores there that vie for the same customer. I think somebody would like to make an argument that the current Nordstrom customer is leaving town, you know, to go to Kansas City or Chicago or Denver to shop at a Nordstrom and the question is: Are they leaving town to leave town, to go on vacation and they happen to do some shopping? Or are they specifically...are those dollars that are leaving, "leaving the state," are they specifically leaving the state because of that or are they leaving the state maybe because of some other tourist reasons? And I think that because this legislation is so vague and open that whether it be Nordstrom versus Von Maur or, you

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know, a new restaurant in a development versus the one that's across the street that's currently successful, generating sales tax every day, you know, is that restaurant going to suffer sales because the new one opened in this subsidized area and can charge less for their food or what have you? Does the state win there or have we really just transferred dollars from one to the other? [LB1071]

SENATOR LOUDEN: Okay, thank you. Senator Pirsch? [LB1071]

SENATOR PIRSCH: I just wanted to pick your expertise, since you're here. Are there any type of developments that are--and maybe I'm thinking of things like Great Wolf--that are such a regional draw, drawing in out-of-state tourist dollars, and so unique in nature that they really don't compete much with the local established retail? Is there a potential of having the development based on such type of projects? [LB1071]

JOHN HUGHES: I think that...yes, I think there are. Retail, specific to retail, I think Nordstrom would be about the biggest name that we could potentially get here in Omaha. But is it going to bring people from Kansas City, Chicago, Denver to Omaha? Probably not. Is it maybe going to keep some dollars here? Perhaps. Will it bring other retail with it that's new, you know, new stores to the area? Perhaps, but is it going to expand the overall gross sales of the state and therefore expand the taxes? I think that's something that we've got to be careful with. As far as going away from retail, like a Great Wolf Lodge, I mean, there's a...not a direct competitor to a Great Wolf Lodge here in Omaha. There are some similar businesses like the...oh, there's a water park down on 72nd. [LB1071]

SENATOR PIRSCH: CoCo Key, yeah. Yeah, CoCo Key. [LB1071]

JOHN HUGHES: And certainly, that business would suffer because of the new business, so will the overall gain, you know, make up for it? That's a question that I think really, you senators need to be debating as we...the bill moves forward, and try and define the qualifiers here in a way that the municipalities can make proper judgment on the applications. [LB1071]

SENATOR LOUDEN: Any other questions? Seeing none, thank you for your testimony. [LB1071]

JOHN HUGHES: Thank you. [LB1071]

SENATOR LOUDEN: Anyone else testifying in the neutral? Seeing none, Senator Cornett, do you wish to close? [LB1071]

SENATOR CORNETT: Yes, I do. Thank you, Senator Louden. We've heard a lot of good input today. There's a couple of things that I want you to remember. One, that we

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have had a lot of bills that we have done a lot of work on in a short amount of time. This bill is an overall concept. When you talk about the number of years, these are all things that we can look at and examine with input. What we are trying to do here is what Mr. Bradford said, establish a framework for the state, and I think that no one said that the overall concept is a bad idea. The one point that I would like to make to Mayor Kindig's statements is no one is forcing these communities to do this. This is something that would have to go in front of their city council and their mayor to determine if they feel that it is something that is economically viable for each individual municipality. And, if it is felt to be valuable, then it still has to go to the turnback board, just like any other turnback project. If the state does not feel that this is a viable project that will increase revenue overall and jobs for the state of Nebraska, then they vote no. That is a board that is appointed by the Governor. What we are doing with this is establishing a framework for private partners, private-public partnerships for development. I'm happy to work with the committee over the next few days on this and we have some good suggestions from the developers that we have talked to. With that, I'd be happy to answer any questions. [LB1071]

SENATOR LOUDEN: Questions for Senator Cornett? Senator Hadley. [LB1071]

SENATOR HADLEY: Thank you, Senator Louden. Thank you, Senator Cornett, for bringing it. You know, I just...I guess the record, I'd like to be clear. I have no problem with the city using whatever tools that they have to do this. [LB1071]

SENATOR CORNETT: I was going to say when Senator...or when Mayor Kindig brought up LB1018, that was my bill from a couple of years ago that allows the cities to do turnback. [LB1071]

SENATOR HADLEY: Yeah, yeah, and so I have no problem with that. It's when we start making a major, significant policy shift because we have now gone from turnbacks--the Qwest Center, the Ralston Arena, the... [LB1071]

SENATOR CORNETT: Ice arena, which is not a state turnback; that is only local. [LB1071]

SENATOR HADLEY: Okay, local, okay. But I think... [LB1071]

SENATOR CORNETT: No, that is state. I'm sorry, I was thinking LB1018. [LB1071]

SENATOR HADLEY: I thought it was state because... [LB1071]

SENATOR CORNETT: No, I had LB1018. They're...it's LB1018 and LB1081 were the two bill numbers and they went through at the same time. [LB1071]

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SENATOR HADLEY: Well, you know, I think we're making a significant jump when we go from arenas that are considered unique, and we heard those arguments,... [LB1071]

SENATOR CORNETT: Yes. [LB1071]

SENATOR HADLEY: ...to now suddenly saying okay, state, you turn back 25 years of...you take a base month and then anything over that you turn back, basically. [LB1071]

SENATOR CORNETT: And those numbers are the ones that I'm more than willing to work with the committee on. What we are trying to do with this is take areas that either need development...and I know that Mayor Kindig said that it was just redevelopment language in there. I believe that it is for development also, but if that needs to be further clarified and develop a tool that the state and the municipalities can use for this. And again, that number of 90 percent and 25 years are numbers that I'm more than willing to work with the committee on. [LB1071]

SENATOR LOUDEN: Other questions for Senator Cornett? Seeing none, then I guess that closes the hearing today on LB1071, and thank you all for attending. [LB1071]

SENATOR CORNETT: And again, I thank the committee for their indulgence this afternoon. (See also Exhibit 4) [LB1071]