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Urban Affairs Committee
January 25, 2011

[LB54 LB57 LB308 LB309 LB335]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 25, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB54, LB57, LB308, LB309, and LB335. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Brad Ashford; Bob Krist; and Paul Schumacher. Senators absent: Tanya Cook; and Jim Smith.

SENATOR MCGILL: All right, we can go ahead and get started since I know he's on his way and thank the Lord for cell phones, so we can call senators and find them. Welcome to the Urban Affairs Committee. I am Chairman Amanda McGill. I represent part of northeast Lincoln. We've got a number of senators here with us today and a number who can't be here, unfortunately. On my left, we have Senator Paul Schumacher. To my right, we have Senator Bob Krist, and Senator Colby Coash is on his way down here. Senator Cook and Senator Smith are not here today, unfortunately. A quick...oh, here's Senator Coash now. A quick reminder to go ahead and turn your cell phones off or silence them for us, so they don't go off during the committee hearing. If you are testifying, fill out one of the forms on one of the tables by the doors. To finish introducing the folks up here, we have Laurie Holman, who is the research analyst for the committee. She'll be introducing some of the bills here today. And Katie Chatters is our committee clerk. We're not going to use the light system today, because I don't think we're going to need it, but still try to keep your remarks brief and to the point and not be repetitive from anyone else. And with that, we'll go ahead and get started with LB54. Senator Mello.

SENATOR MELLO: (Exhibit 1) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Heath Mello, M-e-l-l-o, and I represent the 5th Legislative District which includes south Omaha and Bellevue. LB54 is the first of two bills that I introduced this session. As a result of the LR469 interim study before this committee, dealing with various economic development tools available to municipalities. Tax increment financing or TIF provides a means of encouraging private investment by allowing city governments to target property tax increases resulting from a development to repay the initial public investment. TIF funds may be used for land acquisition, public improvements and amenities, infrastructure, and utilities. Nearly all TIF projects are paid for initially through the issuance of TIF bonds which must be paid within 15 years. Currently, the 15-year clock for repayment of these bonds starts when the city's redevelopment plan goes into effect. LB54 would delay the start of the clock, instead providing that the 15-year window of repaying the bonds would not begin until the city enters into a redevelopment contract. In some cases, the length of time between the redevelopment plan going into effect and the redevelopment contract being approved can be as much as 18 months. As a result, cities can sometimes wind up with only 12 or 13 years' worth of increased property tax revenue to repay the bonds, and local taxpayers ultimately get left holding the bag. LB54 would give cities assurance that they

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will have the full 15 years' worth of revenues dedicated to the TIF bonds, and that taxpayers will not be unduly burdened if a project faces delay. After LB54 was introduced, my office was contacted by some of the other parties who originally recommended this change during the LR469 interim study, and some alternative language was recommended. AM100, copies of which were handed out to the committee, would still base the start of the 15-year window on the signing of the redevelopment contract, but adds the additional requirement that the mayor or other authorized official request the transmission of the redevelopment project valuation prior to the starting of the clock. I would note that a number of proposed changes to TIF were brought forward during the LR469 interim study hearing including extending a time period on TIF bonds from 15 to 20 years, eliminating the requirement that TIF can only be used to redevelop areas which have been designated as substandard and blighted or redefining substandard and blighted to reflect a broader economic development purpose. I plan to continue examining these suggestions and hope to work further with the League of Municipalities to consider changes that require a constitutional amendment in the upcoming interim. Hopefully, LB54 will be the first of many small changes that will help modernize our TIF statutes and improve the effectiveness of the economic development tools available to our municipalities. Thank you for your time, and I would be happy to answer any questions you may have. [LB54]

SENATOR MCGILL: Do we have anyone...any questions on the committee? Senator Schumacher. [LB54]

SENATOR SCHUMACHER: Can you explain just a little bit...thank you, Senator. Can you explain a little bit exactly how the TIF bonds are issued and how this mechanism works? [LB54]

SENATOR MELLO: Financingwise, I mean, the bonds essentially are issued after a TIF project is approved by a local governing board. So most cases, the project is approved by a city council, and after the city council approves the project, my bill deals with the clock that starts. The clock is started as soon as that is approved. Bonds essentially are issued at that time. My understanding would be issued at that time as well, and that is what LB54 tries to, I would say, modernize is that by the issuance of the bonds starting with when the plan is approved, cities have the...unfortunately are put in a situation where they may lose anywhere between a year to a year and a half in regards to those bonds actually being repaid back by the developer who is receiving the TIF assistance or the land acquisition that's receiving the TIF assistance, so that's what LB54 tries to modernize. [LB54]

SENATOR SCHUMACHER: I don't have any further... [LB54]

SENATOR MCGILL: Senator Coash. [LB54]

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SENATOR COASH: Thank you, Chair. Senator Mello, what's your understanding of the reasons that there can be such a delay? I mean, you mentioned sometimes up to three years. What are typical reasons of we're going to see a delay in those contracts after the...? [LB54]

SENATOR MELLO: I think one, there will be multiple testifiers from not only the League of Municipalities but other municipal governments that I can think from their planning departments can provide, I think, a much more thorough explanation of specific circumstances that they've seen. [LB54]

SENATOR COASH: Okay. [LB54]

SENATOR MELLO: But from the LR469 interim study we had this summer that dealt with this issue, it seemed like it was...some of it deals with paperwork; some of it deals with financing on behalf of the developer. Those were the more common instances where, you know, the project was approved, but to move forward, they just didn't have the "I guess all their i's dotted and t's crossed." And... [LB54]

SENATOR COASH: Yeah. Well, I'm sorry. The reason I ask is because if we move the clock back, maybe there won't be an incentive to get these going in time. You know what I mean? We want to get these projects started earlier and maybe having that clock tick is more incentive than moving it back. I don't know if that would happen in practicality, but something I...because I contemplate the time line here. I mean, it's in the cities' and the citizens' best interests to get these projects up and going... [LB54]

SENATOR MELLO: That's true... [LB54]

SENATOR COASH: ...and I don't want to give them like an extra clock maybe to push this out since we want to get it done. [LB54]

SENATOR MELLO: Essentially, what you just described, Senator Coash, is part of what I see is the problem, and what the municipalities have raised as well which is by seeing delays in existing TIF projects, that ultimately, local cities and municipalities lose out on revenue that they would get back to pay for those bonds. So I don't...I wouldn't see this as a way that would inhibit that actually. I think what it does is saying, we're not going to start the clock for the project bonds until everything is dotted and crossed where right now, that clock starts when the city council approves it. And that...I think to help pay for the...I mean, essentially, to help ensure that taxpayers aren't left holding the bag, so to speak, in regards to a one-year or two-year possible delay, and when the TIF financing starts to come into effect. That's what this bill tries to do. So I don't...I wouldn't look at it as a way to inhibit or prohibit any use of TIF. I think what it does is it modernizes it to accommodate what are the realities, I think, in some of the larger, at least larger municipalities across the state in regards to ensuring that when TIF is used that the

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cities get the full revenue back to pay for the bonds. [LB54]

SENATOR COASH: That makes sense. Thank you. [LB54]

SENATOR MCGILL: Other questions? No. Thank you, Senator Mello. [LB54]

SENATOR MELLO: Thank you. [LB54]

SENATOR MCGILL: And Senator Ashford has joined us. Can I see a show of hands of who's here to testify for or against this bill just to have an idea? Oh, wow, okay. All right, wonderful. Thanks. Proponents? [LB54]

DAVID LANDIS: Thank you. David Landis, Urban Development Director for the City of Lincoln, former members of the Legislature, and at one time, the chair of the Urban Affairs Committee... [LB54]

SENATOR MCGILL: Woo-hoo! [LB54]

DAVID LANDIS: ...I think the high watermark of my 28 years of service, (laughter) as a matter of fact. [LB54]

SENATOR MCGILL: I don't know about that. [LB54]

DAVID LANDIS: Let me start with a couple of questions you've asked and then make a few remarks. How does TIF work? Let's imagine you have a lot, and the value of that lot is now on the tax rolls at \$100,000. You pay 2 percent tax per year, you'll pay \$2,000 of taxes on it. That doesn't change by this. But let's imagine you build a million dollar building on that lot, and the valuation goes from \$100,000 to a million dollars. Now, you've got 900,000 new dollars of valuation. When that's on the rolls, you'll pay \$20,000 of taxes for that million dollars of property in that year. That's a growth of 18,000 bucks from \$2,000 to \$20,000. What the TIF statute says essentially is, for 15 years we'll take that increment, the growth from the \$2,000 to the \$20,000, the 18...that's the increment. We're going to do that for 15 years, and we will dedicate that \$18,000 towards the existence of the project, and the public expenditures necessary to make the project work. We'll do that by issuing a bond at the beginning, so that we'll clump up that 15 years of \$18,000 into one pot of money; have available at the beginning, and then for the next 15 years, pay off the bond with those new taxes that are generated by the building. Why do we do that? Well, number one, we have to do that in the constitution, because we have a uniform and proportionate clause of taxation. It used to be 40 states had them. They've one by one started repealing them. We still have one which means that if we do anything to property taxes, we need to get a constitution provision that allows us to make some variation on that uniform and proportionate clause. That's why there's the greenbelt law in the constitution; why the TIF statute is in the constitution;

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why the historical building conditions are in the constitution, because they wind up being somewhat of exceptions to the uniform and proportionate clause. In there, we say 15 years. But in its current use, it winds up being less than 15 years for this reason. You do a redevelopment agreement, you get the deal from the city to the developer saying you're going to build the building. This is what it's going to look like, and we're going to dedicate this growth in taxes, not the original taxes, but the growth in taxes to the project itself. The most common reason why we lose years is the construction of the building. The reason is, it's a \$2,000 tax to begin with, because it's a \$100,000 lot. But while the trucks were on there building the building, it doesn't grow very much in valuation. It's when the building is done that it jumps from \$100,000 of value to \$1 million of value, and there's your increment. If you've got a delayed building season; you thought it was going to be one year, and now it's 18 months, could be 24 months, that growth in taxes will be when the building is done. So while the statute...and I'm sorry, the constitution says 15 years and the accompanying statute says 15 years, it doesn't prove to be 15 years of increment, because the building of the building itself will occupy the first year, undoubtedly, and maybe two years as well. The developer wants the money applied to that. The city wants the money to be that purpose. We've authorized 15 years, but in its administration, because of when we start the running of the 15 years, we lose time in which the increment has not appeared, because the building isn't done. So we're not changing anything in the constitution, and we're not changing the bargain that we've made with the people which is that we will dedicate 15 years of the growth of taxes to the project by an administrative change that makes sure that we get the full benefit of that body of money to repay the bonds that are issued at the beginning. As somebody who does the city side of this process dealing with developers, the difficulty of the way that we're doing business now is it makes it hard to predict what you've got. Is there going to be 12 months, 18 months? Do we know what the building season is going to be? Now, they're putting their money on the line. We're all committing to this project, but the difficulty of the building season and the winter and the labor conditions and the availability of resources might be such that for very real reasons, you might have a longer period of time than you had originally planned, but were also caught by that 15 years. Senator Mello's bill, which grows out of your interim study, basically says, can we keep the bargain as to what the constitution and the statute says which is, 15 years of the increment of growth valuation applied to the bond that you do at the beginning. We don't want to be slow, and the developer doesn't want to be slow. This is the product of the way that we originally wrote the bill's trigger begins. By moving the date to the point at which the developer and the city say, okay, are we ready? Is the building done? Boom. Let's start the 15 years. The developer maximizes their return, and the city maximizes the benefit it can give the developer to do the project, and we need that tool. Other states have tools we cannot constitutionally have. In Oklahoma, a company who comes to town can make a deal with the city, the county, and the school to forego property taxes for X number of years. They don't pay any property tax by agreement. We can't do that, because our constitution wouldn't let us. The uniform and proportion clause wouldn't let us do it. This is the tool we have to help. So many cities

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are using it, and all we want to do is to make sure...and I think Senator Mello has offered the committee the opportunity to keep faith with the cities and the developers that are using this tool quite effectively. The city of Lincoln has had about 40 TIF projects. About 20 of them are active, but we closed the books on about 20 of them. Those 20 projects are no longer using their tax increment to pay off the bonds. The bonds have been paid off. Now, that growth is contributing tax dollars. Those 20 closed projects are yielding us \$4 million of taxes year after year after year, because the building was built. Those dollars are going to schools; they're going to counties; they're going to cities and NRDs, and the growth may well not have occurred but for the use of TIF. So we've paid off the bonds. And we continue to receive the fact that a blighted area has now got a new building; a company has expanded; jobs have been created; and the tax base has grown. This tool is mutually beneficial for the private sector and the public sector, and I think Senator Mello has a splendid idea. I think he picked up on themes that this committee developed over the summer, and I'm here to recommend the change. I think the original language that was offered to you in the green copy can be improved. Ken Bunger has offered some language; I have offered some language. Either way, the goal is exactly the same. All of us are singing from the same hymnal, and that hymn is, keep faith with what we asked of the public, and that faith is the dedication of 15 years of growth in taxes to the effectuation of the project. Are there questions? [LB54]

SENATOR MCGILL: Questions and...just real quick, in behind your committee bill, the green copy, there is one other amendment that Senator Landis worked on, and then the other one was passed out here if you want to take a look at those. [LB54]

DAVID LANDIS: I have no pride of authorship. All I want is exactly Senator Mello's objective to be achieved in such a clear manner that there can be no doubt that the trigger is set, essentially...consensually between the developer and the city for the purposes of maximizing this return. [LB54]

SENATOR MCGILL: Questions? Senator Schumacher. [LB54]

SENATOR SCHUMACHER: Thank you, Senator McGill. I can see why you were so effective in the Legislature (laughter). An excellent explanation of it. I do have one follow-up question, though. Are these general obligation bonds then? [LB54]

DAVID LANDIS: No, they're not. The source of the repayment can depend on how the bond is written. There are two ways, at least two ways that you can write the bonds. Cities have the authority...at least we do in Lincoln to backstop the bonds with 2.6 cents of mill levy to support them. However, the common practice today, and it's the one that the city of Lincoln has moved to in the last three years is what we would call developer purchased bonds. Now, the bond is issued by the city, but the promise is that the developer will essentially buy the bonds or their bank or their lender will. The lender is

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promised that 15 years of increment as the repayment mechanism, and our agreements say, and if it doesn't cover it, you will bear the difference. We won't. That still has been effective, and it's what Omaha has used throughout its course of conduct. We've joined them in doing that tool, so that in that context the city does not stand behind the bond. The developer is essentially using this tool with their lender as a way of up-fronting money, and the down side is borne by the bondholder and the lender in that case, and the city doesn't. There is a way in which you could write it that the city would be behind it, but they would not be the city's general obligation bonds and yet, there is a limited way in which the property taxes of the city could be pledged as a backstop. Cities are loathe to do that, and the common practice today is that we don't. [LB54]

SENATOR SCHUMACHER: So by terms of the bond then, if the project went south, the economy went bad, the shopping center, whatever wasn't worth anything, the bondholders at least intended to... [LB54]

DAVID LANDIS: That's right. The bondholders would suffer the risk which means that perhaps the rate of interest would be higher, but that's a private sector investment decision. [LB54]

SENATOR SCHUMACHER: Now, are these bonds eligible for some tax breaks from the feds? IRS breaks? [LB54]

DAVID LANDIS: Not that I know of. [LB54]

SENATOR SCHUMACHER: No, so they're just regular interest to the bondholder. [LB54]

SENATOR LANDIS: To my knowledge. [LB54]

SENATOR SCHUMACHER: Okay. Thank you, Senator. [LB54]

SENATOR MCGILL: Good questions. Other questions? No? Thank you, Dave. Next testifier proponent. Let's not all rush at once (laugh). Hello. [LB54]

BRIDGET HADLEY: (Exhibit 2) Good afternoon, Madam Chair McGill and members of the Urban Affairs Committee. My name is Bridget Hadley, H-a-d-l-e-y. I represent the city of Omaha as an economic development planner in the planning department. We have been identifying ways to increase the number of tools that we have to encourage economic development and to facilitate development and redevelopment in the city, and one of those ways is to enhance the TIF, tax increment financing. After meeting with developers in our city, we concurred that the simplest enhancement would be to change the TIF clock's effective start date from the approval of the redevelopment plan to the approval and execution of the redevelopment agreement as Senator Mello has already

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explained. And based on the testimonies from the last Urban Affairs Committee which we did present, which spoke about examining economic development program options, we realize that many of the other municipalities around the state of Nebraska also agree that this is a benefit; this type of enhancement is a benefit. Kind of to speak to the time that Senator Coash, you brought up, our experience has shown that the time between the plan approval and the redevelopment agreement execution can be as long as six months to two years as a range. We do have one particular project that has lasted a little longer, and some of those reasons have been economic conditions, market and economic conditions. Market conditions, in particular, when we look at a few of our projects that have been condo projects. When the condo market...the economic crisis hit in '08, some of the projects suffered, realized they were not able to get those condos released. So economic market conditions is one of those reasons, and then most recently, also due to the economic crisis are the difficulties in getting financing. And one of our major projects that had been announced years ago has been struggling to get off the ground as a result of that, and that would be our Wall Street Towers project, so it's financing, generally, as well as economic conditions in addition to what Dave Landis also mentioned. With that, I am done. [LB54]

SENATOR MCGILL: Any questions? I don't see any. Thank you very much, Bridget. Hello. [LB54]

CHARLES BUNGER: (Exhibit 3) Good afternoon. Chairman and committee members, my name is Ken Bunger. I am an attorney in private sector now, and I do a lot of representation of developers and the occasional city on redevelopment projects. I was formerly deputy city attorney for Omaha for about 27 years and had the opportunity to work on probably about 200, 250 TIF projects and have drafted some legislation in the past in this regard, particularly when Senator Landis was, indeed, the chairman of this committee. I have passed...had the page pass out with the kind assent of Senator McGill, some suggested changes. I agree and won't repeat what Senator Landis had suggested about the time problems of getting these projects going. Part of it is sometimes projects just don't go on time; financing drops out; the market changes and, of course the problem, particularly in Douglas County where you have a two-year lag on the assessment and when the taxes are actually collected. And during construction period with a large project, it easily could be two years. The constitution provides that the year prior to the rehabilitation or redevelopment of a project is the base year, and that's the year that you set the taxes. So you run into a bit of a dilemma in the definition of what is the redevelopment. Is it the completed redevelopment? Is it the start of redevelopment? The constitution is a little silent on that. One of the suggestions I might have which I didn't draft in this particular one is a little bit more thought given to a legislative definition of redevelopment and rehabilitation and when it starts. My suggestion is not to have the mayor determine the effective date, but rather, it be done by contract. The date then could be set by contract, not the effective date of the contract, because that would start the clock running about the same time as the plan,

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because the plans are approved, and then the contract is entered into usually very shortly, because developers can't go out and get financing until they have a contract, and that's one of the problems. But you could put in the contract that the date will be that date that the mayor delivers; the date that two years hence whatever, you know, that particular project, what it calls for. And in all the contracts we've had in the city of Omaha, everything from ConAgra, First National Bank, to the very smallest condo project, each one has its own little problems. And I think the best thing would be for the city and the developer...where there is a developer, to determine that by contract when that redevelopment is going to start. That would also allow the city and the developer, if things don't go well, to rescind that contract before the development starts, and that way you don't lose 15 years. There is also ambiguity in the statutes that if you start a project, and then the project goes south, as they say, in fact, a lot of our projects have gone south. That's one of our problems. But the project doesn't start...can you rescind it, or does that clock start ticking, because there's nothing in the statutes that allows you to rescind it once it's determined. So I think some specific language should be put in there, and I don't think I'd put that in either. But by contract, you can always undo a contract. So with that suggestion to my suggestions, I would hope that the committee take that under consideration. In what I passed out, I also took the liberty of adding personal property tax as well. Under the Redevelopment Act, and that's not the community development statute that we're discussing today, but the Redevelopment Act that was passed by the Legislature when the Micron Corporation wanted to come to Nebraska, it has been enacted in Chapter 58. That provided for TIF for large projects that come in and provide millions and millions of dollars and thousands of jobs and take place outside a city. That is still on the books. It's been sunseted because there's been no project except we used it for Ak-Sar-Ben when we had the...when I say we, the city of Omaha used it for Ak-Sar-Ben area when they First Data Resources and marry up with the University of Nebraska at Omaha to be on the same site. And because of the ability to use personal property tax under that statute, which was a TIF, the computers and First Data was an enormous boost in getting that project to go. A lot of the new projects, I feel, coming down the pipe, I hope in the future, may involve significant personal property tax. So that's certainly allowed under the constitution. It just says property, so I drafted it in case the committee does want to proceed in that direction. If not, take it out. A couple other things in the draft is just I cleaned up the language a little bit on the penal bond at the end. Right now, there's a provision in the statutes which is ignored by everyone, I think, that requires a developer to enter into a penal bond. What that does is make sure that the development goes forward, but the city doesn't really care, because it's got a contract, and if the development doesn't go forward, the TIF isn't there and the developer doesn't get paid. You can still have a bond, but it should be determined by the developer in the city. A penal bond is just...nobody gets them anymore. It's very expensive. Certainly, developers doing condominiums and smaller projects don't have their contractors enter into those type of bonds. There is always bonds for services and materials, labor bonds that any normal contract has, but that should just...I think that should just be determined by the locality and the developer by contract. On the other

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change, the amendment on page 1 on (2), there is a provision that the effective date of the provision dividing the ad valorem taxes, and this has to do with annexation, shall not occur until such time as the real property and the redevelopment project is within the corporate boundaries of the city. Mike Bacon, who is sitting behind me, is an attorney that practices out in western Nebraska, and this is really more directed at that, although I haven't talked to him about this particular language. That would allow the entering into of a contract with the development on the outskirts of a city which occurs as redevelopment occurs in smaller cities. Omaha really doesn't have that problem, because our blighted and substandard areas are all in the city, but a lot of the smaller communities use that as an economic development tool. And where it's used, they generally have to annex first or if they don't annex first, the language in the statute is pretty ambiguous, and then if things don't go forward, you've got an annexation you have to undo, and it's really kind of a mess. So if you could have some idea of getting the contract ahead of time and then going ahead with the annexation, that would certainly, I think, make more sense and as a practical matter, it's probably what they do now. So if there's any questions, I'd be happy to listen. [LB54]

SENATOR MCGILL: Any questions for Ken? You were very thorough. Thank you. [LB54]

CHARLES BUNGER: Thanks. [LB54]

MIKE BACON: Madam Chair and members of the committee, my name is Mike Bacon. I'm an attorney in Gothenburg. For the last 20 years, I've done almost exclusively tax increment financing and economic development. I want to applaud the senator who has introduced this bill for using the language, economic development, because in a prior Urban Affairs Committee they did not believe that to be the case. I have done approximate...consulted on approximately 140 projects in, I'm going to say about 45 cities across the state including Douglas to Scotts Bluff County, north to the South Dakota border and south to the Kansas border. That's not to say that I'm overly smart, but I do have a...I think my finger on the pulse of what happens in small towns. I've worked on projects from one low-income house to several hundred million dollar project. The problem that this bill, LB54 is aimed at, is, in fact, a problem. You have a...it gets close, but doesn't quite nail down the problem. You have a constitutional limitation that it doesn't address, so Mr. Bunger's suggestion that we put an effective date in the redevelopment contract or in the redevelopment plan or both, is a very good one. Secondly, I would like to point out that if you consider an amendment to this, I would like it to be made clear that you can have multiple effective dates in a project. I'm working in a number of communities that, in rural Nebraska, what they need desperately is housing. No one is going to build a subdivision because the infrastructure is too expensive to put in, and if they build 30 lots and they've got half a million dollars in paving, they're not going to get either an individual or a community to pay for that. If you start your 15-year time clock running on the first lot for the whole subdivision, by the

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time you're halfway through with construction, your 15 years are up. So sequentially, starting those 15-year periods as those houses go in, I would like to suggest that that be provided for in the redevelopment agreement. So that you know that this is effective and deadly effective out there, the community that I live in has grown 18 percent in the last two decades. It is not the largest in the county--it's the third largest. It's not the county seat. We went from 3,200 to 3,800. Our assessed valuation the year before our first TIF project, and now it's grown 330 percent. The town that is larger to us and ten miles west and two TIF projects has grown at half that pace, so that's an apples-to-apples comparison. We've done over 25 TIF projects. I have one coming back on the books next year that will increase our valuation by 8 percent. We have approximately \$20 million off books. What it has done in our community is lowered our tax rate dramatically. That's counterintuitive, because you think you're giving away the tax base. That's not the case. The decade prior to us starting TIF, we had building permits that equaled \$650,000 a year. The last 20 years, the average has been 5.4 million. Some years it's 2 million; some years it's 17, and we've ended up with five companies that are traded on the New York Stock Exchange doing business in our community, so it works. I would ask that you take a strong look at supporting this bill, particularly Mr. Bunger's changes. The personal property tax...first of all, you need to know that you have one of the most conservative TIF laws on the books. I think there's one state that has a shorter period. Oklahoma is vicious, but Rhode Island you can simply write a bill with a community to not ever pay tax theoretically. So, those are the people that are fighting for our jobs out there. So, it is a conservative approach. We do need to deploy the full 15 years. On the annexation issue, there was a change that Senator Dierks sponsored, I believe, in '97 that allowed a skip annex for an ag production facility for second-class cities and villages. That is sort of...that's been useful. It's helped put billions of dollars worth of ethanol plants in the state. Now what I see is the need to change that definition to clearly support elevators that go out there, because there literally hundreds of millions of dollars worth of elevators, because of an expanding crop base that we could support with TIF. And so, some of the provisions on that skip annex need to be reviewed. Be glad to answer any questions. [LB54]

SENATOR MCGILL: All right. Any questions? Senator Schumacher. [LB54]

SENATOR SCHUMACHER: Thank you, Senator McGill. Just briefly, what's identified as AM100, is that the... [LB54]

SENATOR MCGILL: It's this one. [LB54]

SENATOR SCHUMACHER: Okay, it's this one. [LB54]

SENATOR MCGILL: Yeah, this is the one he's talking about. [LB54]

SENATOR SCHUMACHER: Okay, okay. No further questions. [LB54]

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SENATOR MCGILL: Congrats on the growth of your community too. [LB54]

MIKE BACON: Thank you. [LB54]

SENATOR MCGILL: Anyone else here as a proponent? [LB54]

LYNN REX: Senator McGill, members of the committee, my name is Lynn Rex representing the League of Nebraska Municipalities. Thank you for your time this afternoon. We'd like to, first of all, thank Senator Mello for introducing this measure. We do think it is extremely important for municipalities across the state. At your interim study hearing during the fall in economic development, this idea was proposed; other ideas were as well. But this is one of the most important ones, because this can be done without a constitutional amendment, as has already been stated. We think it is important. We'd be happy to work with the committee on the amendments that have been presented to you. I have not had a chance to review those today, but once we get a chance to look at those, we're happy to...and we would support any and all amendments that will provide more flexibility for municipalities to really underscore what citizens thought they voted on when they enacted the 15-year rule which was that they would have 15 years, and that there would be literally 15 years of revenues coming in to pay that off. So, again, thank you to Senator Mello for doing this. Thank you to you, Madam Chairman, for the interim study hearing, and I'd be happy to respond to any questions that you might have. [LB54]

SENATOR MCGILL: Questions? No? Thank you, Lynn. [LB54]

LYNN REX: Thank you. [LB54]

SENATOR MCGILL: One more proponent? [LB54]

DOUG KINDIG: Chairman and senators, I'm Douglas Kindig, the mayor of the city of La Vista. I didn't plan on testifying today, so I'll keep it extremely short. We have not done a TIF program or a project in the city of La Vista, and at some point, I'm sure you'll see me back here to maybe address some of those other changes, so that we can utilize the TIF money. The proposed change really addresses a logistical issue. I also want to thank Senator Mello for calling the interim study earlier...or Madam Chair called the study at Senator Mello's urging. It really is about the 15 years to allow us to be able to use that money for the full period of time at our discretion, so I strongly urge that you support this, and I just wanted to make that point. Thank you. Do you have any questions? [LB54]

SENATOR MCGILL: Thank you. Nope. [LB54]

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DOUG KINDIG: Thank you. [LB54]

SENATOR MCGILL: That's it for the proponents. Is there anyone here opposed to this legislation? Anyone neutral? Senator Mello, would you like to close? [LB54]

SENATOR MELLO: Quickly. Thank you, Chairwoman McGill and Urban Affairs Committee. In regards to some of the proposed amendments from Mr. Bunger, I think it's something that my office has been working with Ken as well as others on various amendments. So as I normally say at all committee hearings or introductions, I'm more than willing to work with the committee and individual committee members to find appropriate changes that were presented in today's testimony as well as other issues that may come up as we discuss this issue further. Thank you, Madam Chair. [LB54]

SENATOR MCGILL: All right, Senator Mello. Thank you. That closes the hearing for LB54, and we can move right along to LB57, and for the committee's benefit there is an amendment behind the bill in your books. Senator Mello. [LB54]

SENATOR MELLO: (Exhibits 4, 5) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Senator Heath Mello, M-e-l-l-o, and I represent the 5th Legislative District which includes south Omaha and Bellevue. LB57 is the second of two bills that I introduced this session as a result of the LR469 interim study before this committee, dealing with various economic development tools available to municipalities. The Local Option Municipal Economic Development Act, commonly referred to as LB840, authorizes cities and villages to collect and appropriate local sales tax dollars and property tax dollars for economic development purposes after voter approval. More than 50 Nebraska communities have voted to create LB840 programs since 1991, and these programs have been highly successful, especially in smaller communities. LB57 seeks to modernize the LB840 statutes by eliminating two current restrictions on the use of LB840 funds. First, the bill would redefine qualifying businesses to allow cities with populations over 10,000 to use LB840 funds for retail development. This restriction currently prevents the cities of Omaha and Lincoln, as well as nearly half of our first-class cities, from using this economic development tool on retail projects. Second, LB57 would eliminate the strict dollar cap that currently limits a city's ability to finance multiple projects using LB840 funds. These caps are currently set at \$3 million annually for a city of the metropolitan class or primary class, \$2 million annually for a city of the first class, and \$1 million annually for a city of the second class or village. While it is unlikely that a smaller city or village will approach the \$1 million threshold, at least one first-class city is regularly up to the \$2 million cap each year. Both...the only metropolitan class city, Omaha, as well as the only primary class city, Lincoln, do not have LB840 programs, and eliminating the arbitrary \$3 million limit would make this useful financing tool a more attractive option to these cities. Not included in the green copy, but in an amendment I just handed out earlier, is another restriction that currently applies only to Omaha and Lincoln. AM116, which I submit for the committee's

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consideration, would redefine a qualifying business to allow either of these cities to use LB840 funds for the construction and rehabilitation of low-income housing. Even with the amendment, LB57 would not eliminate all of the current statutory restrictions on LB840 funds. Cities would still only be able to appropriate funds up to the total amount approved by the voters, and while there will no longer be strict dollar limitation, cities would not be able to exceed .4 of 1 percent of their taxable valuation and annual appropriations to their LB840 fund. With that, I thank you for your time and would be happy to answer any questions you may have. [LB57]

SENATOR MCGILL: Any questions for Senator Mello? No? Do you plan on staying to close? [LB57]

SENATOR MELLO: Yeah, I will, I will. [LB57]

SENATOR MCGILL: Okay. [LB57]

SENATOR MELLO: I might waive, but I'll stay for a while. [LB57]

SENATOR MCGILL: All right (laugh). Proponents. [LB57]

DOUG KINDIG: (Exhibit 6) Good afternoon, again, Chairperson and senators. I'm Mayor Douglas Kindig, K-i-n-d-i-g, from the city of La Vista. While the specifics I speak of today primarily relate to the city of La Vista, I am also here on behalf of the United Cities of Sarpy County--Bellevue, Gretna, Papillion, Springfield, and also La Vista, and the Nebraska League of Municipalities in support of LB57 to amend the Local Option Municipal Economic Development Act. For a long time, our cities have recognized the need to expand and improve the economic development toolbox available in Nebraska. A year ago, we were here speaking to you about LB1018, the Nebraska Advantage Transformational Tourism and Redevelopment Act which the Legislature unanimously approved. We are extremely appreciative of your support and willingness to listen to our concerns. As a result of your action, the voters of the city of La Vista overwhelmingly approved this measure for our city in November, and the city of Gretna currently has it on the ballot for special election to be held on February 15. Today I am here to talk to you about the proposed improvements to the Local Option Municipal Economic Development Act, also known as LB840. As you know, a municipality can establish an economic incentive program under the Local Option Municipal Economic Development Act if approved by the voters. This allows the city to utilize its local option sales taxes or property taxes to provide financial assistance to qualifying businesses. The city of La Vista utilized this voter-approved mechanism to provide a \$3 million grant and finance an \$18 million construction loan to facilitate the development of the La Vista conference center. The construction loan is for a ten-year term and will be repaid in full, with interest. However, in the meantime, because the law will not allow us to appropriate more than \$2 million in any one year, we have been unable to pursue other projects

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using this funding mechanism. We believe that the proposed changes to allow cities with populations over 10,000 to use LB840 funds for projects including retail and removing the strict dollar limitations will be significant improvements to the act. As a note, second-class cities may already include retail projects in their program, and no city can appropriate more than .4 of 1 percent of the taxable valuation of the city in any year. As I stated earlier, we believe that it is necessary to have a toolbox when it comes to promoting economic development in our communities. Yes, we do have economic development options, but improvements to the Local Option Municipal Economic Development Act would make it less challenging. If the communities in our state are going to be successful in growth and development, it is essential that we be willing to continue to review and improve our laws. I appreciate the opportunity to speak to you this afternoon. Thank you for your consideration. I believe that we all have the same goal of improving our economy and continuing to make Nebraska a place that we want to work, live, and play in. I'd be happy to answer any questions if you have any at this time. [LB57]

SENATOR MCGILL: Thank you, Mayor. Any questions? No? Thank you very much for coming down. [LB57]

DOUG KINDIG: Thank you. [LB57]

SENATOR MCGILL: Next testifier. [LB57]

LYNN REX: (Exhibit 7) Senator McGill, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. And, first of all, just to give you a very brief overview. In 1990, the Legislature passed LR11CA, which was placed on the ballot and passed overwhelmingly and that became basically the constitutional foundation for what became LB840 programs. LB840 was the first piece of legislation to put together the enabling legislation to basically allow municipalities throughout the state to have these types of programs. The constitutional amendment in 1990 basically said that the Legislature may authorize cities and villages to use local sources of revenue for economic or industrial projects or programs subject to a vote of the people. It would define in the constitution that general taxes is defined as sales tax or property tax. As you know, just as an aside, Amendment 1 passed in November 2010. That's a result of LR297CA. That would amend, in the event that the Legislature is so inclined to allow us to pass enabling legislation for Amendment 1 that would allow sources of revenue other than just sales tax and property tax for these types of programs, but that will be for another day. So with that, first of all, thanks again to Senator Mello for introducing this important measure on LB57. If you look on page 2 of the bill, lines 19 through 21, the deletion of those languages, of that language is what would allow other municipalities not just second-class cities and villages to use or second-class cities rather to use retail. That's very important for our larger cities. And one of the things that I think is also important is LB840 programs, it's not just about community development;

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it's about economic development, and that's why allowing retail is so important even for the larger communities. On page 4 of the bill, you'll note the deletion on lines 9 through 19. That's the removal of the caps. What we found is that cities like La Vista, Nebraska, that have been so effective and so aggressive in their economic development in creating jobs in their communities, that these caps are...and they were artificial caps in the first instance. But they really need to be removed, because this is about jobs; it's about creating opportunity, and quite frankly, that happens in municipalities. That's where it occurs. Every once in a while, it may happen outside in a county if it's an ethanol plant, but that being said, economic development in this state happens in cities. That's where jobs are being created. So this is a very important measure for us. We also support the amendment that Senator Mello has presented to you. You'll note that there are 53 municipalities that have already adopted LB840 plans and, again, it requires local voter approval. And we think that citizens ought to have the right to determine their own destiny. And, Senator Schumacher, you might want to know that former Mayor Larry Merrick and Mike Nolan, former city administrator of Norfolk, were the two individuals that came up with the first idea of LR11CA which became the constitutional amendment which allowed for LB840 programs. And Mike Nolan also came up with a proposal which became Amendment 1, which passed in November 2010. So with that, we really thank the committee for all of your work. We also want to thank you again for the interim study hearing on economic development. It was excellent, and we appreciate your time, and thanks again to Senator Mello. I would be happy to respond to any questions that you might have. [LB57]

SENATOR MCGILL: Um-hum. Senator Schumacher. [LB57]

SENATOR SCHUMACHER: Thank you, Senator McGill. With regard to the original limits of, what, over \$3 million, \$2 million, \$1 million, why were they thought to be necessary? I'm trying to get some institutional memory here, seeing as how I have none. [LB57]

LYNN REX: Okay. The Urban Affairs Committee at that time was concerned that municipalities would...some of the larger municipalities might be spending lots and lots of money in these regards, and didn't know how effective that would be. Well, I think that these were just artificial caps. There was, frankly, no rhyme or reason for the amounts. I was here when that was...I've been with the League for over 30 years. I was here when all those were negotiated, if you will, and, frankly, at that point, it seemed like a lot of money. At that time, we thought those were probably realistic caps, but then when you see what's happened with La Vista and other municipalities, you realize, wow, this is a very, very effective program. We underestimated how effective LB840 programs would be, how willing citizens are to basically allow for these programs to take place in their communities. [LB57]

SENATOR SCHUMACHER: Thank you, Lynn. [LB57]

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SENATOR MCGILL: All right. Senator Coash. [LB57]

SENATOR COASH: Thank you, Chairwoman. Lynn, I have a question that kind of falls after Senator Schumacher's which is...with regard to legislative history. When LB840 was put out there, we left out the big cities, and there must have been a good reason why we said that. Can you give me a little history as to why...? [LB57]

LYNN REX: Sure. [LB57]

SENATOR COASH: I mean, we're putting those back in, but we're...it basically left out Lincoln and Omaha. [LB57]

LYNN REX: Well, LB840 per se did not leave out big cities per se. In other words, the constitutional amendment is for all municipalities, Lincoln and Omaha included, although they haven't done it. I mean, Lincoln and Omaha have not prepared an LB840 plan. The way LB840 plans work is it's not unlike...it was actually based on the Nebraska Budget Act in Chapter 13, which means that you have a proposed plan; you have hearings on it; you submit it to a vote or approval, and if the voters approve it, then you are bound by that plan. And we have some communities...Nebraska City with Excel Corporation; Blair, Nebraska, with Cargill that made it industry specific, company specific. In other communities, it's not, it's broad. In other words, here are the criterion that we're going to use to decide whether or not companies X, Y, or Z will be able to access our program. But with Lincoln or Omaha and the affordable housing, I don't know the exact history in terms of the limitation on that, but I think Senator Mello is just simply adding in. As I understand it, because I've not really seen the amendment, the amendment would simply allow Omaha and Lincoln to use these funds for affordable housing. Is that correct? Which makes sense. And, frankly, it would take Omaha and Lincoln to develop a plan, submit it to the voters before they could do that. This is not self-executing. It still requires local voter approval. [LB57]

SENATOR COASH: Okay. Thank you. [LB57]

LYNN REX: You're welcome. [LB57]

SENATOR MCGILL: Anyone else? No? Thank you, Lynn. [LB57]

LYNN REX: Thank you for your time. Thank you. [LB57]

SENATOR MCGILL: Anyone else here as a proponent? [LB57]

BRIDGET HADLEY: Hello, again. [LB57]

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SENATOR MCGILL: Hello. [LB57]

BRIDGET HADLEY: Madam Chair, members of the Urban Affairs Committee, Bridget Hadley, H-a-d-l-e-y. Just want to come and say as an economic development professional for the city of Omaha, we do support LB57, and we certainly appreciate Senator Mello's efforts to bring this forth and certainly the committee's efforts to also bring this forth. As Lynn has said, no, Omaha has not enacted an economic development plan under this act, and likely, it's because of the vote. We have chosen not to do that. We are able to use, of course, our property taxes under the TIF law, so TIF, again, has been our primary tool. But, no, we have not enacted a plan. But we do support this effort, and we do continue to support other efforts that are going to be made and, hopefully, will be made to help make this even a better act. For certain, lifting the \$3 million cap is a step in the right direction, we believe, and we hope to see more. So thank you. [LB57]

SENATOR MCGILL: Thank you very much, Bridget. I don't see any questions. Anyone else here to testify in favor of this? How about opposed? Neutral? Senator Mello waives closing. That closes the hearing on LB57, and we'll move on to some of our Urban Affairs bills. Laurie is going to introduce these next two. We'll start with LB308. [LB57]

LAURIE HOLMAN: Good afternoon, Senator McGill and committee. My name is Laurie Holman, L-a-u-r-i-e H-o-l-m-a-n, and I am introducing LB308 on behalf of the committee. LB308 provides for terms of office for appointed officials in cities of the second class and clarifies terms of offices in villages. It amends Nebraska Revised Statutes 17-107 to clarify when the term of the mayor of a city of a second class begins and provides that in cities of the second class, the terms of office for officers appointed by the mayor and confirmed by the council shall be established by the city council by ordinance. The ordinance shall provide either (a) the officers hold the office to which they have been appointed until the end of the mayor's term of office and until their successors are appointed and qualified unless sooner removed or (b) the officers shall hold office for one year unless sooner removed. LB308 also amends Nebraska Revised Statute Section 17-208 to clarify that the term of office for villages is one year. Additionally, LB308 puts the current statutory language regarding the appointment and discipline of police officers into one subsection to avoid confusion and to separate the provisions relating to police officers from the provisions for appointed officials. Thank you. [LB308]

SENATOR MCGILL: Thank you, Laurie. We'll go on to our first proponent. [LB308]

GARY KRUMLAND: Senator McGill and members of the committee, my name is Gary Krumland, K-r-u-m-l-a-n-d. I represent the League of Nebraska Municipalities, appearing in support of LB308. I do want to thank the committee for introducing this bill. For those of you who were on the committee last year, it's very similar to LB969, which the committee considered and advanced to General File, and we just ran out of time

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before the Legislature was able to deal with it. This bill probably does not change a whole lot of things in the way the law is in practice, but it certainly clears up a lot of confusion out there regarding appointments and terms of office in cities of the second class and villages. And as I mentioned before, cities of the second class are those cities with populations between 800 and 5,000. Villages are those with a population below 800. The statutes for cities of the second class, for terms of office, for appointed officials, are just silent so there's nothing that says how long they serve. Some of the cities, because they were villages, they've moved up to second-class cities. When they gained some population, just continued to follow the village of one-year terms. Some of them have looked to the first-class cities which are the term of the mayor is how long appointed officials serve. And so, to make this an option since cities of the second class are somewhere between villages and cities of the first class, the law provides that they choose which provision they want to follow. But they do need to set that standard for themselves, so that everybody knows what the terms of office are. So a city of the second class would be able to determine that the appointed officers like the clerk, treasurer, etcetera, serve the same term as the mayor does or they can continue with a one-year term like villages. Right now, it's just kind of open. People interpret it in different ways. This clarifies that. And as Laurie mentioned, over the years the statutes have been amended and provisions added, and this caused confusion because it was originally intended to cover clerks, treasurers, and those appointments. There's also some provisions added for police officers. And then there's some references to officers. What does that mean? Does that mean the appointed officers like clerk, treasurer or does it mean police officers? So what the bill does is put those things in separate sections to make it very clear on how that is taken care of. With villages, it's a similar situation where, at one time, it was very clear that the term of office was for one year. Amendment was made; some additional language was added to create a board of health. The language for the one-year term got put under the subsection for board of health, and so the question is, does it apply to other appointed officers? So basically, what this bill will do, will make it very clear, give some direction to city and village officials on how to operate, and will clear up a lot of confusion. One other thing that's new in the bill this year that wasn't in LB969 last year is when a term of office for a mayor of a city of the second class begins, the statute provides that city council members in the city of a second class take office at the first meeting in December. That's when all other municipal officials take office, but it doesn't clearly state when the mayor takes office. Everybody assumes it takes effect the same time as the council members and other city officials. This clarifies it; puts it in black and white, so everybody knows that. So I'd be happy to answer any questions, but appreciate if the committee would consider the bill and advance it. [LB308]

SENATOR MCGILL: Questions? Senator Schumacher. [LB308]

SENATOR SCHUMACHER: Thank you, Senator McGill. Mr. Krumland, I take it that the terminology, regular police officer, is a term of art that means not the police chief and

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not the deputy chief? [LB308]

GARY KRUMLAND: Well, it's taken from...and, actually, that was a suggestion by the Bill Drafter, because in the (2), they already used the term, regular officers, and that was...yeah, intended...or I guess (3). The current language uses the term, regular officers. And so, it's...yeah, it... [LB308]

SENATOR SCHUMACHER: So does that include then the police chief and the deputy chief or not? [LB308]

GARY KRUMLAND: It doesn't specifically include the police chief, but the police chief and all officers, though, do have specific due process requirements under this statute and other statutes, so that when there is a discipline or termination they follow those things. So they are treated a little differently in the statutes than other appointed officials are. [LB308]

SENATOR SCHUMACHER: So then when we set the terms of offices or the cities set the terms of offices by one of these options, this doesn't mandate that with regard to the police chief and deputy chief. [LB308]

GARY KRUMLAND: Right. I mean, because they would have...if a chief would not be reappointed, they would have the ability to appeal that termination under the other statutes. [LB308]

SENATOR SCHUMACHER: I guess I still don't understand. Does the police chief's term run, say the city says it runs consistent with the mayor's term. Does his...is he one of those whose terms runs with the mayor then? [LB308]

GARY KRUMLAND: I would say no, because the police chief has protections and procedures for due process for discipline and termination that the clerk, the treasurer, other appointed officers don't have. [LB308]

SENATOR SCHUMACHER: So then he'd be considered a regular police officer. Okay. [LB308]

GARY KRUMLAND: Yeah. Okay. I'm sorry, I was taking a long time to answer your question (laugh). [LB308]

SENATOR SCHUMACHER: Kind of long around...(laugh) finally connected there. [LB308]

SENATOR MCGILL: Other questions? No? Thank you very much. [LB308]

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GARY KRUMLAND: Um-hum. [LB308]

SENATOR MCGILL: Is there anyone else here to testify on this bill? Nope. I will have Laurie waive that closing then, and we can go on to LB309. [LB308]

LAURIE HOLMAN: Thank you, Senator McGill and committee. Again, I'm Laurie Holman, that's L-a-u-r-i-e H-o-l-m-a-n. I'm here to introduce LB309. LB309 establishes a procedure to reapportion special assessments when property against which special assessments have been levied is subdivided. In order to reapportion the special assessment, the governing body of a city of the first class, second class, or village would give notice and hold a hearing on the proposed reapportionment. Notice of hearing is mailed to the affected property owners. The governing body is also to make any determination on fair and equitable terms. The new assessments may be made on either front footage or square footage or other such method as determined by the facts and circumstances. Any property owner who feels aggrieved may appeal the decision of the governing body to the district court in the same manner as appeals of special assessments. Are there any questions? [LB309]

SENATOR MCGILL: Doesn't look like it. [LB309]

LAURIE HOLMAN: Okay. Thank you. [LB309]

SENATOR MCGILL: First proponent. [LB309]

GARY KRUMLAND: Senator McGill, members of the committee, my name is Gary Krumland, K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB309. And, again, I want to thank the committee for introducing this bill. This bill is kind of a bond attorney's bill that wanted to set some procedures in for a specific situation. Cities, when they build infrastructure projects like water, sewer, streets, will implement special assessments against the property to help pay for it. Depending on the type of infrastructure it could go...the bonds issued and the payments could take 10, 15, or 20 years to pay back, and that is charged to the property based on the benefit the property receives from the infrastructure project. And so that's what the special assessments are. There has always been a situation that hasn't been addressed in the statutes is if you have a parcel of land that special assessments have been attached and they're paying off is if that is subdivided or, for example, if you have three parcels, then wanted to divide that into two parcels, how do you reapportion the special assessments on the land, because that may still have several years to run? We have been informed, although I don't have specific knowledge is that some legal subdivisions like sanitary improvement districts do reapportion this anyway even if they don't have statutory authority. But apparently what happens in most situations is if there is a lender involved or the sale of property, the subdivider or the purchaser of the property is basically forced to pay off the special assessments even though that could be

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thousands of dollars, and they still may have years to pay that off. So...and that sometimes hinders the sale of the property or the subdivision of the land and may hinder due growth sometimes, so cities are a little concerned about this. What this procedure does is put a procedure in place. What the bill does is put a procedure in place, so that if you have that situation, the city council can reapportion the special assessments to the new divided property, so that the property owners would pay the rest of the special assessments against the property. It sets a procedure, requires notice of hearings, so everybody knows what it does, so when the situation comes up everybody is following a consistent procedure and making sure everybody is informed of this. That's basically what the statute does. It's kind of a small, narrow piece, but it will be helpful for cities and villages across the state. I just want to mention, just prior to the hearing, I was notified that by a representative from NACO that there are some county treasurers that had a concern about this on how it affects tax sales, and haven't had much time to look at the issue, but be happy to work with the committee and with NACO to come up with language to exempt tax sales. That was not the purpose...this is for ongoing property where...who are paying special assessments. [LB309]

SENATOR MCGILL: We'll hang on to it until it gets worked out. [LB309]

GARY KRUMLAND: Okay. [LB309]

SENATOR MCGILL: Are there any questions? No? Thank you very much. Anyone else a proponent of this bill? [LB309]

RODNEY STORM: Senator McGill and fellow committee members, my name is Rod Storm, S-t-o-r-m. I'm the city administrator for the city of Blair, and we're here to support the bill. This is an issue that has been used by the city of Blair in community development for a number of years. We've stayed the course as far as all new subdivisions participating in the specials for the street, water, and sewer improvements to help develop the community. Over the past few years, we've had a number of instances where we have, in fact, lost sales of lots because the assessments on the lots were such that somebody wanted to divide...I'll say three lots into two. But the assessments against those were greater than what they could realize for the sale on the one-half. Therefore, it created a burden and would not...the developer could not sell the lots in that manner. So we come to you with the support of this bill, and particularly, we're finding it's going to be a future need in our community as, in particular, from a commercial development. We're just now seeing some of that commercial development develop where we hadn't in the past, and we're finding out that developers develop a nice, big lot, then sell it to a company based upon what the size of their need. So now you've got that lot that, say, maybe is five to ten acres with \$100,000-\$200,000 worth of assessments against it, and they want to be able to sell off three acres for a small strip center and so forth. There's no way to equitably under statute to be able to redivide those costs. And we're in fear that as we move forward, that would hinder the city's

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ability to recoup some of those costs on a steady basis by not being able to do it. We understand the concern from the county. In the city of Blair, as an example, all of our assessments...any time we subdivide a lot, we require all the taxes to be paid prior to the lot split being approved whether there's assessments on it or not. So in our case, the issue is not...it's not an issue other than except the specials that's there. The county taxes would be paid off prior to the city considered any lot split and any redivision of the assessments that's on it. With that, I'd be happy to answer any questions. We wholeheartedly support this bill as needed for the future development of our community and economic growth and development. [LB309]

SENATOR MCGILL: Are there any questions? Senator. [LB309]

SENATOR SCHUMACHER: Senator McGill, thank you. So, basically, if I'm understanding this right, have a big assessment against it because of some pipe or some wire or something like that going through it. And the developer now wants to make little pieces of land out of it and there's no way to clear title to a little piece, because every little piece is responsible for the whole, and this allows you to portion it to the little pieces. [LB309]

RODNEY STORM: That's correct. [LB309]

SENATOR SCHUMACHER: Okay. [LB309]

SENATOR MCGILL: Any other questions? No? Thank you very much. [LB309]

RODNEY STORM: Thank you. [LB309]

SENATOR ASHFORD: It's just amazing that we haven't done that before. [LB309]

SENATOR MCGILL: I know, like these little things that come up. [LB309]

SENATOR ASHFORD: You know, I think, these bills which are great, you know, but...and... [LB309]

SENATOR MCGILL: Um-hum. They're important; you wouldn't think it (laugh). [LB309]

SENATOR ASHFORD: They're all important, every one of them. [LB309]

SENATOR MCGILL: Any other proponents? Any opponents? [LB309]

SENATOR ASHFORD: Oops, maybe they're not that important (laugh). [LB309]

SENATOR MCGILL: Maybe he spoke too soon. [LB309]

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BETH BAZYN FERRELL: I do feel bad about doing this (laugh). Chairman McGill, members of the committee, for the record, my name is Beth Bazyn, B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm appearing here on behalf of NACO in opposition to this bill. We're not opposed to the concept of the bill at all. Our concern is just with a couple of technical issues. As Mr. Krumland mentioned, our concern is if special assessments are collected by counties, and that's not always the case--some are collected by cities, some are collected by counties--in those cases where the county collects the special assessments and they become delinquent, they're treated in the same manner as general property taxes. That is, they go in a tax sale certificate, and they're potentially sold to a purchaser of a tax sale certificate, an investor. In that instance, if the property would be divided, there would be no way to pull that tax certificate back and redistribute those delinquent taxes to any of the parcels that would have any special assessments outstanding. So that's our concern about the bill. We'd also like to mention just one thing. On page three of the bill, if we could add some language that would allow for a notice to be provided to the county when a reapportionment of special assessments would be made, we'd appreciate that as well. Eventually, the notice would get to the county treasurer and the assessor because of zoning rights and so on, but it would be helpful to have that a little sooner. And I'd be happy to work with the committee and the League in coming up with some language. [LB309]

SENATOR MCGILL: Sounds good, Beth. Any questions? Senator Schumacher. [LB309]

SENATOR SCHUMACHER: Thank you, Senator McGill. To the extent that a tax sales certificate already had been issued to a private party, is there any way we can go back and change that after that horse is out of the gate? Or is this...would have to be proactive for things in the future? [LB309]

BETH BAZYN FERRELL: It would have to be proactive. There's no way to come back and get that certificate from a purchaser or an investor and redo that or readdress it. [LB309]

SENATOR MCGILL: All right, thank you very much. Anyone else here opposed? Neutral? All right, we'll close the hearing on LB309, and Senator Coash, can you take over the chair for a moment? [LB309]

SENATOR COASH: Okay. We're going to open up the hearing on LB335, Senator McGill.

SENATOR MCGILL: All right. Thank you, Vice Chairman Coash and members of the committee. LB335 provides a waiver for municipal bidding procedures, if necessary, to comply with any grant, loan, or program. Section 1 and 2 of the bill provide the waiver for cities of the metropolitan class and primary class, and the other sections deal with

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the other forms of municipalities. Questions were raised recently when cities were eligible to apply for stimulus grants under the American Recovery and Reinvestment Act Program. A requirement of the grant was to buy American during that bidding process, and there's concern that this requirement could conflict with the lowest responsible bidder requirement or reasonable bidder requirement. And the intent of LB335 is to clarify the possible conflicts that we can then be applying for stimulus grant money. [LB335]

SENATOR COASH: That's interesting. Thank you. Senator McGill, I have a question. This... [LB335]

SENATOR MCGILL: Um-hum. [LB335]

SENATOR COASH: ...this doesn't allow waiving of any bidding procedures for any other reason other than if it's... [LB335]

SENATOR MCGILL: No. It's just to apply for one of these federal grants. [LB335]

SENATOR COASH: Okay. Just want to make sure. Okay, thank you. Any other questions for Senator McGill? Seeing none. Come on up, proponents. Are we seeing you in this committee before? (Laugh) [LB335]

GARY KRUMLAND: Yeah. [LB335]

SENATOR COASH: Okay. [LB334]

GARY KRUMLAND: (Exhibit 8) Senator Coash, members of the committee, my name is Gary Krumland, K-r-u-m-l-a-n-d. I represent the League of Nebraska Municipalities in support of LB335. I want to thank Senator McGill for introducing this bill. As she mentioned, this bill just applies when there's a situation where you have a federal grant or loan, and the requirements under the grant or loan would conflict with the state bidding requirements for cities and villages. This came up, and the letter that's being handed out is from Bill Austin, who's the city attorney of Bennet. And they face the question under the federal stimulus money, the American Recovery and Reinvestment Act, there was a situation where you had to buy American, and there were some statutes in the state law that require the lowest responsible bidder, the lowest reasonable bidder. And there was concern about, could a city apply for a grant in that situation, because they may not be able to comply with the federal requirements? So what this bill does, it doesn't do away with bidding. Generally, when there is a federal loan or grant program, they have their own bidding statutes or they require the applicant to follow the state bidding statutes. Occasionally, there will be provision in there like this last one where there is a provision that conflicts with the state law or at least makes a question of whether they can comply with the state law, so this will take care of that.

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There is the situation that somebody would argue well, the federal law preempts state law, and that would be the situation...there's no discretion if the federal government passes a law that requires a local government to do it, and it conflicts with state law. That takes place in that situation. But in these situations, it's very often discretionary with the city or village if they want to apply for the grant or the loan, and so that there's a question of whether the preemption would apply in that situation. This would at least make it very clear that, in those situations, those provisions that may conflict could be waived, and the city would then...or village would follow the federal law in that situation rather than the state law. I'd be happy to answer any questions if anybody has any. [LB335]

SENATOR COASH: I have one. [LB335]

GARY KRUMLAND: Yeah. [LB335]

SENATOR COASH: We're taking care of metropolitan and the first class cities, this bill,... [LB335]

GARY KRUMLAND: Yeah. [LB335]

SENATOR COASH: ...just those two classes? [LB335]

GARY KRUMLAND: No, it covers all classes. [LB335]

SENATOR COASH: Does it cover? Covers all classes, okay. [LB335]

GARY KRUMLAND: Yeah, Section 1 is metropolitan which is Omaha. [LB335]

SENATOR COASH: Right. [LB335]

GARY KRUMLAND: Section 2 is primary which is Lincoln. [LB335]

SENATOR COASH: Okay. [LB335]

GARY KRUMLAND: Section 3, this is cities of the first class. Those are between 5,000 and 100,000. And then Section 4 applies to both cities of the second class and villages. [LB335]

SENATOR COASH: Okay. [LB335]

GARY KRUMLAND: And, for example, Section 3 and Section 4 cities of the first class and cities of the second class and village already have exemptions for two other situations. One is when a sheltered workshop bills materials, and the city can go buy it

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directly from them. They don't have to bid on those situations. Or there's a procedure in state law now that says when the state of Nebraska bids on an item, for example, bids on a car and gets a bid for cars or trucks or whatever the item is, a city can use that bid rather than go and do their own bidding. So they can purchase a product from the vendor at the cost that the state got the bid. So those are already in. This just adds one more, you know, one more provision to that bill. [LB335]

SENATOR COASH: Okay. Thank you. Senator Krist. [LB335]

SENATOR KRIST: Did you say that the only...for the sheltered workshop environment, it only applied to the villages in the second class? [LB335]

GARY KRUMLAND: There...I don't know the answer to that. I think there may be some in a different statute, but we didn't amend that statute. We put these separately. I'd have to...I don't know if it applies to Lincoln and Omaha. I'd have to check that. My guess is when it was put in, they probably had it applied to all classes of cities. But I just don't know the answer to that. [LB335]

SENATOR KRIST: Would the League be...or any of the folks be opposed to seeing that amended for all cities of all class? [LB335]

GARY KRUMLAND: I guess I wouldn't. I don't want to speak for Lincoln or Omaha, but I can't imagine that they would oppose that. [LB335]

SENATOR COASH: Thank you. [LB335]

GARY KRUMLAND: But I can check and find out if there is already a statute there. [LB335]

SENATOR KRIST: Give that to Laurie. That would be great. [LB335]

GARY KRUMLAND: Yeah. [LB335]

SENATOR COASH: Thank you, Senator Krist. Senator Schumacher. [LB335]

SENATOR SCHUMACHER: Thank you, Senator Coash. Mr. Krumland, when I read the exception, "when required to apply within a federal grant, loan, or program," one required to comply with any program then, taking out some of those words, is that just a little bit broad or are we referring just to those programs that are involved in the funding of the project being bid? [LB335]

GARY KRUMLAND: Well, I think it would be just to the project. But it would only be a situation where they're required to bid because, otherwise, the state bidding statutes

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would be...would fall into place. [LB335]

SENATOR SCHUMACHER: So you don't feel that's just a hair bit broad that we should confine it to the project or thing being bid? [LB335]

GARY KRUMLAND: Well, I don't know that I have a problem with that. I don't know that it's necessary. I think it's already covered, and it was specifically addressed to the stimulus money, but there may be things coming down that we haven't anticipated. I guess that would be another concern we'd have. [LB335]

SENATOR SCHUMACHER: Thank you. [LB335]

SENATOR COASH: Thank you, Senator Schumacher. Any other questions for Gary? Seeing none, thank you. [LB335]

GARY KRUMLAND: Um-hum. [LB335]

SENATOR COASH: Is there anyone else here to testify in support of LB335? Anyone here to testify in opposition? Is there anyone in a neutral capacity? Seeing none, Senator McGill waives her opportunity to close, and that will close the hearing on LB335. Done for the hearings for the day. [LB335]