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Urban Affairs Committee  
January 31, 2012

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[LB716 LB863 LB924]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 31, 2012, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB716, LB924, and LB863. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Brad Ashford; Tanya Cook; Bob Krist; R. Paul Lambert; and Jim Smith. Senators absent: None.

SENATOR MCGILL: All right. I think we have enough committee members now to get started and not delay any further. Welcome to the Urban Affairs Committee. I'm Senator Amanda McGill. I represent northeast Lincoln here in the Legislature. Go ahead and put your phones on silent or vibrate for us so that it doesn't get...we don't hear phones ringing on the record for the transcribers. If you plan to testify, fill out the sheets by the doors and bring them up to us and hand them off to Katie here, the clerk, when you come up to testify. When you do come up, make sure to say and spell your name and let us know who you are here representing, even if it's just yourself. Members of the committee that are here already, to my right we have Vice Chairman, Colby Coash, also from Lincoln; directly to my right is Laurie Holman, she is the research analyst for the committee; Senator Bob Krist is walking in the door, from the Omaha area; to my far left is Katie Chatters, she is the committee clerk; we have Senator Paul Lambert here with us from Plattsmouth; and then Senator Jim Smith from the Papillion area; and Senator Tanya Cook from the Omaha area. And with that, we will go ahead and open on LB716 and Senator McCoy is here. Welcome.

SENATOR MCCOY: (Exhibit 1) Thank you. Thank you, Chairperson McGill and members of the Urban Affairs Committee. For the record, I am Beau McCoy, B-e-a-u M-c-C-o-y and I represent the 39th District here in the Legislature. And I am here this afternoon to introduce LB716 to the committee which clarifies that a metropolitan class city does not have the authority to tax outside their corporate city limits. As many of you remember, I think all of us were here, maybe with the exception of Senator Lambert, last year for the discussion on LB81 which amended state statute 14-109 which gives the city council of a metropolitan class city the power to tax for revenue, license, and regulate any person within the limits of the city. And as many of you remember, we had quite a lengthy discussion over whether from a fairness standpoint or from a policy standpoint the state level, whether it was fair that someone could be taxed in the three mile ETJ that didn't have the ability to vote on those elections and could be arguably was not a citizen of that particular city. One exception remains, you can remember, which allowed the wheel tax to continue to be charged in the extraterritorial zoning jurisdiction, ETJ, until December 31 of this year. LB716 borrowed language used in state statute 15-311 which states the mayor of a primary class city does not have the authority to tax an area within three miles of the corporate city limits. The language in statute 14-219 was introduced in 1921. It's predated to the Unicameral, obviously, through senate file 208, and it was 142 pages and covered a multitude of topics we've

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discovered through research related to cities. And clearly, if you look at the historical time line of that, that was immediately following the influenza pandemic of 1918 and 1919, and which...that statute appears, as near as we can tell, had been introduced from a health concern over the surrounding environs of a city more than anything else. This statute which covers the power of a primary class...the mayor of a primary class city was changed in 1967 through LB737, which lowered that area from five miles to what's currently the three-mile parameter. And a statement of intent clarifies intent of statute that it is for a public health concern. And it says very simply, except the ordinances respecting taxation shall not be enforced outside the corporate limits of such primary city, was what was added to the statute. And as I've mentioned, it appears that it clearly was from a public health standpoint than from really any other concern. Coming up again on what's currently in place, just this year, a member of the Omaha city council put...or attempted to put the repeal of LB81 and the wheel tax issue back on the wish list agenda for the Legislative Session of 2012. I really think that LB716 prevents the mirror of any metropolitan class city from attempting a new tax on those who live in ETJ and just further puts...would put in statute what we did with LB81 last year. And that is, that this will end at the end of 2014, hopefully, to never return, in my opinion. I have an amendment to hand out, if I could, which...and I'll explain that amendment, if I may, and then conclude. One aspect of this that was put in as this was drafted was to include pet license fees in this area too. Now, the municipal code of Omaha clearly lists this as a fee, not a tax. Obviously, you're not charged a pet license fee if you don't have a pet. So the amendment that you have before you would redact that from the bill and take that out. There were some concerns brought. I think you will probably hear a testifier behind me, by the Douglas County Board in particular, and the Douglas County Sheriff that this would create a whole host of complications if we were to include pet license fees in this for the ETJ. That's not the intent of legislation, clearly, and this was designed for taxes, not fees. So the amendment before you, I think, would mitigate that...those concerns, at least as far as I know. And I think with that, I also would give the members, I don't know if you...I just received this this morning so I doubt you would have received this but I also submit this be handed out. It's a letter from the Nebraska Farm Bureau in support of LB716. I apologize to the last minute nature of that. Again, I just received that within the last couple of hours so I doubt that it's made it to you folks yet. And with that, I believe I will conclude and take any questions if there are any. [LB716]

SENATOR MCGILL: All right. Senator Krist. [LB716]

SENATOR KRIST: The reality of the situation is that whether we call it a three-mile arc, an ETJ, or a conglomerate of SIDs, that do not belong to the city of Omaha but have not yet been annexed, there's still a concern, I think, about fundamental utility, roads, all those things that support a metropolitan area. I'm...I understand where you're coming from and I understand why you're there. I mean, you have to represent the people who have elected you and I believe that you believe that this is the right thing to do, but I had

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a bill that I...will be IPPed in this committee that really said, why not give everyone a vote because they have elected to build in or be around the city of Omaha, but you don't want to support the city structure in any way. So I just...I open that dialogue with you. I'd just like you to respond to it. It's in no way meant negatively. I think we have an issue. We have all these SIDs within the city of Omaha, within...some within the zone of the city of Omaha that have not been annexed, some of them that have been there over 30 years. There are still roads that have to connect to those and it is a decision that the city will have to come to grips with in terms of the financial liability it would be...that we would have to go through in order to annex those cities. But I just open up the dialogue with you and ask you to respond to that. [LB716]

SENATOR McCOY: Sure. I appreciate that Senator Krist and I believe that you are correct, fundamentally. We do have a unique situation in that...it's my understanding, I think, we may use the Sanitary Improvement District system in a very small way, I think, here in the Lincoln area or some variation of it, but primarily it's an Omaha, city of Omaha issue with the Sanitary Improvement Districts. It's my understanding that such a structure really doesn't exist anywhere else in the United States. Maybe to again, in some variation, but clearly we have a situation that, I think, over the decades has allowed for development of the city of Omaha and what I believe to be a very prudent and thoughtful way to go about development. I think, clearly, when you look at metropolitan cities in other parts of the United States, throughout our travels, and all of you as we go to conferences and have commitments in other parts of the country, anecdotally, at the very least, you discover when it comes to infrastructure and with traffic and whatnot, not every city is set up as nicely, in my opinion as, is as the Omaha metropolitan area from that regard. And I think that the SID structure has played a role in that. With that does come some challenges and I happen to live, and have made no bones about that...I live...my family and I live in a Sanitary Improvement District as do the vast preponderance of the constituents in Legislative District 39. I agree with you, it's an issue that we've dealt with in the past in the Legislature, we've dealt with it during my time, and I dare say, it will probably be dealt with long after you or I have moved on to other things. [LB716]

SENATOR KRIST: Absolutely. Thank you. Thank you, Chair. [LB716]

SENATOR MCGILL: Are there any other questions for Senator McCoy? I don't see any. Thank you very much. [LB716]

SENATOR McCOY: Thank you. [LB716]

SENATOR MCGILL: Do we have any proponents here? Anyone here in support? All right, anyone here opposed to this legislation? Hello, Rick. [LB716]

RICK CUNNINGHAM: Good afternoon. As I walked in today, an office was offered to

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me so I'm thinking about it. I don't know, but anyway. My name is Rick, or Ricky Cunningham, R-i-c-k-y, but I do answer to Rick. Cunningham, C-u-n-n-i-n-g-h-a-m. I am here as an opponent representing the city of Omaha and planning director of the city of Omaha. Glad to hear that the bill will be amended to take the dog licensing, animal licensing part out of it because as we investigated it, you know, the city of Omaha is the only jurisdiction within our county even, not even talking about the extraterritorial jurisdiction that actually deals with that. And my concern from a planning department was that, you know, these animals don't respond to and respect man-made boundaries. So if they get loose and they're dangerous, they're just as likely to come into the city and bite somebody or kill somebody, or whatever, as they are to stay out in that area. So we do need a mechanism in place where we can for the health and safety and welfare of all people within that...the city and the three mile have some kind of control over that. So we're glad to hear that that is coming out, because that was the biggest part of our concern. The other part was that we currently do not tax anyone within the...except for the wheel tax. I personally look at that as a user tax. Those are...it is intended as a user tax. You use our roads and so you pay a user fee. Unfortunately, it's called the wheel tax so that's kind of confusing. I would open up and ask you as Urban Affairs Committee, this is an issue. How do we maintain and build the roads that need to be made to be done out beyond the city limits necessarily? How do we do that if we have no funding mechanism to build and maintain them other than what's done within our tax base, or the state, as far as monies that we might get from Department of Roads? So I would say, let's talk about it. Let's find out some mechanism where we can do that. If the wheel tax is not the answer, what is the answer? Because, I mean, we wrestle with that every day, not the planning department so much as our public works department. And I'm not representing the public works department other than the fact that I do know...because the planning department manages the CIP process, that we have many, many projects that we cannot fund in our CIP because we don't have the money, bonding capability or otherwise, in order to do work that needs to be done. In fact, when I first came on board as a planning director, the mayor asked us in the CIP process to look at the projects and categorize them as the ones we could afford, the ones that need to be done, we know they need to be done now but we can't afford, and the ones that would be nice and would be beneficial but we know there's no way in the world...and we used other terms, can we afford them. And you know, the what we could afford was \$70 million a year based upon our bonding capability; \$250 million was the ones that really needed to be done, and it just gets slid every year because we can't do them. And it actually was another 500 or so million that really these projects needs to be done, they're good projects, but we...they don't even merit to get in that, in that nice to have. Those are the nice to have type projects. So I invite you to help us with that if...as far as maintaining the quality of life in the city of Omaha which is weakening, I think, having been born there and raised there, is, I think a benefit to the state of Nebraska. So basically, we are concerned that this is, you know, step one, and then step two we'll come back next year and start talking about the fees that we can charge. We do, within the city of Omaha, manage, if you will, or regulate land use and planning within that

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three-mile jurisdiction. We do not charge taxes for that, we charge fees. And those are application fees and so forth. So we are, from the planning department perspective, concerned that next year it might be fees then, fees for those services that we provide. Not saying that anybody said that, but I mean just looking down the road. So, if we can't charge fees, then again, how do we provide those services? It's difficult, as it is, with our budget cuts and the General Fund to basically provide the services that we do provide at this point. So I'm available for questions, as always. [LB716]

SENATOR MCGILL: I see one from Senator Krist. [LB716]

SENATOR KRIST: Thanks for coming. I would be interested if...and I'm sure your folks are probably the best qualified, I'd be interested in getting a one or two-page narrative. If I were a developer, and I wanted to build in the ETJ or on the outskirts of Omaha, if I wanted to start my own little SID, 300 homes, I'd be interested in you laying out the narrative of how that happens for everyone's education. I believe I understand it but new members on the committee and those that have never been associated with it, whose planning department does it go through? What codes do they have to meet? Is there, indeed, a beginning and an end to that life of the SID? Do we from the very beginning decide that annexation would be part of that in our lead-in process? All those kind of things. And also, I'd be really interested in maybe your recommendation as to how to assimilate those SIDs and maybe change the system just a bit so that we are looking towards an economic development that allows you to go out and take the best part of the SID, and manage what we all know is the worst part of the existence of the SID. And I don't mean to give homework assignments, but I think that would be very helpful for us, Ricky. [LB716]

RICK CUNNINGHAM: I wrote it down as something...we'll probably do that collaboratively rather than just in-house because there are a number of players that get involved in that. Yes. [LB716]

SENATOR KRIST: The county and...yeah, exactly. Thank you. [LB716]

SENATOR MCGILL: Senator Coash. [LB716]

SENATOR COASH: Thank you. I want to ask you some general questions about the annexation process. Can you kind of just walk us through a little bit from...it takes a while, correct? I mean, you don't just draw a boundary and say, now, you're with Omaha. Can you just kind of outline a little bit because this really comes down to the taxation, representation. At some point, some of these smaller communities will then be represented by Omaha, if you're a person outside of that. Can you help me understand how that, you know, the steps involved with annexation? [LB716]

RICK CUNNINGHAM: There are many steps and we normally begin that process in

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January when we begin to look at potential areas that we might consider to be annexed. We have a list of sort of... [LB716]

SENATOR MCGILL: So that happens every year, you go and look at that? Okay. [LB716]

RICK CUNNINGHAM: Every year. Well, in past years sometimes it has not occurred just because we know, historically, that there's no SIDs or areas out there that we can afford to annex. In the past couple of years we have been looking at it actually annually. And the case last year, we actually looked at it more than once during the year to be a little bit more aggressive on the annexation. What we do is, we sort of put together this first list of potential, based upon...just based upon what we know about the areas, based on their history, the length of time that they've been in existence. We need information from the counties and other agencies as far as their tax liabilities, their value, and so forth. We need to identify how much is in-house rooftops, how much is in sales tax generating, commercial types of things. We have a list of basic criteria. One is connectivity, contiguousness with the city. The basic criteria is 75, but at the very beginning we say at least needs to be 50 percent contiguous. We look at whether they're willing to be annexed or not. Obviously, we are not necessarily interested in somebody that's going to fight us tooth and nails, you know, without good cause. We look at the debt ratio and we use 5 percent as that going in. If it's above 5 percent, there has to be some other reasons to keep them in. [LB716]

SENATOR COASH: What ratio is that? I'm sorry. [LB716]

RICK CUNNINGHAM: Five percent debt ratio. [LB716]

SENATOR COASH: Debt ratio, okay. [LB716]

RICK CUNNINGHAM: That's the debt to value. We look at how built out the subdivision is. And that's a factor, I mean, lots are available, how many...the total lots in the area. We have some subdivisions still out there that are 100 percent built out, so that's not the only criteria, obviously. But, and mostly those that are 100 percent built out and we haven't annexed is because that's all they are is rooftops and we look for an opportunity then to offset that with sales tax somewhere else to be able to pay for all the services. There's one more that escapes me, but...so we have these lists of this initial sort of evaluation process. So we go through it and we apply that to that larger list of communities, SIDs. And this list rolls over from the previous year. Maybe some get added on. Obviously, if we annex, those that are annexed comes off. Then we will run the numbers a little bit more tightly down to their possible debt in the future because, for example, in some instances the infrastructure has been put in place so the debt is there. In some cases, the infrastructure has not been put in place. So not only is it not built out as far as lots, but it's not built out as far as the infrastructure. Sometimes the

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infrastructure is done all ahead. So we take that all into consideration. We come down to what we think is the best package. And then we start looking at, what is it going to cost as far as services, to provide services, to that package of possible annexed areas as far as police, fire, sewer, and so on down the line? Planning, parks, and then basically throw all that into the process and say, can we afford to annex? And basically the finance department is looking for a cost-neutral annexation package, or at least one over ten years will be cost neutral. We realize that sometimes in the initial years, it might not be, but over the ten-year period we're looking for it to be cost neutral. [LB716]

SENATOR COASH: When you...when you... [LB716]

RICK CUNNINGHAM: Now that's the city of Omaha process. I can't speak for other. [LB716]

SENATOR COASH: Sure. Fair enough. Is the biggest cost that you look at probably the infrastructure? Is the infrastructure the biggest cost that you have to negotiate when you're looking at that...the streets to get to the annexed...? [LB716]

RICK CUNNINGHAM: When you say negotiate, I mean, mostly.... [LB716]

SENATOR COASH: What I mean is, when you're looking at whether or not you can afford to do it, is the infrastructure cost probably the biggest one you have to get over it to decide, or is there other...? [LB716]

RICK CUNNINGHAM: Well, it is probably the biggest cost of the debt that has been incurred by the SID, is putting the infrastructure in place. [LB716]

SENATOR COASH: Okay. If they've built it in, you know what they spent, but if you haven't, sometimes you have to... [LB716]

RICK CUNNINGHAM: For example, we took two SIDs out of the package last time because...and this just happened that there was a meeting and a decision was made that a major bridge had to be built and those SIDs were going to be responsible building a bridge. We said, okay, we're not annexing those because if we annexed them, then the city of Omaha would have to build that bridge. And it was a multimillion dollar bridge so we decided not to annex them. Okay. So I mean, that's an infrastructure cost that was not built before we knew about it by hook or crook or somehow or another we knew about it so we said, okay, that's a cost that just would not be...would not be able to be cost neutral over ten years. [LB716]

SENATOR MCGILL: All right. Any other questions from the committee? Senator Lambert. [LB716]

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SENATOR LAMBERT: You're, as I understand it or what I know about annexation, I mean, it is driven strictly by the dollars and cents and the responsibility you have to the taxpayers that employ you to get...you don't want to put them in a bad situation, get into an SID that is deeply in debt that's going to cost those taxpayers' money. [LB716]

RICK CUNNINGHAM: Not only that but if there are other structural issues, there's another SID out there...two that are out there that we consciously decided not to annex. One, because roadways have been built outside of the right of way. And so, we said, we're not going to inherit that issue. [LB716]

SENATOR LAMBERT: Not to code. [LB716]

RICK CUNNINGHAM: Well, you know, it is...it's not a new code. They built outside the right of way so the road is on private property and the right of way is, you know...so, you know, it was done by an error in survey. And it can be fixed, but we just didn't want to get in the middle of that because basically you're going to take property away from somebody and on the other side somebody is going to get more property. And so how do you resolve that? We didn't want to get into that. In another case, we have a subdivision, it's on a private well, private well system. And, you know, just because of all the federal regulations and so forth around a pool of water, we didn't want to get in the middle of that. So we said, okay...and unfortunately, that one had some sales tax right on the corner, you know. And, you know, I'm saying, wow, I want to get that, you know, because if it's sales tax I could maybe get a few more rooftops with that, but I can't get it because it's sitting out here with a well that we can't really afford to take over. So infrastructure definitely comes into play, now if MUD would come up and say they'll take over that well system, then we would annex that one in a heartbeat. If the county were to fix that problem with the roadway in that one subdivision--and you notice I'm not using the names of them for a reason--you know, we'd annex it because it was on our package and we, you know, we have a couple that are totally surrounded by Omaha and those really stick out. I call them donuts because that's the hole, you know, that's sitting there and in my mind we're providing all services for those. There's no doubt about it. Is the county going to come through Omaha to respond in a place that's buried within the city of Omaha? No. We probably have an agreement where we provide service there. Scratch my back, I'll scratch yours. So... [LB716]

SENATOR LAMBERT: Those ones that are the holes, some of them, and you know better than I, some of the subdivisions in Omaha that are older established subdivisions, what would be some of the reasons that you would not annex them, I mean, other than what we've talked about basically? [LB716]

RICK CUNNINGHAM: One I can think of is that again structurally they were done at a time when we approved and...the city approved it, the construction of certain roads that did not meet city standards, they would...and we would not accept them in the city, so

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they would have to remain private. So they'd have to be...either that or we'd take them and we'd have to redo them or we'd have to accept them as substandard streets. And up to this point, we have not been willing to do that for snow removal and other kinds of issues. This particular one also has a fair amount of public grounds that...parks, just cannot afford to take because it's only 5 feet wide, 6 feet wide. And, you know, it was a nice thing back in the '60s or whenever it was done, you know, the concept, but it's just something we don't do anymore, we don't allow anymore because we know that we can't, the city of Omaha Parks Department cannot afford to maintain those kinds of issues. We've got a whole park master plan that focuses on righteous parks of the size that they need to be, pocket, the neighborhood, to regional, you know, and that's what we've been moving forward with ever since and not all this, you know, 5 feet wide in between two lots. [LB716]

SENATOR LAMBERT: Thank you. [LB716]

RICK CUNNINGHAM: So I mean there's a lot of reasons why we...that come to play why we don't annex some of these. But I tell you, we're always looking at ways that we...and, in fact, we are going to have a meeting with public works and see if we can't work through some ways to bring some of these structurally impaired SIDs and especially when they're 30 and 40 years ago because, I mean, it will never get fixed. In the case of that property, 5 feet of property between, that will never get changed unless we come in and we force the change somehow or another. That one subdivision where the road is built, you know, on private property, that might get fixed when somebody wants to sell their house. I mean, can you imagine that you want to sell your house and basically they do a title check and if they look at the site plan and the road is built totally on your property, if you're a lender, you're not going to...you're going to say, hey, bye, unless you get that fixed, you know. So, but obviously, nobody has tried to sell their houses yet out there so that hasn't been fixed yet. [LB716]

SENATOR MCGILL: All right. Senator Krist. [LB716]

SENATOR KRIST: The reason that I asked you for the information to start out with dovetails with Senator Coash's explanation or question and what we've gotten into here. And it lends perfectly to that old discussion about city-county mergers in a lot of places. There are a lot of decisions that have been made that have created these donut holes. There are septic systems that have leach pits as a process; there are lakes in the middle of places where there shouldn't be a lake. There are things that were done to develop an SID that developers thought were great ideas and now the city is left with these pockets all over the city, as you well know. I think this committee, in terms of what we've heard both in terms of the introducer and just one testimony, can clearly see that if at the beginning if the standards are set in terms of building and developing so that at day one you have an annexation plan, that on day 29 if you pay off your debt and your utility, the annexation plan goes through...I guess I meant year one and year 29, but the

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point is, if there's a plan in place where annexation would happen as it would continue out, I think we would be much better off and that's all part of planning, isn't it? Thank you. [LB716]

RICK CUNNINGHAM: Uh-huh. And we do in that process exude more control over a way an SID is laid out in streets and so forth now, especially within our jurisdiction, the territorial rights jurisdiction. So that...we do when they're laying those plats out, replatting and so forth, attempt wherever possible to level a certain amount of regulation on how that's done with the idea that it's going to come into the city and therefore streets need to be according to city standards and parks are developed that we can afford to bring into the park system, etcetera. So we do do that now. Some of these were done in the '60s and there was a different sheriff in town then, so. [LB716]

SENATOR MCGILL: All right. Senator Ashford. [LB716]

SENATOR ASHFORD: Well, I appreciate your comments, Ricky, actually because I think it's a very candid and very important explanation to this committee because I've struggled with this all my years here is that, and why I think the city-county merger is a good idea is for exactly the reasons that you stated. It takes too long to work these issues out with the various subdivisions that enter into it. I mean, you've got a master plan with a responsible building, you know, built out plan that tries to balance all different kinds of city services and different kinds of parts of the city. And then you have what is a lot...we have a very liberal annexation, theoretically, liberal annexation policy in the state for the SID process and so forth and so on. And then we're constantly meeting these challenges and obstacles. Some of them are historic and some of them are not. But it's just a...and I think you're right in saying this, that the taxpayers I don't think realize how difficult it is to engineer a process that will enable the sales tax base to enlarge so that city services can be paid for. It really is a hard...it gets harder when it's supposed to get easier, doesn't it? I mean, it really does get harder the farther out you go. [LB716]

RICK CUNNINGHAM: Absolutely. And the other kind of dynamic that comes into play especially when you talk about commercial and sales tax, generation, and so forth, what figures into our...is that we're also fighting with the fact that we have a core of the city that is aged, and we need that reinvestment there and so we're trying to make sure that that reinvestment occurs in the older part of town also. But also we find ourselves with, perhaps at this point in time, an overbuilt commercial in retail as it is. We have a lot of vacant storefronts out there. And so, we're constantly saying, okay, can we continue to develop more and more of commercial retail and green fields when we've got over in other parts of the city...not even the older, older parts of town, but just the entire part of the current city limits that... [LB716]

SENATOR ASHFORD: It's harder to annex...it's harder to annex in a...when you're

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coming out of a recession than it is when there is, you know, were on a positive economic flow. [LB716]

RICK CUNNINGHAM: I can tell you that we are very much interested in annexing. [LB716]

SENATOR ASHFORD: Would that be right, I mean, generally? [LB716]

RICK CUNNINGHAM: Yes. Yes. We are very much interesting in annexing, but we can't afford to do it as much as we'd like. [LB716]

SENATOR ASHFORD: I'm not questioning that. I'm sort of agreeing with you here that that you...that it is a challenge and that to me it seems to be in removing as many obstacles as possible to getting there at the same time balancing the needs of the other parts of the cities is a very valid point. [LB716]

RICK CUNNINGHAM: And I find that the planning department would annex a lot more but our finance department and our public works department is also at the table, so... [LB716]

SENATOR ASHFORD: Well, if it's not generating any...if it's not generating any income... [LB716]

RICK CUNNINGHAM: Right. Yeah. Because we look at it from a land use perspective and that kind of perspective but... [LB716]

SENATOR ASHFORD: Let me ask you this. Do you see...now I'll stop at, do you see in the SID areas and you know the three-mile jurisdiction limit, do you see commercial activity coming back, do you see it sort of not yet, or how do you see economic activity west of the city limits at this point? As you look at the economics of the rest of the county, how do you see...? [LB716]

RICK CUNNINGHAM: We're seeing some commercial development occurring outside the city limits. We're seeing, I think, more redevelopment now occurring within the city limits, but there's still some outside. And we do have a master plan that identifies where that commercial would be with some controls within our jurisdiction at intersections, prime intersections, so we do have some control over it. But when that was put into place, it was 35 percent or more above what we really needed, and so we do fight that. And especially when everybody wants to take advantage of the flexibility built into our master plan, our land use plan which can give you 20 percent more, so we are...we do have a battle from that perspective. [LB716]

SENATOR ASHFORD: You really are reliant on the private sector to drive that out

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there. [LB716]

RICK CUNNINGHAM: Yes. We...were certainly not participating in a high level TIF outside that. [LB716]

SENATOR ASHFORD: Right, because you don't have that option. [LB716]

RICK CUNNINGHAM: We don't have that option. [LB716]

SENATOR ASHFORD: That's really an interesting dilemma then. Sure, I mean, you have a situation where TIF is driving development in certain parts of the city, it doesn't work...you can't do it newly developed areas. (Laugh) [LB716]

RICK CUNNINGHAM: Well, I think which is part of the intent of the TIF, too, is a redevelopment tool, an economic development tool. [LB716]

SENATOR ASHFORD: Correct. Correct. But then how do you...how do you drive economic activity...the same margins apply to a development you develop in west Omaha as they do in central or east Omaha to some degree but you have fewer tools to get there. Anyway, that's a good discussion. Thanks for your comments. [LB716]

SENATOR MCGILL: Any other questions? Well, thank you, Ricky. [LB716]

RICK CUNNINGHAM: Thank you. [LB716]

SENATOR MCGILL: Next opponent. [LB716]

SEAN KELLEY: Good afternoon, Madam Chair McGill, members of the Urban Affairs Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y appearing today on behalf of the Douglas County Board of Commissioners. The Douglas County Board, in its original form, is opposed to this legislation purely because of page 4, lines 6 and 7. However, due to our conversations with Senator McCoy and his opening remarks, our opposition will go away with his amendment. So with that, I'd be happy to answer any questions. [LB716]

SENATOR MCGILL: All right. Any questions? Nope. Thank you very much for that clarification. [LB716]

SEAN KELLEY: Thank you. [LB716]

SENATOR MCGILL: Any other opponents? Anyone here neutral? Senator McCoy. [LB716]

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SENATOR McCOY: Thank you. I will be brief. I think, obviously, as the conversation was probably far-reaching after my opening, I think this probably revealed to me which I believed to be, I think Senator Krist and I, maybe along with Senator Pirsch now with redistricting, really represent virtually all or the vast majority of the SIDs around Omaha area. And I would be very willing to explore this topic further in an interim study because I really think, from a policy standpoint as Senator Ashford brought up and Senator Krist, this is something that we're going to continue to deal with particularly in the Omaha area. I think, one, as a member of the building and construction industry one thing I do want to make a brief mention of, Mr. Cunningham mentioned there was a concern at the city level that perhaps fees and other fees would be chipped away. I don't know if those would be building permit fees, that type of thing, and the ETJ. There's no design on that. I fully understand as a member of the building industry the value of building fees and along those lines, and I believe that plays an important role in making sure that we provide safe and affordable housing for Nebraskans. On the other hand, I do believe, though, that a downturn and a slowdown in the building industry in Omaha, and clearly we have been through one, and are still in one largely, does afford possibly us the opportunity to have some of these discussions that are a little bit difficult to have when we are building 4,000 homes a year, or close, as we were for a good number of years. And this does provide a...I believe, an opportunity to really talk about how do we want to handle annexation if that is part of this conversation, that I believe personally that it is. That's not the nature of LB716. Nevertheless, that is important ancillary topic of this over-arching discussion. And so again, I'll close with that. But I believe that this is an issue that I would be happy to work with the committee on in the future and any members of the committee that would like to explore this issue further. Thank you.  
[LB716]

SENATOR MCGILL: Sounds good to me. Senator Ashford. [LB716]

SENATOR ASHFORD: Senator McCoy, I think you've really hit on an interesting issue here and so has Ricky. I mean, I see a lack of...because of the recessions and some other things, it's been tough on the western part of the city and the county and the SID area. What do you...very briefly tell us, what is, other than getting the economy moving again, what would make it easier and what sort of a commercial and residential development do you see in the western part of the county in the next five...if you're looking down the line five years and ten years, what sort of policy things should we be looking at to help...because we do need to have development in the inner parts of the city but we lose if the western part of county and the SID areas are not developing. What should we do? Are there structural things we should be looking at to make it easier, or are there things that you see that would help us? Are there tax policy changes that we should look at that would help develop that part of the city and the county?  
[LB716]

SENATOR McCOY: Well, I think briefly, Senator Ashford, that that question is probably

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the nature of why there perhaps needs to be an interim study or other lengthy conversations about this topic because, you know, I can only speak from an anecdotal standpoint in that. I don't do land development personally. So I probably can't speak to the nuances of that as well as a P.J. Morgan or many other fine land developers in our city can. But anecdotally what I can tell you is that...and I think Mr. Cunningham spoke to this very well, we do have an issue whereby we have a good number of SIDs in around our city that because of the slowdown in economy aren't full and may never be full. I hope that they are. I hope that homes get constructed in these SIDs and I...it comes to mind there's a subdivision that would now be in your legislative district, was in mine, Senator Krist, up until last year, that streets have been laid out almost ten years ago now and it's still alfalfa in between those streets. And I hope and pray that there will be homes there and families and productive contributors to our local economy soon. But how do we handle those kind of situations long-range? And that's really what I'm attempting to get out with LB716 in not an adversarial standpoint to the city by any means, but just to provide a clear way that perhaps this initiates a larger discussion of how do we go about this? What kind of tax policy, what kind of developmental policy do we need to have down the road in order to...? [LB716]

SENATOR ASHFORD: Right. Yeah, I think that's a great plan. I think that...I wonder about the SID legislation is now 70 or 50, 60 years old. I have to go back and the annexation policies are (inaudible) in...as Ricky said in the '60s and '70s, that maybe we do have to review them. I'm glad Tim Kenny is here and he can tell us all the answers to this as I guess he really is an expert in this. We have to look at the entire geographic area of the county and find out, you know, maybe there are some policy shifts we need to look at. So, thank you. [LB716]

SENATOR MCGILL: Any other questions? Thank you very much for coming. [LB716]

SENATOR McCOY: Thank you to the committee. [LB716]

SENATOR MCGILL: And that closes the hearing on LB716. And we can move on to LB863...no, nevermind. We're going on to LB924 is actually where we're going to go next, sorry. Senator Mello. [LB716]

SENATOR MELLO: Trying to do some musical chairs to make it work out for Senator Coash. [LB924]

SENATOR MCGILL: Yeah, we tried to accommodate Senator Coash's testifiers. [LB924]

SENATOR MELLO: (Exhibit 3) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. LB924 is the product of two interim studies that were heard before this Urban Affairs Committee: LR469 during the

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2010 interim which examined economic development tools that were available to municipalities; and LR241 during the 2011 interim which specifically examined the Nebraska Redevelopment Act. The Nebraska Redevelopment Act was adopted in 1995 as part of a package of bills designed to attract the Micron Corporation to Nebraska, although Micron never moved to Nebraska and the provisions in the act were only used once. The act was drafted to mirror the existing tax increment financing statutes in the Community Development Law at the time with two primary differences. First, the definition of blighted and substandard property under TIF was expanded to include vacant land. And, second, cities were given the authority to use TIF in areas up to ten miles outside of city limits, depending on the class of city. There were never any applications to use these TIF provisions, however, filed with the Department of Revenue. In fact, the only time the act was utilized was to redevelop the Ak-Sar-Ben area in Omaha. The city used the TIF provisions in the Community Development Law in conjunction with provisions in the Redevelopment Act allowing the use of personal property taxes to repay TIF bonds. While the Redevelopment Act sunsetted in 2000, the statutory language remains in the books, and LB924 is designed to reactivate and update the act. Most of the changes in the bill update the TIF language in the act to reflect changes in the Community Development Law that have occurred since the act sunsetted. LB924 also makes several substantive changes that were suggested by Nebraska municipalities following the interim study hearing this past November. First, the bill changes and expands board membership provisions for the redevelopment projects under the act. Currently, the board consists of the Governor, State Treasurer and chairperson of the Nebraska Investment Council. Under the bill, the State Treasurer and Nebraska Investment Council positions were replaced with the Executive Director of the Nebraska Investment Finance Authority and three local representatives: the mayor, finance director of the city where the project is taking place, as well as a member of the county board who represents the area that is proposed to be designated substandard and blighted. Current language in the Redevelopment Act requires redevelopment projects to meet certain eligibility standards and give school districts within 20 miles of the project notice of the proposed project as well as the ability to object to the project in writing. LB924 would reduce the investment threshold for projects from \$50 million and at least 500 new employees to \$25 million and at least 150 new employees. It also would limit the notice and written objection provisions to school districts within or abutting to the proposed redevelopment project. While LB924 is not introduced with a specific project in mind, the need for additional tools to help cities attract larger businesses to Nebraska still exists. The differences between the Community Development Law TIF provisions and the Redevelopment Act TIF provisions were specifically crafted to bring a major employer to our state. I'd urge the committee to advance LB924 and bring back the Nebraska Redevelopment Act. Thank you for your time and I'd be happy to answer any questions you may have. [LB924]

SENATOR MCGILL: Any questions for Senator Mello? Senator Ashford. [LB924]

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SENATOR ASHFORD: What's the practical effect of this, Heath? [LB924]

SENATOR MELLO: The practical effect, Senator Ashford, is that it provides I'd say a tool that was created in the mid-'90s to focus TIF, so to speak, for larger businesses or larger industrial projects. The Micron project was the rationale behind the creation of the Redevelopment Act. I don't want to repeat everything that I know that you and others heard during the interim study. But the focus is that this is a special kind of TIF... [LB924]

SENATOR ASHFORD: Well, when... [LB924]

SENATOR MELLO: ...because it involves personal property tax exemptions that help to repay back the bonds that go to pay for the TIF. [LB924]

SENATOR ASHFORD: And when we did the Micron bill, and I remember that bill, Ben was the Governor, and that was the key was it was utilized with personal property taxes. Was that the only funding source and is that the only funding source? [LB924]

SENATOR MELLO: That is...beyond the TIF, beyond the TIF component, it's an added component. [LB924]

SENATOR ASHFORD: Okay. And bringing Tim Kenny on and the purpose for that is what? [LB924]

SENATOR MELLO: We changed the makeup of the board in the sense of removing the Governor, Treasurer, and the chair of the Investment Council. [LB924]

SENATOR ASHFORD: For expertise purposes? [LB924]

SENATOR MELLO: For expertise purposes and to provide it's more of the local board, county, and city boards ultimately will be the ones who determine whether or not to use this project similar to an existing TIF project that they do now. [LB924]

SENATOR ASHFORD: And then bringing NIFA in really is to provide expertise and...on financing, utilizing these... [LB924]

SENATOR MELLO: Yes. [LB924]

SENATOR ASHFORD: ...additional funds for financing options. [LB924]

SENATOR MELLO: That was the suggestion to bring the NIFA executive director was a suggestion made by the city of Omaha. And so we didn't see any problem, obviously, with the current director, his ability to provide that expertise to the cities across the state

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in regards to whether or not this is an appropriate economic development tool, depending upon the project. [LB924]

SENATOR ASHFORD: Oh, I agree. I mean, I think bringing NIFA in is a great idea, so. I'm not criticizing you for it. [LB924]

SENATOR MCGILL: Any other questions? Senator Lambert. [LB924]

SENATOR LAMBERT: We've got some things in place now like Nebraska Advantage. Is this to take the place of something like that or to work... [LB924]

SENATOR MELLO: No. [LB924]

SENATOR LAMBERT: I mean, where a developer company coming in kind of get a double shot if they chose. [LB924]

SENATOR MELLO: This provides, Senator Lambert, in my view and I think those who will testify in support of it today, it provides another tool depending upon the kind of project that may come to a municipality. Different municipalities have sometimes different needs. And a business who may want to relocate or expand may be looking for a different kind of incentive, whether it's Nebraska Advantage from the state perspective or TIF from the local perspective. This is a...the best way to describe it, this is a more specialized version of TIF, so to speak, because it incorporates that personal property tax exemption that's utilized to pay back these TIF bonds. So a city, like for example today we'll hear from the city of Omaha who's been very supportive of this and have helped us craft this legislation to make it work for potential projects that may come down the road for them. It still doesn't mean the project or the act doesn't apply to a city such as Plattsmouth. They may have similar needs in regards to bringing, let's say, an industrial manufacturer on the outskirts of the city of Plattsmouth because there's property available for them to do that. This act would allow them to be able to do that by utilizing that personal property exemption component of the Redevelopment Act. So it's another tool in the toolbox. I'm sure you'll hear other people say that as well today. It's not replacing any existing economic development tool in the Department of Economic Development or it's not replacing TIF. It's just a different version of TIF that will give cities some flexibility in their development. [LB924]

SENATOR LAMBERT: Okay. Thank you. [LB924]

SENATOR MCGILL: Senator Ashford. [LB924]

SENATOR ASHFORD: Just a follow-up. I mean, in Omaha we have a number of industrial properties on the east side of the city that are...would seem to me that are 60, 70...50, 60, 70 years old that could be retrofitted for industrial use. And I would assume

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that would be the kind of target area. [LB924]

SENATOR MELLO: The unique thing when they created the Redevelopment Act in mid-'90s was the difference between the existing TIF law and what wouldn't be in LB924 is that it allows the usage of this act in vacant property. So, for example... [LB924]

SENATOR ASHFORD: And that does this (inaudible)... [LB924]

SENATOR MELLO: For example, in Senator Cook's legislative district there's a good number of vacant properties that are available that could be used for... [LB924]

SENATOR ASHFORD: And Senator Council's as well. [LB924]

SENATOR MELLO: Senator Council. Primarily, and you'll hear from the city of Omaha, on the northern side of the city of Omaha there has a tendency to be more vacant properties where this could be used. The other aspect though is it could be used within areas of ten miles of the city of the metropolitan class. It's up to six miles...or ten miles for cities of the metropolitan and primary class, six miles for cities of the first class, and three miles for cities of the second class or villages. So it provides a little latitude on the outskirts of city boundaries to be able to utilize this economic development tool, which is part of the reason why we also incorporated with the board change the county commissioner or county board member who represents the area that would be designated blighted and substandard. So if there's an area, let's say, on the northern part of the city or in the western part of the city that would fall under LB924, that county commissioner would also be part of this governing board to determine... [LB924]

SENATOR ASHFORD: And the other shift, which...and I remember this debate on the Micron bill, the other shift is that...a little bit of a shift is that so many of the TIF projects are retail, commercial-type of projects in Omaha, not a lot of industrial. This...the big deal about Micron at the time was is that this will bring those industrial-type projects into the...much more into the discussion about TIF and it makes it a relatively big deal. [LB924]

SENATOR MELLO: It does. And the only time...I should say, the only time the Redevelopment Act was utilized was during the redevelopment of the Ak-Sar-Ben area for First Data Resources in the sense of that bringing in those higher-wage jobs that were technology driven. And because of the technology within the First Data Resources complex, that was...helped pay off the TIF bonds. [LB924]

SENATOR ASHFORD: And that was done at that time as I recall. Okay. [LB924]

SENATOR MCGILL: Any other questions? I don't see any. [LB924]

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SENATOR MELLO: All right. Thank you. [LB924]

SENATOR MCGILL: Can I get a show of hands for how many people are here to testify on Senator Mello's bill? All right. A couple. I'll take the first supporter. And while you're walking up here, I'm going to read into the record a letter of support from the city of Lincoln. [LB924]

SENATOR ASHFORD: He only had to go across the street. [LB924]

SENATOR MCGILL: I know. Look at, Rick just puts in the extra effort to be here. We appreciate that. [LB924]

RICK CUNNINGHAM: Rick Cunningham, also known as Ricky, R-i-c-k-y C-u-n-n-i-n-g-h-a-m, city planning director for the city of Omaha, also sort of the chief...one of the chief economic development officers for the city working with the mayor who's the real chief. But, anyway, we do support this legislation. It will be another tool in our toolbox. And we can see a number of opportunities where we might be able to use them, both outside the city potentially and inside the city. Let me back up just a little bit. We find ourselves in an interesting situation, the city of Omaha. Time and time again when new companies are looking for sites in and around the city of Omaha for industrial development, we don't have them shovel ready. We just don't have them. So since I came on board, Mayor Suttle has come on board, we have begun looking at, where can we free up some ground, latch onto some ground, where does it make sense to create at least some sweet spot industrial sites. And our current airport business park, which has been a very successful industrial park, it is virtually full. There are a few sites, five, ten acres at the most. So we are looking at expanding that park hopefully, maybe. It's quite a bit of money. It's \$50 million, \$60 million, \$70 million to get 150 acres ready to go with just infrastructure and acquisition. And these sites would be up to a 40-acre site. One, we realize within the city coming up with something bigger than 40 acres is going to be tough. This particular site does have that, that we're looking at. We are looking at another site that is one landowner, which makes it more attractive because we don't have to negotiate with 50 landowners. It is vacant for the most part and is about 60 acres. And we can, you know, get 10, 15, 20, 25 acre lots there, four, depending on how it breaks down. That is about \$12 million to get that developed. So we probably wouldn't use this tool for that. We are thinking about TIF obviously for that and other ways to do that. But we do find ourselves in the position where we don't have 50-acre, 100-acre sites. And in order to do that, we would have to look outside of probably the city limits in order to be able to do that. There are a couple of locations and depends on whether it's rail ready or just truck sort of logistics and distribution type industrial park. So we certainly would like to use this tool in those locations. We did support the changes that...we do support the changes that Senator Mello has done to the bill. We think that it will make it an easier tool for us to use. Won't be easy, as we have found out with TIF, especially when we try to break new ground where we use the

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TIF. It's definitely not easy tool necessarily to use when people don't understand it, haven't been the beneficiary of the benefits, but it still would be a different tool in the toolbox. It wasn't there before because it sunsetted. [LB924]

SENATOR MCGILL: All right. [LB924]

RICK CUNNINGHAM: We do have some other instances, you know, when this passes that...you know, that might apply that have certainly the \$25 million and 125 jobs. So I would be very interested in being able to say, okay, let's get these tools out and evaluate which one would be the best for this investment, this company that's going to move their headquarters to Omaha or whatever the case might be, to be able then to say, what's the best tool for this project and this location. The interesting thing on property tax is that, you know, when you look at the whole value of the city versus property taxes, not that much. But there are certain industries where property tax, depending on how they count their equipment, could be a big component of a project. Heretofore, if it's not bolted down and part of the building, we don't count it in our TIF process. Okay. So it has to be bolted down, part of the building before we will count it. So it comes down to how they claim it on their income tax, whether it's bolted down. So this begins to give us some options, especially on an industry where a lot of their capital goes into equipment. You know, the building is just a building, but all the money is invested in that equipment that's covered by that building. So this tool does open up that as far as more potential revenue dropping off of a TIF. [LB924]

SENATOR MCGILL: All right. Senator Ashford, you have a question. [LB924]

SENATOR ASHFORD: Ricky, I mean, this is very, very big deal. This is a significant piece of legislation because not only are...looking back when Micron was done, there was a specific potential company to come in. But I'm familiar with the properties you're talking about. And if you can achieve putting those properties back in a...not only back but in the kind of position that you're talking about, that's a massively important thing to the city of Omaha, and especially the kinds of jobs that you're talking about. Those are the kinds of jobs that we were talking about yesterday in the Education Committee about training young people to...\$80,000 or \$90,000 a year jobs. That's what those industries provide. That's what Micron would have provided had it come to Nebraska at that time. Let me ask you this, just to clarify so we all understand. The personal property tax we're talking about is equipment that's brought into an industrial facility, correct? [LB924]

RICK CUNNINGHAM: It can be. [LB924]

SENATOR ASHFORD: That's what changes it. I mean, that's what makes it appealing is we're talking about computers, other...anything that's used in the production of their pricing. [LB924]

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RICK CUNNINGHAM: Absolutely. It can be a big chunk of money of a project where the building might only cost a million dollars but it could be \$5 million, \$10 million of equipment, could be personal property. [LB924]

SENATOR ASHFORD: Yeah, it's... [LB924]

RICK CUNNINGHAM: I mean, it depends on what you...how you decide that will give the industry a decision point. Are we going to claim this as personal property or are we going to claim it otherwise so it can be counted as... [LB924]

SENATOR ASHFORD: And the other good thing about it...Tim is here and he doesn't sound like he's going to testify, but I mean you can use new market tax credits and other tax credit types of facilities in order to add on to the local taxation incentives. [LB924]

RICK CUNNINGHAM: Well, in fact, we do that. Senator, you probably know. We collaboratively fund many, many of the projects we do in the city. I mean, TIF is usually at the table but we are also looking at our block grant funds and home and NIFA funds. I mean, there's hardly a project that gets done that isn't a collaborative funding mechanism. [LB924]

SENATOR ASHFORD: And the whole idea of building the Quest Center where we...not the whole but a bunch of the idea was to bridge over to those exact lots that you're talking about. I mean, by getting the riverfront going is to bridge over to those industrial lots that you're talking about. And that is a costly project, isn't it, because there aren't really enough...there's no real...I mean, you need a lot of infrastructure. [LB924]

RICK CUNNINGHAM: Absolutely. I mean, the reason we've picked the area that we're looking at is because the infrastructure does need work regardless of what goes there or stays there or whatever. The infrastructure is lacking and it is currently zoned properly and all that kind of stuff so we don't have to go through those heartaches. And in some cases on the couple of other smaller parcels, there's a single owner. So we're looking at short, medium, and long-term investments to get us those sites. I will just tell you that we...the state didn't lose an industry but the city of Omaha did just recently, and one of the reasons is because we didn't really have a site ready to go. We couldn't leverage that. And there were some other things that came into play and we need to solve those things from utilities and so forth. But one of the big reasons was we didn't have a piece of ground ready. [LB924]

SENATOR ASHFORD: Tell OPPD you'll go buy your power somewhere else. [LB924]

RICK CUNNINGHAM: You mentioned them, I didn't. (Laughter) [LB924]

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SENATOR ASHFORD: Thank you, Madam Chair. [LB924]

SENATOR MCGILL: All right. Are there any other questions? Senator Coash. [LB924]

SENATOR COASH: Thank you, Ricky. You mentioned that there were other instances where this might apply. Can you give me...is there an example that... [LB924]

RICK CUNNINGHAM: Well, I'm looking at the thresholds, you know, and we did suggest that the thresholds be brought down a little bit. I mean, the thresholds that are in there, that's a pretty big project. And I don't know that...how many of those projects, you know, are out there nowadays, but \$25 million, 150 jobs we thought was...and there is a project right now that's kind of...we're competing for--when I say "we" I mean the city of Omaha--that I think would qualify for it as far as the number of jobs and the investment. [LB924]

SENATOR COASH: If we brought it down or as is? [LB924]

RICK CUNNINGHAM: If we brought it down to these limits. [LB924]

SENATOR COASH: Brought it down to those limits. [LB924]

RICK CUNNINGHAM: Twenty-five million dollars, one hundred fifty jobs. I know that it's over 150 jobs, so. [LB924]

SENATOR COASH: Okay. Is it industrial? [LB924]

RICK CUNNINGHAM: In this case it wouldn't be industrial. [LB924]

SENATOR COASH: It would not. [LB924]

RICK CUNNINGHAM: No, it is not industrial, but it's a high-tech... [LB924]

SENATOR COASH: I guess you can't... [LB924]

RICK CUNNINGHAM: Yes. I cannot say anything else or I'd have to kill you if I did. [LB924]

SENATOR COASH: Fair enough. (Laughter) [LB924]

SENATOR MCGILL: That would be unfortunate. [LB924]

SENATOR ASHFORD: It's not OPPD. [LB924]

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RICK CUNNINGHAM: And it's not OPPD, no. This is not OPPD, no. [LB924]

SENATOR MCGILL: Any other questions? I don't see any. Thanks, Mr. Cunningham. [LB924]

RICK CUNNINGHAM: Thank you, again. [LB924]

SENATOR MCGILL: Next proponent. [LB924]

GARY KRUMLAND: Senator McGill, members of the committee, my name is Gary Krumland, G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities appearing in support of LB924. You heard both this year in the committee and over the interim how valuable TIF can be just in the normal use of the Community Development Act. And this takes that concept and targets it for larger qualifying businesses and includes both the state and local governments on it. We think this would be a very valuable tool. It's something that did sunset. We think it should be revived and be available for cities out there when they have the opportunity. I remember when...I was one of the couple of people here who were around when Micron happened and we had to scramble and get something enacted in order respond. I think it's very important when you have a potential large employer who wants to come in to have the tool available and be ready to use it rather than have to go to the Legislature and make the changes after the fact. And so this would be a very valuable tool and we do support the bill and the changes. [LB924]

SENATOR MCGILL: Thank you very much. Any questions? Thank you. Any more proponents we might have missed? Any opponents? Anyone here neutral? Okay. Seeing none, Senator Mello, would you like to close? [LB924]

SENATOR MELLO: Briefly, I'm trying to help out... [LB924]

SENATOR MCGILL: You don't have to, even though Senator Coash is coaxing you. [LB924]

SENATOR MELLO: ...trying to help Senator Coash here with some timing of issues. [LB924]

SENATOR ASHFORD: Maybe some jokes or... [LB924]

SENATOR MELLO: (Laughter) No, I think the legislation, as you heard from those who testified in support today, provides another tool to municipalities to help with our local economic development and primarily in areas that I represent, some the redevelopment opportunities in the eastern side of the city of Omaha. If there are changes...I would like

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to thank the committee, the committee counsel, for the interim study that we held this past fall, as well as helping us with changes in the bill. If there's any other changes that the committee would like to see, I'm more than willing to sit down and continue to discuss this legislation. Otherwise, I urge your advancement of it. [LB924]

SENATOR MCGILL: All right. Thank you, Senator Mello. [LB924]

SENATOR MELLO: Thank you. [LB924]

SENATOR ASHFORD: Would you consider this as a priority bill of yours? [LB924]

SENATOR MELLO: It is a potential priority bill of mine and I think it's a potential priority bill of a few other senators as well. [LB924]

SENATOR MCGILL: Any other questions? No. Thank you, Senator Mello. [LB924]

SENATOR MELLO: Thank you. [LB924]

SENATOR MCGILL: And that closes the hearing on LB924. And ready or not, Senator Coash can open on LB863. Senator Coash. [LB924]

SENATOR COASH: (Exhibit 4) Thank you. Well, good afternoon Chair McGill, fellow members of my Urban Affairs Committee. For the record, I am Colby Coash, C-o-l-b-y C-o-a-s-h and I represent District 27 right here in Lincoln and I'm here today to introduce LB863. As many of you know, I've carried a handful...I shouldn't say handful, I've supported and carried bills in the past couple of years that have to do with taking film and the production of film and trying to put it in a position to be more of an economic driver for our state. I have some experience with that and have learned quite a bit about how much of a driver it can be, even small projects. So I'll start with some background on the statutes that this particular bill amends. It amends Chapter 80, Section 2700, which is the Local Option Municipal Economic Development Act, also known as LB840. As displayed on the Department of Economic Development's Web site, LB840 was passed back in 1991 and it authorized incorporated cities and villages to collect and appropriate local tax dollars to qualified businesses if approved by the local voters for economic development purposes. To date, there are 55 communities that have voted to create such programs. And I have a list of these communities. I won't read them off. I will tell you that they vary across the state. There's some larger communities, some very small communities. Our largest communities here in the state have not found the need to take advantage of the LB840 program, but I will tell you that there are communities in the west, in the north, in the south, all over central Nebraska, and on the eastern side as well. Currently, statute defines such qualified businesses as those which conduct manufacturing, research, and development, production of goods and services for interstate commerce, headquartering of businesses, telecommunications, and tourism

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related services. LB863 would add to that list the production of films, including feature independent and documentary films, commercials, and television programs. I got this idea from an actual production that occurred in the Valentine area, of all places, and it's close to where I grew up so I followed it closely. There was an independent film that decided that that was the best area for them to produce in the film, their movie. And what they did is they went to that community and said, we need some help. What can you do for us? Well, Nebraska gives no tax incentives. That shift has been tried in this body several times. But the local business community and the local city council in Valentine got together and said, we have to do something, and we do have one of these LB840 programs. And what they did is, they said, we're going to talk to our business people and we're going to talk to the restaurants, and the hotels, and we're going to talk to the flower shop and catering companies, the one catering company in Valentine, and if they will agree to give this production company a little bit of a break on the front end, then what's going to happen is that they will then reimburse that business from those LB840 funds. So it was something that the city council decided that they would take advantage of. In talking with some of the leaders on that city council, although they did this, they felt fairly nervous that they didn't know it was specifically outlined in statute. Now, the DED police didn't come out and arrest them. (Laughter) But what we did...what they did say was, they would have felt more comfortable if it was a specifically outlined piece of legislation. And that's where this bill comes from. And I'm going to give to the committee a copy of the Ord Local Option Municipal Economic Development Program, after which many other communities modeled their own. In their plan, among the qualifying businesses are retail or any other business deemed as...and this is the important piece, qualifying business through future action of the Legislature. This language now means that communities would be able to market this incentive film and send it to the film company soon after it's signed into law. This is really a different approach. There's no fiscal note on this. This isn't state tax dollars. This is just an opportunity for the local communities to compete for this. As of today, 2011, 40 states and Puerto Rico have some sort of film incentive program. These are typically operated at the state level, but by adding film production to the qualified business under these LB840 funds, Nebraska can place itself among those states but will also stand in a very unique and highly marketable position for the following reasons: By structuring our incentives at the municipal level, we provide both film companies and our communities direct and immediate access to the economic benefits. For example, if these funds are administered through a revolving loan, the funds are spent directly in the community. The film project at Valentine was granted only a \$5,000 credit to spend in the community. But that \$5,000 investment yielded over \$40,000 in expenditures by the film company right in Valentine. Furthermore, our neighboring states of South Dakota, Iowa, and Kansas don't have anything as we sit here today. South Dakota, Iowa, Kansas, have nothing. What that means is that with our geographic location we can put ourselves one step ahead of those neighboring states and attract a vast number of projects that require some type of Great Plains type of setting. Lastly, film companies appreciate the streamline and simple structure of the LB840 funding distribution. While

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each community may distribute according to a formula of their own design, film companies have the opportunity to negotiate directly with those city councils and local economic development offices. The administrative hurdles of long applications, minimum in-state expenditures, local hire requirements, all the stuff I brought in my bill last year, (laughter) can be worked out at the local level according to the needs of the film and the wants and needs of the community. So I do urge your passage of this bill so Nebraska can now take its rightful place among states with film incentive projects. You may know or not that Nebraska does have a film office, which is a contracted position under the Department of Economic Development. Were this bill to pass, our film office will have a means to draw production companies to our state. Laurie Richards, I don't think could be here today, who is the director of our film office. She does a lot, but one of the things that she finds herself in a position of doing most frequently is taking calls from production companies from all over the country and all over the world and the first question that they're...that she is asked, and many times the last question that she is asked is, does Nebraska offer any type of film incentive for us to come and film in your state. She now says, no. If we pass this bill, what she will then be able to say is, well, our state doesn't offer anything at the state level but we have 55 communities in our state that have the ability to incent you to come and film in their communities and I can put you in touch with those folks and you can tell them what your needs are and negotiate with them if they're willing to use some of the funds that they have available on the front end to help you with that. Just by saying that you have something will keep the phone from being hung up by Laurie every time. Because when they don't hear that the conversation just doesn't go any further. They hang up and they call Colorado, is what happens. So we want to say that this is a small but critical missing piece of our economic development and ask you to look favorably upon that. I'll take any questions. [LB863]

SENATOR MCGILL: All right. Senator Ashford. [LB863]

SENATOR ASHFORD: What do you really think about this bill? (Laughter) [LB863]

SENATOR COASH: Well...this is important to me, Senator Ashford. [LB863]

SENATOR ASHFORD: No...Senator Lynch and I actually when we were here before we had the bill that started the film office and I think at that time we did have a state tax piece to it that went away or was never...wasn't funded. And you're absolutely right, I think, in giving it to local government. Similar to Senator Haar has a bill that talks about expanding turnback for tourism which is kind of on the same, kind of same theory letting local governments do it. I think it's a power idea. [LB863]

SENATOR COASH: Thank you. If you look at the list of these... [LB863]

SENATOR ASHFORD: Laurie is good. [LB863]

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SENATOR COASH: Laurie is great, but she doesn't have...I mean, she offers technical assistance, permitting, she'll work...she'll be the intermediary but she can't offer any money and she can't give any kind of program. And what we've got here if you look at these communities, they are...many of them are very similar. And for the purposes of making a film, one community may be just as good as the other, may have just as much a resource as the next. And frankly, this may incite a bidding war between communities to get them. And I'm going to hand you some newspaper articles for what they did in Valentine and some letters that we received that I want to have read into the record, saying this is a big deal for us. And we had a lot of money spent. I mean, the film that I mentioned spent \$40,000 there, or translated that \$5,000 development into \$40,000 worth of spending. By the way, they spent much more than that, but they took that \$5,000 and spent \$40,000 in addition to everything else they spent. But I really see the opportunity here to, you know, we'll put Cozad and Doniphan in a bidding war and we'll see which one will offer the best incentives and we'll let the locals do that. [LB863]

SENATOR ASHFORD: Doniphan has the racetrack. They have the track, Doniphan does. [LB863]

SENATOR MCGILL: Just to clarify in my mind so if a city has an LB840 already active, we change this law, it already...it just automatically becomes a part of that. They don't need to revote...a vote of the people again. [LB863]

SENATOR COASH: Senator McGill, that's a good question and the answer to that is, it depends. And I'm going to go ahead and give those...I'm going to go ahead and hand this out to you. The first part of this that we put together gives you an example of an LB840 plan. And some communities have set up their LB840 plan very broadly which could include this kind of a thing, and some have been kind of narrow. And if the original plan is too narrow, they may need to go back and say, okay, now we want to add this into it. But the model, Ord, Nebraska, seems to be the one that everybody...if you're doing it new, they try to emulate. And Ord made it broad enough that they wouldn't have to. But if another community had been fairly narrow in their drafting of their LB840 program, they made need to go to their local city council or the people and say, you know, we want to expand the definition so we can compete. [LB863]

SENATOR MCGILL: Now on the flip side, I guess then, if an Omaha or Lincoln that doesn't currently have a LB840 plan wanted to, they could put it up to a vote that was just for film productivity, or, you know, one of these localities that doesn't use it now wanted to. [LB863]

SENATOR COASH: That's true, they could. [LB863]

SENATOR MCGILL: Any other questions from the committee? Senator Smith. [LB863]

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SENATOR SMITH: Thank you, Madam Chair. Senator Coash, can you explain a little bit about the fiscal note. It looks like there's nothing there for the fiscal note because it just don't have enough information to... [LB863]

SENATOR COASH: Well, there's no fiscal note, Senator Smith, because this has no...if any money is spent, it will be spent at the local level. This spends no money at...you know, our Fiscal Office will tell you, if the state is going to spend any money, the state's not going to spend any money. There's no A bill to accompany this. What will happen is this is authoritative in nature to the local communities that already have these programs or will have them in the future, but they can spend it if they want to. So this, and it's the fiscal note that has been the killer of these bills in the past because, unfortunately, even though this is a high economic driving activity in tight economic times, it's just been difficult for us as a body to say, we're going to put film incentives and state tax money up against education or roads. My contingent has always been that it's just as good of an economic driver as what Senator Mello just brought with regard to jobs and activities, but we just needed to take another approach and that's how we came up with this particular bill. [LB863]

SENATOR SMITH: So I think it was very interesting (inaudible) there's a film office within the Department of Economic Development. Now if this legislation generates more activity in film industry, do you see that that would be affecting the role of that film office and the cost related to it? [LB863]

SENATOR COASH: I'd love to see the DED come in with a deficit request to say we got so many films coming to Nebraska, we need more than just Laurie to help us out. As it turns out with Senator Ashford's help start the film office so it was kind of a staying alone. Now it's a contracted position so it's kind of an as needed position how Laurie works into it. And down the road I'll be glad to carry that deficit appropriation bill because that would mean we need it and that would be a good thing for us. [LB863]

SENATOR SMITH: Thank you. [LB863]

SENATOR MCGILL: All right. Any other questions? I don't see any, thank you, Senator Coash. [LB863]

SENATOR COASH: Thank you. [LB863]

SENATOR MCGILL: And Mark Hoager, you are up first. We do have an order we're going to go through to accommodate some people's schedules and then open it up to anyone else here, but we'll start with Mark. [LB863]

MARK HOEGER: Hello, my name is Mark Hoeger, that's Mark with a k and Hoeger is

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strangely spelled H-o-e-g-e-r. I live in Omaha and I'm here officially representing the Nebraska Film Association as its president. It's an organization of about 300 members that represents a broad spectrum of people who are associated with this industry, both producers and directors and writers and actors and crew members and teamsters and a whole host of people that are involved in this business that are interested in trying to develop this industry here in Nebraska. I have testified on this perennially for many, many years and have...I don't want to go too much into the background, but there's three basic arguments about why film is an economic sector that many states, 40 states, have invested in. We are only one of ten that do not. And when they look at this, the reason is because it has three big influences. A huge influence on tourism. Having your city be seen is a...think about a city that you haven't been to but yet you have an image of what it's like, chances are that came with a film with a television show that you formed that image of what that community is going to be like. A huge factor in attracting young work force...young work force retention and also creating a creative class which is considered a hugely important part of economic development now. And that's just the direct economic impact of because there are jobs and the multipliers that take place with the money that's spent in that community. And I will testify that while this is a very modest proposal, it will have an impact on producers thinking. There's sort of three factors that go into picking a location for production. One is, is there some unique location or personality that's only available in that location? Equally important, is there the crew and infrastructure that can get the production done? And thirdly is, incentives have become a set part of it. Our problem...all the productions that have taken place in Nebraska have been because of that first factor. There's even been Chimney Rock or a favorite son like Alexander Payne have said, I just want to shoot here. We haven't been able to develop our infrastructure and our crews to the level...highest world-class levels because we don't have the incentives to attract people here. We have thousands of expatriate Nebraskans that are now successfully working in this industry in Chicago and in Vancouver and in Los Angeles and we'd like to keep them here and being involved. So I do think this is a great idea as a producer. I like the idea of being able to go in and have the flexibility to work directly with a local municipality, because sometimes it's not just money, it's also, will the police cooperate, is the high school available, can we shoot at an abandoned closed warehouse or whatever at that point, and you could work with the city very creatively along those lines. And I think in terms of accountability, this is fantastic because now you're working directly with the local community and people will know how this money is being spent and the real impact. So I think it's a very creative...and this is a trend that's actually happening across the country. You see more and more cities getting directly involved. And we've got some good testimony coming up so I don't want to spend too much of your time here, so happy to take any questions.  
[LB863]

SENATOR MCGILL: All right, thank you, Mark. Any questions for Mark? Senator Cook.  
[LB863]

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SENATOR COOK: Hi, Mark. I can't remember what...who you said you were representing? [LB863]

MARK HOEGER: The Nebraska Film Association. [LB863]

SENATOR COOK: Thank you. [LB863]

SENATOR MCGILL: All right, thank you very much for your continued support. Is Michelle here? There...here she is. Well, welcome. Go ahead and say and spell your name. [LB863]

MICHELLE SCHRAGE: (Exhibit 5) Hi. Good afternoon, my name is Michelle Schrage. I'm a board member of the Nebraska Film Association. Professionally, I've been a marketing and a business consultant for financial advisors for eight years. I work with the Principal Financial Group and I do consulting for advisors across the state of Nebraska. We have offices in Omaha, Bellevue, Lincoln, York, Grand Island, Seward, Kearney, Hastings, Holdrege, Scottsbluff, and Minden. I-80 and I are good friends. Well, I wouldn't say good friends. (Laugh) I've also been a part-time actress and producer for 12 years. I say part-time, of course, because while acting and producing is my passion and hobby, of course it's very difficult to make a living doing that here in Nebraska. But nonetheless, my friends and coworkers enjoy seeing me in Mrs. B's commercials, Nebraska Furniture Mart commercials, car commercials, and the like. I have also done several projects for NETV, as well as being involved in several feature-length independent films and some of the large movie productions that were made across the river in Iowa, including Up in the Air, but that was here in Omaha, or in...in Omaha, we're not in Omaha. If you aren't aware, the Nebraska Film Association really only formed a few years ago. Prior to that, there wasn't necessarily a formalized group that existed with the primary goal of bringing more film and commercial productions to the state of Nebraska. I became especially involved when I became a mother. My son turned seven last week, and I could no longer travel to California, Chicago, and Atlanta like I had for acting opportunities. It certainly didn't take long to realize that Nebraska is a bit behind the rest of the country in terms of establishing and cultivating the environment that welcomes and fosters film and commercial production. However, we do, in fact, have the talent and the desire and the resources to embrace and develop that industry here in our state. The film and commercial production industry is one that is really underserved in Nebraska. And it's an industry that's not only multibillion dollar industry, who wouldn't want a piece of that, but it's also for the most part green business. People come in with their resources, but a lot of times they utilize the existing resources, have their locals spend and leave. And so for argument sake, let's take a look at some of the other transient programs that we have in our state like the College World Series. The city of Omaha welcomes travelers from outside the city and state, embraces them, allows them to spend their money with our local establishments buying goods and services. And so not only is it a financial gain for the city, it also adds to the

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culture, brings excitement, unity, as well as publicity. And you can also think about the same with the Olympic swim trials, the Red Sky Music Festival, the Special Olympics that were held here in Lincoln recently. So that's really what we're looking at here with LB863, the opportunity for towns and cities across the state of Nebraska to determine if a film production is a good economic opportunity for their community. If so, they can establish what incentives they're willing to offer in order to have their production meet their local spend in their town. They can certainly do their due diligence and find out about the film, the details about production, maybe even get a heads up about who might be in the film production. Hi, Alexander. And I want to emphasize that this bill isn't just an incentive to be in front of the camera, it's about story telling, yes, it's about maybe creating commercials, but it's also about finding new ways to create revenue across our state digging up a whole new industry that we haven't even started to tap into. It's about getting Nebraska on the map as a place that welcomes creative talent and is proud to showcase our towns and work ethic. It's a way to have something to proactively promote to the rest of the country that speaks to the financial side of film and commercial productions. And before I end, I'd like to share with you some of the framework that we do have here in Nebraska already for sustaining and developing a strong film community in our state. The Omaha Film Festival is in it's seventh year and it's continuing to grow. Last year they got 400 films submitted from around the world and, you know, they bring in people from all over the state to come and enjoy. You've got Film Streams that Rachel Jacobson is really doing a tremendous job promoting film as an art form. Nebraska Independent Film Projects based out of Lincoln. The Nebraska Film Association, like Mark Hoeger said, we have over 300 people who are actively interested in pursuing this, young filmmakers in Nebraska. Film Studies Programs here. People that are teaching students to get into this as a profession. Metro Community College, UNL, the Johnny Carson School of Theater and Film, Creighton University. Omaha South High even has a film studies and production course, and the Omaha Film School. I'd also like to mention...Mark Hoeger alluded to it briefly, but the Nebraska Coast Connection, an association of people out in Los Angeles who are in the movie and television commercial business in L.A. who have ties to Nebraska. I've been out there a couple of times. I've met with them. In the past 20 years, they've had over 2,000 Nebraskans in association with the Nebraska Coast Connection. And when I talk to those folks they want to know what's going on in Nebraska? Are there any projects? Are there things going on there? We'd love to come home and work. So in conclusion, I hope you to find this an exciting step in the right direction. I know we'll all be eager to share with the rest of the state, as well as the country, not only Nebraska is a great place to live and visit, it's also a great place to spend your money making movies. Please vote favorably for LB863. [LB863]

SENATOR MCGILL: Thank you, Michelle. Are there any questions? I don't see any. Thank you very much. Next, Alexander Payne. Welcome. [LB863]

ALEXANDER PAYNE: Thank you. Welcome...yeah, thanks. I have a statement. My

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name is Alexander Payne, P-a-y-n-e and I welcome this opportunity to testify in support of LB863. An Omaha native, I'm a film writer, producer, and director who has made to date three feature films in Nebraska, Citizen Ruth, Election, and About Schmidt. I maintain residences in both Los Angeles and Omaha. My last feature film, Sideways, won an academy award and my current film, The Descendants, was recently nominated for five, including best picture. I mention this not to brag. My mother does plenty of that for me, (laughter) but perhaps to lend some authority to my testimony, and to my unique perspective on filmmaking in my home state how Nebraska could benefit from film production, and how currently it's making my own life difficult as I'm trying to bring my next film back to the state, I, so, long to portray on the big screen. LB863 would make film productions eligible for funding considerations under the Local Option Municipal Economic Development Act as you know. I understand there are 55 different municipalities across the state which distribute this type of funding. And I also understand that one enterprising community, in particular Valentine, enjoyed impressive economic success by granting subsidies to community vendors who in turn provided discounts to a film company shooting in their midst. Valentine's success doesn't have to remain exceptional. It can and should be replicated in all and other municipalities should their governing bodies be educated and empowered as to how to follow Valentine's example should they so choose. You will study the bill and understand its clever and unique features that empower these local municipalities to identify potentially sizable economic benefits should they be lucky enough to attract the interest of commercial and film producers in the first place. I was able to shoot three feature films in Omaha years ago before the proliferation and competitiveness of incentives, because Nebraska is a right-to-work state. In the intervening years, however, the clout of right-to-work states has completely vanished in favor of tax and other economic incentives. As you probably know, states such as Louisiana, North Carolina, New Mexico, and Michigan have famously lured millions and millions of dollars in film production through their aggressive incentive plans. Nebraska has to date sadly resisted even modest proposals such as the one in LB863. We would be hard-pressed to identify a state with a more conservative Governor and Legislature as our neighbor to the south, Kansas. But now even Kansas has seen fit to offer 20 percent tax incentives to film production. And for my own next film, I'm being pressured to shoot in Kansas instead of in Nebraska, and frankly I am hard-pressed to offer resistance. Shooting in Kansas would grant me more shooting days, which means more creativity and hence, a chance for a better film. The benefits to luring film productions snowball in interesting ways, both economic and cultural. When I brought my films to Omaha, millions were deposited into the local economy, in hotels, restaurants, caterers, rental cars, and vendors of all sorts. Just as important, my films provided work to enumerable Nebraska technicians, teamsters, and actors, thus providing on-the-job training for a pool of local talent whose presence is the other significant factor for attracting future productions. For when deciding whether to consider a given state for a project, filmmakers and film producers ask two simple questions: Are there economic incentives, and is there a local crew base so we don't have to bring in absolutely all crew members and pay hotel, rental car, and per diem.

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Clearly, these two items are linked. The more film production, because of incentives, the more the local crew base develops and grows. And let's not forget the many, both in-state and from out of state who file income tax forms in Nebraska as a result. I don't want to tell you how much I paid Hawaii last year for the six months I spent working in that fair state. And then there are the intangible and unpredictable potentially huge economic benefits. My film, Sideways, continues to this date to generate annually millions of dollars in tourism for Santa Barbara County, California. And in our own backyard, tourists flock to our neighbors, South Dakota, after Dances with Wolves, and to Iowa to see The Bridges of Madison County. Yes, these are admittedly rare and lucky examples, but it just takes one. And as always in life, luck favors the most prepared. One final consideration, our goal as Nebraskans is not simply to attract outside film production dollars, but to develop our own Nebraska culture, our film culture, and to support local film production, both artistic and commercial. We're talking about locals now. For example, as you may know, Nebraska boasts many Fortune 500 companies, but the TV commercials they finance are shot out of state. Why? In no small part because there are no incentives in their home state. And on the artistic side, I am currently the famous Nebraska film director, but I wish to see others follow in my footsteps. God help them. (Laughter) And continue to portray our beloved state for the rest of the country and the world to see. Without any incentives in place at all, this will remain next to impossible. Last but not least, everybody loves movies. Michelle talked about that how it's flowering among the young people in the schools and at film streams and we Nebraskans now enjoy sensational cultural opportunities in opera, symphony, ballet, theater, and art. Film remains the missing element. It's crucial to have something in place here, even something modest where filmmaking both from outside and homegrown has no chance in Nebraska, the state that produced Darryl Zanuck, Henry Fonda, Fred Astaire, Marlon Brando, Harold Lloyd, Dorothy McGuire, a classmate of my Dad's, and Montgomery Cliff. No one is asking for a program that threatens to lose money. If only revenue neutral, the benefits will come and come and come, and besides, it's just the cool thing to do. (Laughter) [LB863]

SENATOR MCGILL: I concur, Mr. Payne. Thank you for your commitment to Nebraska in trying to bring your business back here and to share the wonders of Nebraska through the art of film. Are there any questions? Senator Cook. [LB863]

SENATOR COOK: Thank you, Madam Chair. And thank you, Mr. Payne, for coming out this afternoon. [LB863]

ALEXANDER PAYNE: You're welcome, Senator Cook. [LB863]

SENATOR COOK: I have a question and perhaps I've asked you this before in another context. But just for the record, we've had proposals like this one before and they haven't made it very far. I don't know if we've even had one make it out of committee since you had the one for the film commission, Senator Ashford. [LB863]

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SENATOR MCGILL: We did. We had one by first year in 2007 on the floor. [LB863]

SENATOR COOK: Thank you. What would you say to those who might be thinking, we don't want those Hollywood types here in Nebraska? [LB863]

ALEXANDER PAYNE: Well, I would obviously accuse them of horrific prejudice. (Laughter) [LB863]

SENATOR COOK: Say more about that, Mr. Payne. [LB863]

ALEXANDER PAYNE: And I would potentially reread paragraphs of my statement, particularly the part about fomenting local filmmakers and local commercial film production. [LB863]

SENATOR COOK: All right. Thank you very much. [LB863]

ALEXANDER PAYNE: And I would ask them to say, what do our counterparts in Kansas see that we don't see. [LB863]

SENATOR COOK: Perhaps, what's the matter with Nebraska instead of what's the matter with Kansas? Congratulations on your award and on your nominations. Good luck. [LB863]

ALEXANDER PAYNE: Thank you, Senator. [LB863]

SENATOR ASHFORD: Senator Smith. [LB863]

SENATOR MCGILL: Senator Smith, you have a question? [LB863]

SENATOR SMITH: Thank you, Madam Chair. Mr. Payne, thank you again for your investments in Nebraska. We appreciate that very much and for coming and speaking today. Related to this bill, is this enough? Is this enough for us to get a piece of that pie? I heard you talking about Kansas and the interest in filming in Kansas because of some incentives there. How would this cause us to rank in comparison to some of those states that would be potential competitors for us? [LB863]

ALEXANDER PAYNE: I suspect it would still be low, but it's at least something. And my thought about Nebraska because the Governor...the current Governor and the Legislature has so far resisted it, anything at all and they've...what they've been getting is 100 percent of zero, then I was just hoping that even a modest proposal would open the door, we would see how that goes, and in a future year we'd say, you know what, this has done X, Y, Z, why don't we try expanding a little bit more, open the door,

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because we have been very conservator. Our state has been having budgetary problems, as we all know. There's a lot of hesitation about starting something new. I totally get it. We don't want to lose any money. And that's why I was hoping that Senator Coash's bill would just crack the door open, we'd see how it does, and then expand from there. But no, it's not an aggressive measure at all. [LB863]

SENATOR SMITH: Thank you. [LB863]

SENATOR MCGILL: Right. Thank you. And Senator Ashford. [LB863]

SENATOR ASHFORD: Spoken like a real legislator. You should think about. (Laughter) But, I've always wanted to say this. I grew up at your grandparents' restaurant and your father... [LB863]

ALEXANDER PAYNE: Are you from the Nebraska furniture clothing...the Nebraska Clothing Ashfords, yep. [LB863]

SENATOR ASHFORD: Nebraska Clothing around the corner I spent...and the greatest place to ever go was the Virginia Cafe because it had two sides to it. It had the bright side and the darker side and so maybe that's a metaphor for something. (Laughter) [LB863]

ALEXANDER PAYNE: It's a metaphor for everything, Senator Ashford. [LB863]

SENATOR ASHFORD: Thank you. [LB863]

ALEXANDER PAYNE: Yeah, thank you. [LB863]

SENATOR MCGILL: And thank you. I don't see any more questions. [LB863]

ALEXANDER PAYNE: Okay. [LB863]

SENATOR MCGILL: Thank you very much and good luck in your next endeavors. [LB863]

ALEXANDER PAYNE: And good luck to you all. [LB863]

SENATOR MCGILL: Next...is John here? No? Or is he...he's hiding in the back. Wonderful. Come on up. [LB863]

JOHN BEASLEY: Good afternoon. [LB863]

SENATOR MCGILL: Welcome. [LB863]

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JOHN BEASLEY: My name is John Beasley, B-e-a-s-l-e-y. You know, Alexander has made my job a lot easier. I don't know how much I could add to that. I'm representing West Omaha Films. The project that we're working on currently is the Marlin Briscoe story, first black quarterback. We've hired the writer of...Greg Howard, who wrote Remember the Titans, to do the screenplay and we have the screenplay in place. And we just formed a partnership with Barry Jorgenson (phonetic) who is past-president of Columbia Films. Ours is a modest \$12.5 million budget and we want to shoot in Omaha because it's a uniquely Omaha, Nebraska story and...but our investors insist that we, you know, make our money go as far as it can go and so we're looking at places like Michigan, and Louisiana. I've worked on over 40 films and am currently a regular on a new TV series called Have Faith. It's a half-an-hour sitcom that's a spin-off from Hot in Cleveland with Betty White for TV Land. They just bought 12 episodes. And having said that, I've worked in Louisiana quite a bit and the last time down there I was working on a series called Treme for HBO and at that time there was at least 75 films being in production or all ready to go into production down there in Louisiana. I did a series out in Michigan where the tax incentive is about 40 percent, I believe now. I've worked in New Mexico, Vancouver, where a lot of the films went after I initially got in the business. We would love to work here in Nebraska, but the incentive...I'm here speaking on behalf of Senator Coash's bill because I think it's a beginning, it's a start. And as Mr. Payne said, it's a beginning and I would...I'm here in full support of that. [LB863]

SENATOR MCGILL: Any questions? Senator Ashford. [LB863]

SENATOR ASHFORD: John, is it... [LB863]

JOHN BEASLEY: Senator Ashford, how are you? (Laughter) [LB863]

SENATOR ASHFORD: For the record. I mean, I just thank you for all you've done for children and young people in Nebraska, especially with the John Beasley Theater and working with...I was running OHA and you were teaching classes to young people in poverty all the time, you and your sons, and everything you've done is really a great story in and of itself. So I just want you to know how much we appreciate it. [LB863]

JOHN BEASLEY: I appreciate that. The Senator started because of my work with the kids in OHA and we're in our 12th year and if any of you have any extra money, (laughter) we can always use some. [LB863]

SENATOR COOK: We might be the wrong crowd to ask for money. (Laughter) [LB863]

JOHN BEASLEY: Thank you for all the work you've done on this. [LB863]

SENATOR ASHFORD: No, but it really is miraculous what you did with those kids, so,

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thank you. [LB863]

JOHN BEASLEY: Thank you, sir. [LB863]

SENATOR MCGILL: Thank you. I don't see any other questions. Thank you very much for coming today. [LB863]

JOHN BEASLEY: Thank you. [LB863]

SENATOR MCGILL: Is Scott here? There he is. [LB863]

SCOTT UTECH: (Exhibit 6) Good afternoon, members of the committee. My name is Scott Utech, U-t-e-c-h, and I serve as the director of organizing for Teamsters Local Union #554 in Omaha. On behalf of the Teamsters, I must voice our strong support for LB863, a bill, which if passed, would include film production under the Local Option Municipal Economic Development Act, or LOMED. As you know, our organization's membership contains countless talented, highly-skilled professionals who would thrive in the film and television industry. The film and television production industry is a high-wage, labor intensive industry that employs skilled workers like the ones our union represents. Most importantly, a great number of them are technicians and professionals who would prefer the opportunity to work here locally in their home state. As written, LB863 is a bill that makes Nebraska a more competitive option for promoting more film projects in this state. Nebraskans can bring a strong work ethic to these future projects, and we feel that, along with the right local, city-funded economic development programs, this work ethic can become a natural selling point for film producers who are scouting locations in Nebraska. As a union representing thousands of workers, we are fully behind this bill and will monitor its progress with great enthusiasm through its passage. Furthermore, we want to make sure that we are giving Nebraska resident film crews the reasonable focus of this bill. Through the local incentives mapped out in LB863, each city in Nebraska that has established a local economic development fund would be free to set up its own film incentives, and even negotiate directly with film project producers on a case-by-case basis. All the while, there is no cost to the state of Nebraska because these are city-run programs and are the same local incentives already offered to other industries, incentives paid directly by the individual cities and villages. In closing, the Teamsters support this bill and we would like to thank Senator Colby Coash for introducing it. At this time, we urge Senator McGill and the distinguished members of this committee to give this bill proper opportunity for floor debate that it deserves. [LB863]

SENATOR MCGILL: Thank you, Scott. Are there any questions? Thank you very much. [LB863]

SCOTT UTECH: Thank you. [LB863]

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SENATOR MCGILL: Jamie. Hello. [LB863]

JAMIE VESAY: Hi. Thanks for the opportunity. My name is Jamie Vesay, it's V-e-s-a-y. First name is J-a-m-i-e, and I'm a location scout and location manager and production coordinator within the film industry. I make my living here in Nebraska doing it. I do locations and logistics. Basically, when a project is come to fruition, and they need it to happen, starting out with a location, take it from there and throughout. Everything from finding a location and working out the logistics of a location with the community, city, government, sometimes. Everything from safety to where the crew is going to park and go to the bathroom. I'm also in a position sometimes to hire local crew for the production. And as has been said, we do have a crew here but it could be bigger and better. That improves with the work that comes. I also want to say, too, that this is ultimately about filmmaking and filmmaking also includes the production of national commercials, music videos, and other stuff that puts pictures to motion. Recently, most recently, I had the opportunity to work on a Prilosec commercial with Larry the Cable Guy. You may have seen it nationally, shot here in Lincoln. Mr. Larry the Cable Guy insisted on everybody coming here, so it was a nice little kick to the local economy when that happened. Previous to that, I was involved with the Lady Gaga music video which I have stories, (laughter) but I can tell you a lot of people came here and they hired a lot of people to work on it. It was a hot three days in the summer but it was a significant amount of money. Add five, ten more of those projects and we could be busy when we're not working on the next Alexander Payne book. The other thing is with the national commercials, the national commercials spend a lot of money too. We're talking about some key people that do come in but most often they look for the local crew as well. They come here for either an iconic image. Certainly there is the cliches of the barn and the farm. That's one of my number one calls. However, I want them to come for more for the downtown Lincoln, the downtown Omaha, the stadium, anything like that. As a location guy, I'm kind of a guide, a bit of an ambassador by default. And I love showing off the state to people, especially people from the East and West Coast who...that's where I'm from and I was admittedly part of that cliché but when they come here, they're pleasantly surprised. When they do come here and they have a great experience, they come back. And that's a whole other thing. It's a long-term thing. As my colleagues have said, this is at least something. Right now in a position of telling people we have nothing, and after the embarrassment, it's just not good for business. [LB863]

SENATOR MCGILL: It is embarrassing, in my opinion, so thank you for saying that. Any questions? Senator Smith. [LB863]

SENATOR SMITH: Thank you, Madam Chair. And Mr. Vesay, thank you for coming and speaking today. And that Lady Gaga video, although it was a hot summer day, it was in a great county of Sarpy. (Laughter) And we're glad to have you... [LB863]

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JAMIE VESAY: Do I say you're welcome or...? (Laughter) [LB863]

SENATOR SMITH: Whenever these folks come and they inquire of the locations, how often does the incentive come up? And tell me a little bit more about how important that is to making the decision. [LB863]

JAMIE VESAY: The first thing is, what we don't know is, how many people that don't call or don't send e-mail because there's on-line data available that they can go to a Web site and find out who has incentives. So those are out there. The ones that do call will sometimes get caught up when they creative, which is exciting, and then they'll say, oh, by the way, what do you guys have? Well, we have nothing. And usually the reaction is, nothing, like nada, like zero? Yes. Sometimes they hang up, sometimes they press on. I can tell you that more and more and more of the national commercials now are asking. One time they did not. The movies ask all the time, for sure. But I'm, sometimes, the first person they'll call if they're not calling the film office or other. But I'm sometimes that gatekeeper that will have to give them that news. There are some projects out there medium to lower budgets that they're not even going to look at the incentive for whatever reason is in their business model. I don't bring it up. [LB863]

SENATOR SMITH: So at the very least, this is a threshold for saying, we're open for business with the film industry. [LB863]

JAMIE VESAY: Absolutely. It's that, as we said, that crack in the door. And especially with something like this that's revenue neutral, that it's fantastic. This is, in my opinion, the best, newest opportunity for this state to at least get into discussion. And that's the problem, we're not in discussion. When something is scripted or boarded, storyboarded that might look like what we have here, the facts is they're looking from Canada to Texas and going down the list and seeing where the best deal is. However, if they get to where they're comparing one and two that is a comparable deal, they'll also go where it feels good to go. And that's in the crew, that's in the people, that's in the amenities, that's in the support services offered. That's what we want to do. [LB863]

SENATOR SMITH: Thank you. [LB863]

SENATOR MCGILL: All right. Any other questions? No? Thank you very much. [LB863]

JAMIE VESAY: Thank you very much. [LB863]

SENATOR MCGILL: Is there anyone else here to testify? [LB863]

LYNN REX: (Exhibits 7 and 8) Senator McGill, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities, and we

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certainly appreciate Senator Coash introducing this important piece of legislation. What I'm handing out to you are two handouts. One represents the municipalities that have already adopted an LB840 program. And since Senator Coash looked at the last Web site, there are now 59 municipalities with local option sales tax. And some of those are quite recent. In addition to that, I'm also handing out to you the 194 municipalities with a local option sales tax. And the reason why that is so critically important is because local option sales tax is the way in which 53 of the 54 municipalities have funded their local option program. That's important. We're looking at 54 municipalities that virtually have used half cents sales tax options. In one case a full set to develop this program. And as you may remember, Senator Ashford was here, I think, the first time when LR11CA was passed by the Legislature and placed on the ballot. And the reason why it's called LB840 is because the first bill number for the enabling legislation was LB840 which came out of this committee. So this committee has had a long history with this particular piece of legislation. I think it's important to note the tremendous work that has been done by our localities across the state. We've had cities like Grand Island that have basically authorized \$750,000 annually to be put into their LB840 program. Cities all across the state that are noted here from the east to the west, the north to the south, that basically have embraced this. And I can assure you there's not one of them that wouldn't be willing to work with the film industry. They would embrace any opportunity to do so. I do know that some of them would probably have to change the way in which they presented their local option program, but I'm sure that they would be willing to do that and I'm sure they'd get voter approval. In addition, I will tell you many of these cities are already maxed out. Of the 194 cities with local option sales tax, they're already maxed out. So the municipalities like Omaha, Lincoln, North Platte, Bellevue, and others, if you look in the upper right-hand corner, you will note that 86 of the 194 are already at the maximum 1.5 percent. And that's why this bill interfaces so nicely with two measures that Senator Ashford has in, LB357, which is on Select File, to allow cities to have an extra half cent local option sales tax, and LB956 which is going to be before the Revenue Committee. [LB863]

SENATOR ASHFORD: Just keep fighting. [LB863]

LYNN REX: With all seriousness, this is really important because the reason why Lincoln and Omaha are not in a position to do this at this time is because they are maxed out at their capacity. Those two bills interfacing will allow cities all across the state to basically have more LB840 programs. One of the many reasons why we're supporting Senator Ashford's bills relate to the fact that the cities that have come to us, that are already maxed out at the maximum 1.5 percent, are saying they would like to do a LB840 program. This is critically important to them. And, of course, another thing that has come to play through this committee also, is AM1 that was passed by the voters in November, 2010. That is an amendment that basically expanded the uses and the way in which LB840 programs can be paid for. Right now...and unfortunately the handout, this came off the DED's Web site, and the handout is not totally accurate

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because it still limits the funding of LB840 programs to property and sales tax, but I would...rest assured, that there are cities already that are taking advantage of AM1 in allowing grants, donations, all sorts of funding sources to be used to fund an LB840 that previously could not have been used, including utility-related funds for these sorts of things. We think this is very important. This language that Senator Coash has put together in this bill will make it expressly clear the municipalities have this authority. That's important, so you don't have to deal with the referendum or anything like that. And I can assure you, this will be broadly received and widely received by cities across the state of Nebraska and we strongly encourage you to support it. I'd be happy to respond to any questions that you might have. [LB863]

SENATOR MCGILL: So, Lynn, say we pass Senator Ashford's legislation and Lincoln wanted to put that...pass that on the ballot, they could also at that same ballot time put an LB840 question on the ballot and perhaps...? Okay. [LB863]

LYNN REX: Yes. As an example, the way that Senator Ashford's bill would work, is not only it's a half percent but it would be a quarter percent. So let's say that you might have a city that wants to have a quarter percent of their funds for an LB840 program. In Lincoln, that would raise roughly about \$8 million. In Omaha, that would raise roughly between \$22 million and \$23 million for a quarter percent. And...so they could dedicate that and they could have a LB840 program. The way that an LB840 program works is very similar to the way in which a municipal budget is adopted. So first, you'd have to present what the plan is and those are pretty detailed. And Senator Coash is exactly right, the cities that have done it...most recently the cities that have adopted these have a very broad perspective in terms of what they outline to the voters. So they walk through the kinds of things that they're prepared to do in terms of what the voters will allow them to do. In other words, we want to do loans, we want to do grants, we want to do incentives for films, they outline what they want to do. Once they've had a hearing on that, then that becomes the plan. Once it's adopted by the voters, they are bound by that. So some of the municipalities that adopted the very first LB840 programs probably need to go back and revisit that. And Senator, I don't know when Plattsmouth adopted your LB840. I'm sure it was probably when you were mayor or on the council. [LB863]

SENATOR LAMBERT: A number of years ago, yes. [LB863]

LYNN REX: So there sure have been cities all across the state that would be able to utilize this, but Lincoln and Omaha could be huge players with an LB840 program. And I know that there have been discussion with Lincoln, not specifically relative to the film industry, but specifically with respect to an LB840 program. [LB863]

SENATOR ASHFORD: And you could match it with private dollars under LB1 (sic) or under... [LB863]

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LYNN REX: Absolutely. Absolutely. And now because of AM1, we can take donations, we can take grants, we can take other sorts of things to help fund these programs, and this would be a huge thing for Nebraska. And quite frankly, I think that this bill can do more for the film industry than other states have done with their tax incentives. [LB863]

SENATOR MCGILL: All right. Any questions? Senator Smith. [LB863]

SENATOR SMITH: Thank you, Madam Chair. And thank you for coming and speaking on behalf of this. I think economic development is always very important. We need to do everything we can to continue to promote that. This is not necessarily a question because I know it's somewhat of a political nature right now, but there's also a move afoot to merge the Department of Economic Development in with the Department of Labor and, I guess, we're just seeing how important economic development is for our state just as some of the testimony here today. And my only concerns are that that merger, there's potential there for reducing the relevance, the prominence and the strength of the Department of Economic Development. So I don't know if you want to comment on that at this particular time since you commented on some of Senator Ashford's bills, but any particular thought on that? [LB863]

LYNN REX: No, Senator Ashford's bills, both of them, are our highest priority, and this one is right up there as well. Senator Coash's bill is up there as well too. With respect to the merger of the Department of Economic Development and the Department of Labor, the League Executive Board has no position on that. My personal opinion is, it all depends on how it is done because certainly the Department of Economic Development is a driving force in this state and they're able to partner with localities and with others to help partner and do other things. But I think it's how it's done. I think it would be, not a good thing if the role and the mission of the Department of Economic Development is diminished. I think it has to maintain as a very strong role for sure. [LB863]

SENATOR SMITH: Thank you, Ms. Rex, for your testimony. Appreciate it very much. [LB863]

LYNN REX: You're welcome. Thank you for your question. [LB863]

SENATOR MCGILL: All right. Any other questions? If not, thank you, Lynn. Thank you very much. [LB863]

LYNN REX: Thank you. Thank you very much. [LB863]

SENATOR MCGILL: Is there anyone else here to testify in favor of this bill? I have a few letters to read into the record from people who couldn't be here, including a letter of support from the city of Lincoln; one from Janine Holmes from Valentine; Mike Burge, also from the Valentine area, economic development department or the executive

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director of that; and Caleb Pollard, an executive director of Valley County Economic Development. With that, is there anyone here opposed to this legislation? Anyone here neutral? Senator Coash, would you like to close? [LB863]

SENATOR COASH: Well, thank you, committee members. As Alexander Payne said, this is a cool thing and I honestly don't see a down side to it. Just to kind of put it in perspective, we've got states that are doing a lot, we have states that are doing nothing, and all of a sudden with this bill, we go into the states that are doing something. And it's a big...this will work for big productions. This will work for smaller productions. There's nothing like this and we can do this. And I know the testifiers have provided you with a lot of helpful information regarding the positive impact this bill would have on our state. And I want to close this hearing by clearly illustrating how this would work in a practical sense here in our local communities. And the example that I want to use, and I know it's in your packet, was the film that we referenced in Valentine. In 2011, the Valentine City Council granted \$5,000 in LB840 funds to The Aviation Cocktail film crew for expenditures on catering, transportation, and lodging. However, the funds were paid to the local businesses and not to the production company. This mechanism effectively served as a \$5,000 discount to the crew. And that \$5,000 investment in local business was able to bring the film crew who then spent between \$40,000 and \$50,000 in Valentine. This was a small production. Mr. Beasley mentioned quite big...a lot bigger production. I provide you with the red folder that includes some press about the operation and also includes some support letters from those who were involved. I believe these quotes can say more than I ever could about the benefits of allowing communities the option of giving these funds to their film productions. This is a quote: "Aside from the beautiful backdrop of the Nebraska Sandhills, it was the overwhelming support of the city of Valentine and its residents that brought us from our home state of Colorado. Without this credit The Aviation Cocktail would have been a much different movie and most likely shot in and around the Denver area. More than ten people were cast locally and over 150 extras came out in support. We plan to work with the city of Valentine to promote their arts and entertainment industry. We plan to credit them in the film, link them on our Web site, as well as return to the Valentine area for future film projects." That's a quote from the producers of that movie. Not only did it build exciting hometown memories, it also added a financial boost to our economy. They supported local hotels, restaurants, gas stations, coffee shops, and many other local businesses. Several persons were hired and paid for their work. That was from Janine Holmes who owned the flower exchange in Valentine. What a boost to our economy and have people like this come in, Cindy Monroe said, who was an extra in the film. And from the radio in Valentine, it was quoted...there was a quote saying, "the movie production company was brought to Valentine with two main goals. One, create an influx of money into the local economy. And two, to create publicity for that community. It was anticipated that the crew of about 28 people would spend about \$50,000 while in the community. Current figures from the State Department of Revenue indicate that the money spent will turn over seven times in that local economy. This would relate to an economic

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impact of approximately \$350,000 for the Valentine area. We are now in discussions with the same film company for a return to the area to film another movie with a much larger budget. We've also been approached by another production company inquiring if we could find locations for them to shoot a movie." And lastly, film companies appreciate the streamlined and simple structure of LB840 fund distribution. While each community may distribute according to a formula of their design, film companies have the opportunity to negotiate directly with city councils and local development offices. The administrative hurdles of long applications, minimum state expenditures, local hire requirements can be worked out to the needs of that community. So I will leave that to our good judgment. And say publicly, I want thank-you's to all the folks who came up and testified. I think it went very well. [LB863]

SENATOR MCGILL: Wonderful. Any questions? Not seeing any, thank you very much and that ends our hearing for the day. (See also Exhibit 9) [LB863]