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Transcriber's Office

Executive Board Committee  
February 05, 2016

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[LB1022 LB1102]

The Executive Board of the Legislative Council met at 12:00 p.m. on Friday, February 5, 2016, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1102 and LB1022. Senators present: Bob Krist, Chairperson; Dan Watermeier, Vice Chairperson; Kathy Campbell; Ernie Chambers; Colby Coash; Galen Hadley; Dan Hughes; Tyson Larson; Heath Mello; and John Murante. Senators absent: None.

SENATOR KRIST: Welcome to the Executive Board Committee hearing, 5 February. Our agenda is going to swap a little bit. Instead of LB1022 first, we're going to go to LB1102, Senator Davis, authorizing...authorize a legislative performance audit of tax increment financing projects. And then we will go to LB1022, which is Senator Watermeier, change provisions relating to the Office of Legislative Audit. Welcome. We'll start with introductions. We can start over here on our left-hand side, please, my left.

SENATOR HUGHES: Dan Hughes, District 44, ten counties in southwest Nebraska.

SENATOR COASH: Colby Coash, Lincoln.

SENATOR MURANTE: John Murante, District 49, Gretna and northwest Sarpy County.

SENATOR CAMPBELL: Kathy Campbell, District 25, east Lincoln.

BETH DINNEEN: Beth Dinneen, committee clerk.

SENATOR KRIST: Bob Krist, District 10.

JANICE SATRA: Janice Satra, legal counsel.

SENATOR WATERMEIER: Dan Watermeier, District 1, Syracuse.

SENATOR CHAMBERS: Ernie Chambers, District 11.

SENATOR HADLEY: Galen Hadley, District 37.

SENATOR LARSON: Tyson Larson, District 40.

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

Executive Board Committee  
February 05, 2016

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SENATOR KRIST: And Senator Mello will be with us in just about ten minutes. If you plan to testify, please fill out one of our sheets located right outside the door. When you come up to testify, please spell and say your name for the transcriber so they understand. We will be using lights today. We're using five minutes. When the green light comes on you have five when you start. When the amber light comes on, you're down to one minute. And when the red light comes on, please stop and be respectful of those behind you that they have the same amount of time. I think that's it for the housekeeping, so let's start with LB1102. Senator Davis, welcome. [LB1102]

SENATOR DAVIS: Thank you, Senator Krist, members of the Executive Board. My name is Al Davis, A-l D-a-v-i-s. I'm from District 43 and I'm here today introducing LB1102, a bill that would authorize the Legislative Performance Audit Committee to perform audits on tax increment financing projects. Very simply, there appears to be no general oversight of tax increment financing projects, commonly referred to as TIF projects, at the state level. While TIF projects are basically functions at the city level, the impact of this project is felt, for example, on school district budgets and on the state through the TEEOSA formula where additional revenue has to be put in to accommodate TIF projects in some cities. These shortfalls at the school level then have an impact both on the county and the state and ultimately the impact can be to the property taxes and a burden on the other taxpayers. As you are probably aware, TIF projects are directed at blighted areas that, but for TIF, would not be developed. Both of these basic tests are subject to wide levels of interpretation and, quite frankly, I believe can constitute abuse in some cases. This is why I believe that the Legislature should have some capacity by which to review TIF projects to at least have a head's up on practices in place that may have a negative impact on our own fiscal responsibilities. Let me assure you that I understand that this really isn't about enforcement or policing of TIF projects. Rather, we should have better data and anecdotal evidence by which to create laws for the appropriate application of TIF to potential projects. I have not included in this bill any directives for the committee to...committee in conducting the audits. I believe that the current law stating performance audits may have a variety of objectives, including the assessment of the program's effectiveness and results, economy and efficiency, internal control and compliance with legal or other requirements is sufficient. With that, I ask that you support advancement of LB1102 to the floor. I am available for questions, but I probably won't remain for closing because we do have a Retirement Committee meeting going on at the present time. [LB1102]

SENATOR KRIST: Okay, thank you, Senator. Any questions? Senator Hadley. [LB1102]

SENATOR HADLEY: Thank you, Senator Davis. It's your view that they would...the performance audit would be on the whole concept of TIF or would it look at individual projects that have been authorized for TIF or kind of the scope of what you expect the performance audit to look at. [LB1102]

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

Executive Board Committee  
February 05, 2016

---

SENATOR DAVIS: Well, I think the committee should have the ability to do both, but obviously the law was put in place for regeneration of blighted areas. It isn't used in that way across the state anymore. When a developer comes to a city council and talks about the use of TIF, the city council in many respects has no one else to rely on. And obviously there are things that they're supposed to report and do. I think that the Legislature, because of the obligation that we have for school finance, should at least have an ability to look into projects to see if they're being conducted properly or if we've strayed from the original language of the bill. [LB1102]

SENATOR HADLEY: On an individual... [LB1102]

SENATOR DAVIS: Yes. [LB1102]

SENATOR HADLEY: ...project basis rather than just a concept. [LB1102]

SENATOR DAVIS: Yes. [LB1102]

SENATOR HADLEY: Okay. [LB1102]

SENATOR KRIST: Thank you, Senator Hadley. Senator Coash. [LB1102]

SENATOR COASH: Thank you, Senator Krist. Senator Davis, following along Senator Hadley's question here, we have hundreds of TIF projects across the state and I agree with--I was listening carefully to your opening statement--the Legislature getting a handle on kind of overall the impact that has, you know, particularly as it pertains to our obligations of school funding. That's something I can get on board with. But I would think you would need to do more than one sample of a TIF project in order to get that broad analysis in order for the Legislature to have anything useful to do with that. And so I'm just wondering...I think we...this isn't like going into one agency. You'd have to go in and do a bunch of TIF analysis in order to get that broad look. That broad look I think--I'm kind of thinking out loud--could maybe be accomplished through a different means like a task force or something like that because I think what you're trying to do is a good idea, get our hands around this. I'm just not sure if going in individual projects is the way to go. [LB1102]

SENATOR DAVIS: So, you know, the way the bill is crafted, and it's not restricted to individual projects but...and I...my speculation would be that the committee, once they decided to take on TIF as a project, would probably look at a big scope. There may be specific projects that are triggers. They should have the ability to look into those specifically. But obviously it's a decision that the Legislature made many years ago and for good purposes. If it's not being used the way it

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

Executive Board Committee  
February 05, 2016

---

was done for and there's no ability for the Legislature to go back in and look at it, we need to give them the option. [LB1102]

SENATOR COASH: It's my understanding, and I'm sure somebody will testify and correct me if I'm wrong, but most of the information on a project, wherever it's done, can be retrieved. In other words, what the city council looked at, what they approved, the outcomes, the numbers, all of those things can be achieved. I've served on Urban Affairs for eight years now and we talk about TIF all the time. [LB1102]

SENATOR DAVIS: All the time. [LB1102]

SENATOR COASH: And so I'm just thinking of ways to get at what you're... [LB1102]

SENATOR DAVIS: So... [LB1102]

SENATOR COASH: But I appreciate your bringing the bill. [LB1102]

SENATOR DAVIS: So, Senator Coash, there are communities in the state where TIF was applied for, a "but for" application was used, the city didn't grant it, and the project took place anyway. Had the city granted that, then the taxpayer pays the cost of what happens there. And what was a great project has now become kind of a runaway project and we have the third most TIF projects in the nation right now. I'm hearing from people that we're going to need to TIF housing developments in order to have housing built. I think this is a dangerous approach. And if the Legislature doesn't have the ability to look into how it's functioning, it can't ever correct that. So we need to give the Performance Audit Committee the ability to do that. [LB1102]

SENATOR COASH: Okay. Thank you, Senator Davis. [LB1102]

SENATOR KRIST: Thank you, Senator Coash. Senator Campbell. [LB1102]

SENATOR CAMPBELL: Thank you, Senator Krist. Senator Davis, I thought I should give you an opportunity to respond to this. We have a letter from the city of Lincoln and in that letter the...Dave Landis asks the question that the Legislature made explicit the authority of the State Auditor to review community Redevelopment Act authorities in legislation passed last year and that...he goes on to say, "Insufficient time has passed to conclude that the action taken last year is inadequate and needs to be duplicated or expanded." Comment, your comment on that? [LB1102]

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

Executive Board Committee  
February 05, 2016

---

SENATOR DAVIS: Well, I'll just come back to the same thing I said to Senator Coash. TIF as a tool has...is endemic and so widespread now today I think the Legislature needs to have some direct authority to look into it and to see whether it is appropriately used or not. I obviously supported giving the Auditor the authority also. But the Legislature itself needs to have a hand in it because of the appropriations process and the fact that we have a significant amount of revenue that has to be plugged into the formula. [LB1102]

SENATOR CAMPBELL: Thank you. [LB1102]

SENATOR KRIST: Any other questions? [LB1102]

SENATOR CAMPBELL: Nothing. [LB1102]

SENATOR KRIST: Thank you, Senator Davis, appreciate you bringing it. [LB1102]

SENATOR DAVIS: Thank you, and I will waive closing. [LB1102]

SENATOR KRIST: Okay, thank you very much. I failed to introduce Brandon, our page, who you'll hand your sheets to as you come up to testify and to note, thanks to Senator Watermeier reminding me, we have new mikes throughout the Capitol. So if you don't want your discussion heard back there, you might want to take it outside. Okay, let's start with the proponents of this bill, LB1102. Welcome. [LB1102]

RENEE FRY: (Exhibit 1) Thank you. Good afternoon, Chairman Krist and members of the Executive Board. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. The first question you may ask is why the state should conduct a performance audit of a local economic development program. It's because the state is currently investing approximately \$25 million per year in the tax incentive program known as TIF. In 2014, TIF reduced taxable value...taxable property in Nebraska by \$2.9 billion and reduced property tax revenues by almost \$61 million. Approximately \$25 million of that last revenue was ultimately paid by the state income and sales taxpayers because reduced local resources and the state aid formula triggered increased state aid. And with this \$25 million price tag, it is unclear whether TIF actually advances economic growth in the state. At OpenSky's January symposium, Dr. David Merriman, professor at the University of Illinois in Chicago, walked us through the academic research on TIF and whether it accomplishes its primary goal, which is to promote economic growth. He explained that there is mixed evidence about the degree to which TIF promotes growth. In fact, some studies, including his own, actually find less economic growth after TIF than before. He also finds that TIF contributes to interjurisdictional competition,

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

Executive Board Committee  
February 05, 2016

---

undermines government transparency, and that there is evidence that TIF simply moves development from one place to another. In other words, there is no academic consensus that TIF has actually been successful at achieving its basic goals. That is not to say it's never an effective tool for cities to build up a certain area of their city. But if TIF is, in fact, just moving development around within communities or between communities and not, in fact, growing the state's economy, should the state be financially supporting this program with taxpayer dollars? This is a question the Legislature has deemed important enough to assess for the other state tax incentive programs through LB538. We support LB1102 as it would give the Legislature the authority to conduct a similar assessment of whether we should be investing state taxpayer dollars in TIF. I would mention, Senator Campbell, to your question, we have had two conversations with the Auditor's Office. They do believe that their ability to audit these programs is pretty limited. They really aren't able to make any sort of an assessment of whether these projects are meeting the goals of economic development. They really feel like they're limited to see whether the 15-year time constraints are being met, but they really aren't able to determine whether it's meeting a lot of the criteria in statute because it's pretty subjective. So those two conversations we have had with the Auditor's Office. They felt like their audits of these programs are going to be very, very limited in scope in terms of what they're able to actually look at. So we do believe that it's important to have a much broader look at these programs and whether they're actually a good investment of taxpayer dollars. With that, I'd be happy to answer questions. [LB1102]

SENATOR KRIST: Any questions for Ms. Fry? Thank you so much for your testimony. [LB1102]

RENEE FRY: Thank you. [LB1102]

SENATOR KRIST: Next proponent. Okay, how about opponents? [LB1102]

TOM HUSTON: Thank you, Mr. Chairman, members of the committee. My name is Tom Huston, T-o-m; Huston is H-u-s-t-o-n. I'm an attorney with Cline Williams law firm here in Lincoln. My address is 233 South 13th Street, Suite 1900. I'm appearing before you today on behalf of the Lincoln Chamber of Commerce, the State Chamber of Commerce, and also the approximately 25 communities that I represent and the community redevelopment authorities I represent across the state of Nebraska. Generally I oppose LB1102 that would allow the performance audit of a tax increment financing project primarily from a cost perspective. In my private practice I represent developers primarily in the Lincoln community for...on redevelopment projects and I think that Lincoln takes a very conservative approach in interpreting and implementing the tax increment financing provisions of the community development law but also have found that I have been representing approximately 25

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

Executive Board Committee  
February 05, 2016

---

communities across the state ranging from Yutan and Auburn on the east clear out to Ogallala, Oshkosh, Cambridge on the west. And I found that this is one remaining tool that communities have to encourage investment in their communities and it really is...I disagree with the concept that it's an economic development tool primarily because it is an urban renewal tool and I want to talk about some of the misunderstandings and misconceptions, at least in my interpretation, of the tax increment financing provisions, because I think there are many protections built into the community development law that cities are observing and that do protect the public interest. The first area is that obviously property does have to be declared blighted and substandard for it to qualify, and that is capped and that cap is there for a reason: so that larger cities have a 35 percent cap; the second-class cities have a 50 percent cap; and villages have 100 percent cap. And I used to joke about why is there a 100 percent cap for villages. It makes sense to me now because the cost to obtain a blight study is not insignificant. And a lot of the villages, if they're trying to encourage any type of investment in their community, they need to have the ability to use this tool and obtain a blight study to really implement the tool. The second protection is the cost-benefit analysis. The Legislature instituted that requirement several years ago, probably ten years ago, so that both the community redevelopment authority and the city council have to adopt and approve a cost-benefit analysis. And without a doubt, there are costs to the project. I maintain that it's not public funds that are really being utilized here because it really depends upon the investment of that redeveloper to really trigger the project. But the cost-benefit analysis, obviously, the other attaching jurisdictions are not sharing that increased tax revenue for that 14-year period. I know the statute says 15 but in reality it's a 14-year capture period, at least in communities that I represent. And I think that cost-benefit analysis, I take great care in preparing that because I think the communities have to have that analysis. And invariably I believe that long-term benefit is going to exceed the cost for them. The "but for" test I think is misunderstood. I think the "but for" test is the third protection, but the "but for" test I think exists to make sure that we're wisely using the tool. It's not that the project will not be built, because I've...in my representation of developers, they can always cut something out, they can decrease the size of the building, they can cheapen up the facade, they can always change the scope of the project and reduce cost. And really the fourth protection, as mentioned by Senator Campbell, is that the Legislature did change the authority of the Auditor of Public Accounts so they do have the authority to audit these projects. I acknowledge there's a difference between an audit where you're trying to balance the numbers and an audit for a performance basis, so I acknowledge that. And frankly, the communities that I represent, I think we would welcome an audit because I always tell them these are going to be audited at some point. I think the Auditor of Public Accounts has the authority. And so I think that projects that I work with, I think we're ready for an audit because I think it is important to have the transparency. I do want to mention probably in the last 60 days I've been approached by about six or...six to eight communities that want help in creating housing opportunities in their town. And I think they have several options. An SID is an option, a huge risk. There's an option to create a special assessment district, another huge risk. The remaining option I think is tax increment financing, and I'm working with several that need

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

Executive Board Committee  
February 05, 2016

---

to add ten home sites. They need 12 home sites because the local employer needs to hire some employees and there's nowhere for them to live. So I think it's a viable option. And I see my time is nearing, so I'd be happy to answer any question that you may have. [LB1102]

SENATOR KRIST: Any questions? Senator Chambers. [LB1102]

SENATOR CHAMBERS: If I understood you correctly, you said TIF is not primarily an economic development tool. Is that what you said? [LB1102]

TOM HUSTON: I did. [LB1102]

SENATOR CHAMBERS: And did you say something about urban renewal? [LB1102]

TOM HUSTON: Correct. [LB1102]

SENATOR CHAMBERS: And how does that factor into it? [LB1102]

TOM HUSTON: I think TIF in its core, the community the development law really focuses on urban renewal because of the definition of blight. Now I think blight... [LB1102]

SENATOR CHAMBERS: Let's take it at a word at a time then. [LB1102]

TOM HUSTON: All right. [LB1102]

SENATOR CHAMBERS: Blight is a word that has become a term of art and it does not comport with what an ordinary citizen would consider to be blighted, isn't that true? [LB1102]

TOM HUSTON: I believe that's true. [LB1102]

SENATOR CHAMBERS: And there are some areas that wouldn't be considered blighted for any reason other than that somebody's got political clout and can persuade a city, let's take Omaha for an example, and might say that property that TD Ameritrade wants to have gained benefits,... [LB1102]

TOM HUSTON: Um-hum. [LB1102]

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

Executive Board Committee  
February 05, 2016

---

SENATOR CHAMBERS: ...have it declared blighted. And the people in that community who now have that term applied to where they live and it's not blighted then have to undertake a struggle to have it removed. So politics drives a lot of these TIF programs, isn't that true? [LB1102]

TOM HUSTON: I don't agree with that. I disagree. [LB1102]

SENATOR CHAMBERS: Well, you couldn't because of the work you do, but I want that on the record. [LB1102]

TOM HUSTON: Sure. [LB1102]

SENATOR CHAMBERS: What about the situation where a company has several branches in a city, then they decide they're going to move into an area, say my community, and they build and then all their employees they bring with them? That hasn't benefited that community at all. So it's not designed to benefit that community, is it? But, rather, the developer, that's the one who is to be benefited by TIF, isn't it? [LB1102]

TOM HUSTON: I disagree with that. [LB1102]

SENATOR CHAMBERS: I expected you to. I just want it on the record. Now what does TIF refer...I know tax increment financing, but tell me how that works. Why is that beneficial to a developer? [LB1102]

TOM HUSTON: The biggest obstacle for a lot of development in any size community is the initial cost of construction and a lot of times it's infrastructure related--extension of the sewer line, for example, extension of the street network to provide access. Absent that infrastructure, development is not possible. I see that all the time in the smaller communities. [LB1102]

SENATOR CHAMBERS: I can buy that, but tell me how TIF comes in. And the reason I'm doing this, not to cut you off, but we have a limited time... [LB1102]

TOM HUSTON: Well, I understand. [LB1102]

SENATOR CHAMBERS: ...and I don't want to spend it all on one person. [LB1102]

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

Executive Board Committee  
February 05, 2016

---

TOM HUSTON: The incremental value created by the redevelopment project, the taxes generated by that is the incremental taxes that can be captured for the 14-year period. We monetize that, meaning we borrow against that income stream, to pay for the eligible costs up-front. That's another protection. Eligible cost is defined in the statute. You can't just use it for bricks and mortar. There are eligible costs, including site acquisitions, site preparation, infrastructure issues, are eligible for TIF. [LB1102]

SENATOR CHAMBERS: But people who know how to do this can cause things to be qualified to fall under those designations when in reality they don't. Then... [LB1102]

TOM HUSTON: No doubt, there's anecdotal abuses out there, I agree. There's no reason to do that; there's enough benefit under the statute with the low-hanging fruit that really provides the urban renewal tool that it's designed for. [LB1102]

SENATOR CHAMBERS: Obviously, you've dealt with projects other than some of those I've seen in Omaha where I live, but that's all I have. Thank you. [LB1102]

TOM HUSTON: Okay. [LB1102]

SENATOR KRIST: Any other questions? Senator Hadley. [LB1102]

SENATOR HADLEY: Mr. Huston, since you've been very involved in this, are there many instances where the city council says, no, it doesn't meet the blighted standard, no, it doesn't meet the "but for" standard? I guess I'm wondering, would not the performance audit give us information? Maybe there's information out there someplace... [LB1102]

TOM HUSTON: Yeah, yeah, yeah. [LB1102]

SENATOR HADLEY: ...that tells us that these statutes that we put in are working... [LB1102]

TOM HUSTON: Yes. [LB1102]

SENATOR HADLEY: ...and the only way to tell whether they're working... [LB1102]

TOM HUSTON: Yeah. [LB1102]

SENATOR HADLEY: ...is to look at it. [LB1102]

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

Executive Board Committee  
February 05, 2016

---

TOM HUSTON: Very legitimate question. I have never seen a project fail because of the city council determining an area is not blighted and substandard. It fails earlier than that. I mean I get asked the question...a planning consultant gets asked the question, would this area qualify for a blight designation? And there are 13 criteria in the statute that really defines whether an area is blighted and substandard or blighted. And if it does not satisfy those requirements, it doesn't get that far. That's where it happens, an earlier step in the process. An examination of the legal definition of blight is probably not a bad idea. But I get questions frequently on whether an area is blighted and substandard and a lot of times the answer is, no, save your time, it's not going to qualify. [LB1102]

SENATOR HADLEY: Okay. I'm just...you know, we put a statute in the books and we put these...suppose these safeguards in there. [LB1102]

TOM HUSTON: Right. [LB1102]

SENATOR HADLEY: And I just...one of the reasons we use performance audit is to see whether or not the statute is working, whether it's achieving... [LB1102]

TOM HUSTON: Without a doubt. [LB1102]

SENATOR HADLEY: ...what we expected it to do, whether it's not. So that's my concern. [LB1102]

TOM HUSTON: Yeah, and I don't disagree with that. I think that's a laudable goal because one of the...one of my objections of appearing today is I think TIF is unfairly vilified and I would like to make sure that the senators know that a lot of communities really depend upon it for a funding source for some of the infrastructure issues that they have. [LB1102]

SENATOR HADLEY: Well, I certainly understand; for city council and the mayor I understand the importance of TIF. [LB1102]

TOM HUSTON: Yeah. [LB1102]

SENATOR HADLEY: But as a state senator I want to make sure that... [LB1102]

TOM HUSTON: Yeah. [LB1102]

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

Executive Board Committee  
February 05, 2016

---

SENATOR HADLEY: ...whatever we put out works. [LB1102]

TOM HUSTON: I think the projects that I'm working on I would welcome an audit. I think they'll pass. [LB1102]

SENATOR KRIST: Thank you, Senator Hadley. [LB1102]

SENATOR HADLEY: Thank you. [LB1102]

SENATOR CHAMBERS: Now that others have had a chance, how will this bill hurt? If this becomes law, how does it hurt TIF? [LB1102]

TOM HUSTON: My concern is if there's a cost that's passed on to the project or if it slows down a project, that's my concern because a lot of times the schedule is unreasonable and we're trying to meet unreasonable schedules. If there's any component, if this is only an examination or an audit after the fact, I don't see that it would hurt. [LB1102]

SENATOR CHAMBERS: But our duty is different from that of somebody who is representing a developer. [LB1102]

TOM HUSTON: Oh, without a doubt. [LB1102]

SENATOR CHAMBERS: Ours is to formulate policy, be good stewards of the public interest and the expenditure of money or the failure to derive money which should come to the state. So I'm not too concerned about the developers. They need people to tell them, this is not good, and if you are relying on TIF to make it go when it might not go, don't develop there. [LB1102]

TOM HUSTON: And I advise people of that. [LB1102]

SENATOR CHAMBERS: Okay. [LB1102]

TOM HUSTON: I advise them TIF is not an option here,... [LB1102]

SENATOR KRIST: Thanks, Senator Chambers. [LB1102]

TOM HUSTON: ...that there's not eligible cost, for example. [LB1102]

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

Executive Board Committee  
February 05, 2016

---

SENATOR KRIST: Did you want...Senator Mello? [LB1102]

SENATOR MELLO: Yes, thank you, Chairman Krist. And thank you, Mr. Huston. Actually, Senator Chambers was going to ask my question, which is the way I interpret the bill now, it would be the ability of the Legislature's Performance Audit Committee to do an audit on TIF projects, so to speak, that have already been approved, so it wouldn't have an impact on any project that currently is going through a process. It's more of an evaluation perspective after the fact. If that's...that's my interpretation. It could be incorrect and I'll talk with legal counsel and Senator Davis. How would that evaluation after the fact be detrimental to the TIF process, so to speak, in regards to what Senator Chambers' and Senator Hadley's question is--is, if we want to be able to make sure this does work the way it's supposed to work and we maybe need to make changes, that then would give the Legislature the ability to go in and say, we need to fix this, fix this, or change this in the community development law--how would that be detrimental? [LB1102]

TOM HUSTON: I see one problem, and the one problem I see is that right now the community development law has a 30-day remonstrance period so that once a redevelopment project is approved, once a redevelopment agreement is approved and a corresponding tax increment financing indebtedness is approved, if the city or the CRA waits 30 days before they issue the TIF note, thereafter you cannot challenge it. That's the problem I see because, once the TIF note is out there, a lot of reliance has been made upon the properness and the propriety and accurateness of the tax increment financing debt. So that's the challenge I see. And maybe it's done on a prospective basis or a policy basis but... [LB1102]

SENATOR KRIST: Do you understand the performance audit process that you're coming to speak in opposition to? [LB1102]

TOM HUSTON: I think I do, yeah. [LB1102]

SENATOR KRIST: Okay, we don't do that. [LB1102]

TOM HUSTON: Okay. [LB1102]

SENATOR KRIST: We look at a project with enough data to analyze what has happened to that project, analyzing its efficiencies, its programmatic issues, and the analysts then come back with recommendations and a report that goes back out. So we're not going to interfere, the way I read this--and again, we'll get legal counsel--we're not going to interfere with the process of TIFing. That's a local decision. That's been very clear in the letters of opposition... [LB1102]

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

Executive Board Committee  
February 05, 2016

---

TOM HUSTON: Okay. [LB1102]

SENATOR KRIST: ...from the mayors and those people that want that. What we're going to do is look after the fact to see if that program works... [LB1102]

TOM HUSTON: Yeah, all right. [LB1102]

SENATOR KRIST: ...because in reality, when you TIF and build a community, you give away your education fund, you give away your local base in terms of taxes, you give away a lot of things. And that's not for us to decide in terms of the process itself, but it is up to us to analyze in terms of its productivity. [LB1102]

TOM HUSTON: Yes. And on a performance basis, if it does not affect the efficacy of the TIF note, I'm fine with that. [LB1102]

SENATOR KRIST: Okay, thank you. [LB1102]

TOM HUSTON: I mean I don't...I withdraw that objection (inaudible). [LB1102]

SENATOR KRIST: Any other questions? Senator Hughes. [LB1102]

SENATOR HUGHES: Yes, thank you, Chairman Krist. Thank you for coming in, Mr. Huston. It's apparent that you deal with a lot of this on a daily basis. That's your job. So can you tell me who at the state level has any kind of oversight of whether the TIF criteria is being met? [LB1102]

TOM HUSTON: To my knowledge, there is none. [LB1102]

SENATOR HUGHES: Ah, okay, thank you. You did mention audit, and the audit wouldn't be able...the Auditor would be able to come in and look at the city's books to see if the dollars and cents chase each other. [LB1102]

TOM HUSTON: Right. [LB1102]

SENATOR HUGHES: But as far as overall oversight, there is no one. [LB1102]

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Executive Board Committee  
February 05, 2016

---

TOM HUSTON: The Auditor...check to make sure it balances, I agree with that. [LB1102]

SENATOR HUGHES: Yeah, okay. Thank you very much. [LB1102]

TOM HUSTON: Yes. [LB1102]

SENATOR KRIST: Any other questions for Mr. Huston? Thank you, sir. [LB1102]

TOM HUSTON: Thank you. [LB1102]

SENATOR KRIST: (Exhibits 2-4) Thank you for your testimony. Next opponent. Any neutral testimony on LB1102? Okay, I'd like to read into the record three letters of opposition: one that came from the Greater Omaha City Chamber signed by their president and CEO David Brown; one from the city of Lincoln signed by their director of development, I think is what he is, Dave Landis... [LB1102]

SENATOR CAMPBELL: Correct. [LB1102]

SENATOR KRIST: ...and one from Mayor Jean Stothert from Omaha. [LB1102]

SENATOR CHAMBERS: Mr. Chairman, I'll take charge of those and handle them appropriately. (Laughter) [LB1102]

SENATOR KRIST: Will you? Do you have (inaudible)...no, I'm kidding. Okay, that concludes the hearing on LB1102. We'll move on now to...we move on to LB1022, Senator Watermeier. [LB1102]

SENATOR WATERMEIER: Good afternoon, Chairman Krist and members of the Executive Board. I'm Senator Dan Watermeier, D-a-n Watermeier, W-a-t-e-r-m-e-i-e-r, representing District 1. I am representing today Performance Audit Committee in introducing LB1022 on behalf of the committee. The major goal of LB1022 is to allow the Legislative Audit Office full access to the information they need in order to perform accurate and thorough evaluations of state programs. Let me give you a little background, and this is going to be long, on what brings me here today. In 2015 after years of work and study on tax incentive programs, the Legislature passed LB538, which requires the Legislative Audit Office to conduct a performance audit on each business tax incentive program at least once every three years. The Audit Office is currently working on the first of these audits, which is the Nebraska Advantage Act. In order to conduct

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

Executive Board Committee  
February 05, 2016

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the Advantage Act audit, auditors must review confidential taxpayer information. And under the existing Legislative Performance Audit Act and relevant tax statutes, the Audit Office has the authority to review such information. In December 2015, two members of the Audit Office staff began reviewing tax records for three Advantage Act projects, which is serving as a pilot test for the project. The information reviewed includes corporate income tax returns, forms claiming tax credits, as well as Revenue Department audits of the projects and other information compiled by the department. Those documents included the taxpayers' names, Social Security numbers, and all other information that wasn't blacked out, but nothing was blacked out. We all know that tax information is sensitive and there are obvious concerns that may be protected. Several protections are already in place to prevent inappropriate disclosure of such sensitive information. First by state law, only the Audit staff who need access to the confidential records for the audit may have access to it. No discussion of confidential tax information is permitted even with other Audit office staff. For the auditors working on tax incentives, they must sign two confidentiality agreements. One is a general confidentiality agreement to work in the Audit Office and the other is specific to tax data for the tax incentive audits. The agreement related to tax data informs the auditors that by state law inappropriate disclosure of taxpayer information is a felony with fines up to \$5,000, imprisonment of up to 5 years, or both and will result in immediate termination and prohibition from working for the state for two years. Secondly, there are physical safeguards on the confidentiality tax information. The information must be reviewed at the Revenue Department. Our auditors have been provided a lockable office within the department for that purpose. Also by law, the confidential tax records do not leave the department so there is no risk that the documents could be accessed inappropriately in the Audit Office or on the legislative computer system. Finally, there is a requirement relating to what can be reported publicly. By law, those with such access cannot report the information in any way that identifies a taxpayer directly or indirectly. That brings us to the bill in front of us today. Although the Audit staff have been able to review some tax records, they have not been able to access everything they need. The first thing the Audit Office needs to access is records for all taxes in a program project, not just a random sample of those projects as is required by the current law. This random sample provision of the tax law was originally enacted in 1985. Since that was prior to creation of the Legislative Performance Audit Committee, it applies only to the State Auditor. The bill's legislative history indicates that the random sample requirement was initially going to be a verbal agreement between the State Auditor and the Revenue Department. However, at the bill's public hearing the introducer noted that representatives of the Nebraska Society of Certified Public Accountants asked that it be added to the statute and they agreed so it could be advancing the bill. In 2006, the Legislative Performance Audit Act was amended to clarify and strengthen the Audit Office's access to confidential information, and this section of tax law was amended to make the Audit Office access parallel to that of the State Auditor. The random sampling provision had never been used by the Audit Office until they began work on the Nebraska Advantage Act performance audits. LB1022 would strike the Legislative Audit Office from the random sample requirement, thereby allowing the Audit Office to review all information for all

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

Executive Board Committee  
February 05, 2016

---

participants in a tax incentive program. However, the Department of Revenue has concerns about simply striking that language and the Audit Office Committee has agreed to amend the bill to address that concern with AM2007 which I have provided to you under this amendment. Under this amendment, the Audit Office would choose between either reviewing all of the tax incentive program projects or reviewing a random sample of the projects. The second thing the Audit Office needs is to timely access to all relevant Revenue Department data on Advantage Act projects. Much of that data is maintained electronically, but to date the department has not allowed the auditors to access its databases directly. This causes a practical problem because the auditors have to request information and wait for the Revenue Department to compile and provide it. Since the audit may need to review information of more than 270 companies, under the current system just getting the information needed to conduct the audit may take a considerable amount of time. The existing law already, I'll emphasize, the existing law already gives the auditors the authority to access the department's electronic files. It says the auditors have access to any and all information and records, confidential or otherwise, of any agency in whatever form they may be. LB1022 would simply add language to state specifically that the existing access includes direct access to agencies' databases. The Revenue Department has concerns about this provision as well, but this access is necessary for the tax incentive performance audits. And I would note that this provision applies to other agencies, not just the Revenue Department. The Audit Committee believes that the Audit Office and the department can work together to meet specific data needs for the tax incentive audits in a way that is not unduly burdensome to the department. I would just like to briefly touch on some provisions in LB1022. First, the bill will allow the Performance Audit Committee to work with a relevant standing committee to get bills introduced that implement audit performance report recommendations. Currently, the Audit Committee is required to introduce such bills, but it is sometimes more appropriate that it be done to a standing committee. Second, it would eliminate existing provisions that allow the Audit Committee Chair and the Speaker to access confidential program data in certain circumstances. These provisions have never been used and the committee believes that it is important to make it clear that the committee members will not have access to confidential data, including taxpayer records. Third, LB1022 requires that after a tax incentive performance audit is released the Legislature's Revenue Committee must make a recommendation to the Legislature based on the Performance Audit report about whether the program's sunset dates should be extended. This would help ensure that the Revenue Committee has the lead role in policy decisions about extending sunset dates for tax incentive programs. Fourth, as drafted, the bill would extend the sunset date by one year for each of the eight tax incentive programs subject to the audit under LB538. This change would give the Revenue Committee an additional interim in which to consider recommendations about whether to extend a program's sunset date. However, members of the business community have asked that the sunset dates be extended, and I have provided you with another amendment that would extend the sunset dates by three years instead of just one. I want to be clear though that the Legislature does not have to wait until the program sunset dates to make changes to the program or even to

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

Executive Board Committee  
February 05, 2016

---

eliminate it. The purpose of the sunset dates is to help ensure that a discussion about how well the program is working takes place within the Legislature no later than the sunset dates. LB1022 also makes two technical changes to tax statutes that relate to the performance audit process. One would make the Audit Office, not the committee, responsible for requesting confidential taxpayer data. The other would harmonize the tax statutes and the Performance Audit Act to make a notice requirement for Revenue Department audits the same as a notice requirement for all other performance audits. Finally, LB1022 contains the e-clause which is needed so our auditors can move forward on the Advantage Act audit that is currently underway. Thank you for your time. And I appreciate that was a long history. Auditor Carter is with me as well and she would be available to answer questions, but I would try to answer questions at this time. And I appreciate (inaudible). Thank you, Mr. Chairman. [LB1022]

SENATOR KRIST: Thank you, Senator Watermeier. Questions? Okay. Let's start with the proponents of the bill. Could I ask Auditor Carter to come up and answer a few questions that I think are pertinent. Thank you. Because you have no written testimony, I'm just going to open it up to questions; and I have one question for you. [LB1022]

MARTHA CARTER: Okay. [LB1022]

SENATOR KRIST: We had an agreement to start an audit process, audit processes between one of your auditors or two of them and the Department of Revenue in order to proceed with the analysis of the program. And now it appears that that agreement is either partially or fully not being complied with in terms of doing the job. Sitting on the Performance Audit Committee, I think part of the problem is that it's going to take an inordinate amount of time if we have to be fed the information the way that it is right now. Could you speak to that for just a few seconds. [LB1022]

MARTHA CARTER: I'd be happy to and, Chairman Krist, members of the Executive Board, for the record I'm Martha Carter, M-a-r-t-h-a C-a-r-t-e-r, Legislative Auditor. I think you're right, Senator Krist, but I also think that we've had a lot of discussions in the last few days. And I really think that if we can sit down we've had varying degrees of success with sitting down with the Revenue Department and coming to some reasonable alternatives for the ways that we can do things. And I think that if we can get past the question of whether we have access to the databases which, as Senator Watermeier explained, current statute already provides that access. We have access to all data in whatever form it is in. That means if it's in the database we have access to the database. Now that does not mean that we are asking for access to every database that the Department of Revenue has. We need information related to this program. I think that if we can get past the question of do we have the authority to look at it and speak reasonably about practical applications of what we need to do our job and also honestly I think if we can get to the

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Executive Board Committee  
February 05, 2016

---

point where we can access some of that information directly it will be less time consuming for the department as well. And I'm confident that we can get there. [LB1022]

SENATOR KRIST: I hope you can because this Legislature or any other Legislature can stop these tax incentive programs in their tracks, even with a sunset applied to it, any given year, any given time. So unless we're convinced that these programs are working, what is the incentive for us to allow them to continue? That's not a question. That's just a public statement. [LB1022]

MARTHA CARTER: Thank you. [LB1022]

SENATOR KRIST: I think it's obvious that we're not in this to steal anybody's data, to harm the project in any way. We want to assess the viability of the program and see whether these tax incentive programs should be continued. And without the performance audit function and the security involved with your analysts doing the job, your auditors doing the job, I don't know how else we do it. [LB1022]

MARTHA CARTER: Could I just make one comment on that? [LB1022]

SENATOR KRIST: Absolutely. [LB1022]

MARTHA CARTER: To the issue of confidentiality, I just want to give an example. We take that very seriously. I understand why the Department of Revenue takes it very seriously. Departments of Revenue across the country have to take it very seriously. But just as an example, there are three of us now in the Audit Office who have access to confidential information pursuant to this performance audit. I'm one of those people. I have not gone over and looked at any confidential information. My auditors have gone over. They're looking at it. If there is a need for me to look at it, I will. But I'm not going over just because I can. And I think it's important for people to understand we are professional researchers. That's what we do. We're interested in doing the research. We are not interested in cherry-picking or looking at individual companies or doing anything outside of the task that the Legislature has given us which, as you have stated, is to review the effectiveness of the program. And we are committed as we have explained to the Department of Revenue of working with them throughout the audit so that even before our confidential draft report that's required by statute is released that we have resolved any concerns about access, I'm sorry, about release of taxpayer information. And the reason for that is because the confidential draft report doesn't go just to the state agency. It goes to the members of the Performance Audit Committee. So if there were an inappropriate disclosure in there, it would be too late for us to discover it at that point. So I just want this body to rest assured that we are taking that very seriously. [LB1022]

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

Executive Board Committee  
February 05, 2016

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SENATOR KRIST: And a foot stomper on that one is Senator Hadley, Senator Mello, and Senator Krist who are all on Performance Audit will never see that data because that's not our function. [LB1022]

MARTHA CARTER: That's correct. And with the bill as drafted, we are eliminating the only remaining provisions in law that would provide for any member of the Performance Audit Committee to review confidential information under any circumstances. Those were added in 2006 and the idea at that point was to have kind of a safeguard so that the Speaker or the Chair could be involved and see that data if it was necessary. As Senator Watermeier has said, we have never found a need for that and think that it's important especially with the taxpayer data that people be assured that the information will not go outside of the professional research staff who are reviewing it. [LB1022]

SENATOR KRIST: Thank you, Martha. Senator Hadley. [LB1022]

SENATOR HADLEY: Thank you, Ms. Carter. Two questions: This would probably be not the first time you've had an audit with confidential information. [LB1022]

MARTHA CARTER: That's true. [LB1022]

SENATOR HADLEY: Could you give us an example, for example, in Health and Human Services or something like that where you actually do get in and look at records that would be considered confidential? [LB1022]

MARTHA CARTER: I'd be happy to, Mr. Speaker. I would say the most recent example and one that people would be familiar with is in the Department of Corrections performance audit. We essentially had database access to inmate medical records which, of course, are confidential. There's the HIPAA statute, the federal statute, that protects that information has an exception for legitimate audit functions and so we have reviewed information. That was a Corrections audit. We have also looked at similar information in Medicaid programs. [LB1022]

SENATOR HADLEY: Okay, thank you. My second question is just something we had talked about in Performance Audit. We talk about taxpayers who have applied for or who have qualified for benefits. I hope we spend time primarily on those people who have qualified because we have given them benefits. And that's what I'm really concerned about is what programs we have and, of course, the applied for we want to know I'm sure are similar standards who...why are companies not meeting those standards. So I can see both of them. But I want to make sure if the

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

Executive Board Committee  
February 05, 2016

---

state is going to give back sales taxes or payroll taxes or something that it's doing the right thing. [LB1022]

MARTHA CARTER: And I would agree with you and that raises another point which is that Performance Audit Committee, even though our office is required now by law to conduct these audits, the process is the same as for other performance audits. So to your point, the Performance Audit Committee has still got to authorize the specific scope of the Advantage Act audit that we are conducting. Now you might say, how did you get this far into the audit without a scope statement because usually that's done very early in the process? Keep in mind that this is the first one of these audits that we have conducted and we have recommendations from the LR444 interim study committee about what metrics we should start with. So what we have been doing is gathering information and trying to identify how...what information we would be able to use to use the different metrics that were recommended and then come back to the Audit Committee with some suggestions about there may be some of the metrics that were suggested that are not going to be particularly...either the data is not available or for some reason we don't believe will be particularly effective to use so the Audit Committee at that time will be giving us direction. And the way the bill was passed last year, when the Audit Committee meets to discuss the tax incentive audits, there will be two members of the Revenue Committee participating in that discussion. They're nonvoting members, but they will be participating in the discussion of the scope and the audit plan. [LB1022]

SENATOR HADLEY: Thank you, Ms. Carter. [LB1022]

SENATOR KRIST: Thank you, Senator Hadley, Ms. Carter. Any other questions? Senator Chambers. [LB1022]

SENATOR CHAMBERS: Three questions, maybe just two. First of all, you as the auditor should determine what information you need to carry out your job rather than the entity that you're auditing. Is that correct? [LB1022]

MARTHA CARTER: I believe that's correct. I believe that's in compliance with the government auditing standards we're required to follow. [LB1022]

SENATOR CHAMBERS: And there appears to be an impediment to you being able to acquire freely that type of information. [LB1022]

MARTHA CARTER: That's correct. [LB1022]

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

Executive Board Committee  
February 05, 2016

---

SENATOR CHAMBERS: And the third, this bill is designed to remove that impediment. [LB1022]

MARTHA CARTER: That's correct. [LB1022]

SENATOR CHAMBERS: Thank you. [LB1022]

SENATOR KRIST: Thank you, Senator Chambers, Ms. Carter. Any other questions? [LB1022]

MARTHA CARTER: (Exhibit 1) Mr. Chairman, if I could, I was going to wait and come up in a neutral capacity and just give you a section-by-section analysis and some bullet points. May I just provide those now? [LB1022]

SENATOR KRIST: You can. That would be great. Thank you very much. And I'm sure the committee will review the bullet points. If we have any questions, we'll get back to the Performance Audit staff. Any other proponents? Any opponents? Welcome, Commissioner. [LB1022]

TONY FULTON: (Exhibit 2) Thank you, Chairman. Chairman Krist, members of the Executive Board of the Legislature, for the record my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I'm the Tax Commissioner for the state of Nebraska. And I'm here testifying in opposition to LB1022. That being said, you should know, and Senator Watermeier alluded to this, Senator Watermeier reached out earlier this week; and he and I have been in discussion for the past couple of days. And I believe we've struck an accord and that accord will find its way to you in the form of an amendment. So I won't go through all of my testimony. You have copies of it. But I do want to make note in the record those points about which we had opposition in LB1022. Our opposition is based upon one of our primary and critical responsibilities and that is the protecting of confidential taxpayer information from disclosure, either intentionally or inadvertently. Taxpayer confidentiality is at the center of what we do. It is a condition upon which taxpayers entrust our department with massive amounts of personal data. This trust is the linchpin of voluntary taxpayer compliance. It is a condition placed upon us not only by the state but also by the federal government in allowing the department to use federal tax information in our compliance efforts. In short, it cannot be compromised. With specificity, the issues to which...the items to which we took issue in LB1022, page 2... Section 2, page 2, lines 30 and 31, the office of the Legislative Audit would be granted direct access to all databases. And Senator Watermeier touched on this. He believes that they already have that access. We do too, such that we would rather not see the language that's on Section 2, page 2, lines 30 and 31. That's something that hopefully we'll be able to address. A second issue that we...a second item to which we take issue is in Section 5, page 22, line 24. This proposed change would eliminate the requirement that the office of

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

Executive Board Committee  
February 05, 2016

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Legislative Audit examine tax returns that are statistically and randomly selected for review. There was a history to this, which was touched upon earlier, which I also have by Senator Watermeier. I also have this in my testimony with the understanding that we believe we've addressed this issue as well in the amendment. I'll move on. This is a point that I planned on leaving out of my testimony, but I do think it's important to put it forward. The concerns that we have don't arise, at least from my vantage, you understand I've been here for five weeks now so from my perception it doesn't appear that the impediments that exist they exist by any way of a personal...there doesn't seem to be personalities conflicting here. But I interject this as part of my testimony just as a reminder for you and for my department as well. As policymakers, I believe you are already keenly aware that when considering legislation it's not simply the actors of today who are the sole prism through which any bill should be viewed. It's the actor years or decades into the future about whom today's Legislatures need to be concerned. That's equally true for the Tax Commissioner. I won't always be the Tax Commissioner so who knows what personalities will be acting according to the statutes that exist in Nebraska. So that's important to put out there. And that's not, again, I don't think there are personalities clashing here. That concludes my testimony. LB1022 in its present form the department does oppose. But again, Senator Watermeier has reached out. We believe we have an accord struck in the form of an amendment and I'll close with that. [LB1022]

SENATOR KRIST: So thanks for coming, Commissioner. I have to say to your first point the fact that we're already doing it does not legitimize to me the need to remove that line from the bill. And I think that goes to your last point. I'm not going to be here forever. You're not going to be here forever. You were part of this body at one time. You understand confidentiality and how we deal with things. And I will not impugn a future Legislature by saying I don't trust the guy who is going to come after me, but I always am mindful to make sure that in the statutes that we present, pass, and the Governor signs into law that it's perfectly obvious that there should be a standard that every generation should uphold. So I hope you and Senator Watermeier can reach perfect accord in this thing because I think it's really important we put the sunset at three years out to allow this tool to be used. And I think it's important that we also evaluate the tool both short term and long term to see if it's a tool we want to continue to use. Any other questions for the Commissioner? Okay. Thank you very much. Any other opposition? Any neutral testimony? I'm sorry. Go ahead. Welcome. [LB1022]

CHAD DENTON: Hi. Mr. Chair, Executive Board, my name is Chad Denton, D-e-n-t-o-n. I'm here on behalf of the State Chamber. I'm a board member and chair of their economic development council. I'm also authorized to speak for the Omaha and Lincoln Chambers as well as the Nebraska Bankers Association. My intent of testimony today is to stress the importance of business incentives to our state economic development efforts. And in reading LB1022, which is the bill under consideration, it has two primary components. One is allowing for thorough and useful analysis to the Legislature and the other one is the sunset dates. As it relates to the

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

Executive Board Committee  
February 05, 2016

---

thorough and useful analysis, it's extremely important to the business community that you also have that level of information. We need these programs as part of our economic development efforts. I do not yet grasp the extent, but I've learned more today of what the additional information means. But our concern is just protecting the information, but we want you to have that information so that we can all arrive at the notion that incentives do work in economic development. Related to sunset dates, I came in thinking that it was one year and with the amendment, the three years certainly helps. I wanted to make a case that sunset dates aren't necessary or aren't helpful to economic development and certainly extend dates, three is great, whether or not five would be useful too. Why? Economic development is extremely competitive. No matter the industry, Nebraska is competing to attract new businesses as well as nurture and retain our current businesses against other states and other countries for that matter. Economic development efforts include the yearly trade missions that the Governor takes to the different countries, which incentives are part of that tool. Targeted trips by the State Chambers, they use city, state, private industry and they travel throughout the U.S. and they go to cities in California, all over stating here's who we are. You have a location here or you have growth occurring. We want you to come to our state, our city. People like me on the private side attend those meetings also to educate them about Nebraska and the communities. Their touch points: Every Chamber has touch points with their current clients, their current businesses. And I'm personally part of an Omaha Chamber council that every time I travel out of the state I'm asked to call them and tell them where I'm going so that I can reach out to a company there that's not a business in Nebraska and tell them about what's going on in Nebraska and in Omaha. I guess what I'm trying to say is I'm just brushing the surface related to proactive activities, but this is not unusual and every state is doing the same thing. They're calling to those growth companies. They're meeting and sending information out to our current clients. So that outreach is happening. How it impacts sunsets is that process of going out and educating and talking to those communities that don't know about us or do know about us, we're telling them about our community and we're talking to them about incentives. And that's a building relationship that happens over a year, two years, three years until the point in time they have a need that they're going to grow. So by that time, sunset can be an issue. We talked about sunset a year ago or two years ago or three years ago with them. Are they still around at that point and not having to use a disclaimer that sunsets do expire or sunset on this date? And then I just thought I'd throw out a couple different examples, new companies, new companies that come in. I can tell you and I just worked with one, a company looks at a couple of different states in the Midwest, decides where they want to be. They pick a city, they pick a state, they look at the two. Two years later they finally pick the state and the city. The city doesn't work out. They pick another city and construction will start now and they'll be in production a year and a half from now. So that's a three- to four-year process that occurred until that company made a decision. The other thing is you've got companies that are making significant investments. And they have a 10-, 15-, 20-year life cycle. So they're counting on these programs being around, when the first one expires, refiling. You also have projects that go in phases, even current clients so this happens. You have a new client, new company that comes in,

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

Executive Board Committee  
February 05, 2016

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I call them clients to Nebraska, new businesses to Nebraska, might be a three-year, five-year, seven-year phase. They do initial construction and work. Three to five years later they're going to do more. The current businesses in Nebraska, same thing. They already have current activities, but they have a three- or five-year plan. If they're in a current Nebraska Advantage Act project, they cannot file a new application for that same activity. So they're out of the program. If this new growth is going to happen (inaudible), they're questioning will this program still be around by the time I end my current project. [LB1022]

SENATOR KRIST: And I see your red light is on. Do you have any questions? Just senators. Senator Chambers. [LB1022]

SENATOR CHAMBERS: When you're talking to people in other states, are there bidding wars that go on, come to Nebraska and you'll get more from the suckers than you will from the suckers in the state you're dealing with now? [LB1022]

CHAD DENTON: No. [LB1022]

SENATOR CHAMBERS: Because that's what we are really. That's the way we're treated because I read some of the things that are said about why companies ought to come to Nebraska. And some of the things that are said are offensive in my opinion. And since you represent the Chamber of Commerce, maybe nobody ever tells you that. But I wish for my sake you'd leave the "s" off and stop making it plural because people think I have something to do with it. My name is Chambers. And when they say Chambers of Commerce, people somehow think that I have something to do with it but I really don't. [LB1022]

CHAD DENTON: I'm sorry. I've got a 19-year-old and a 17-year-old. I'm proud of Nebraska. And I want to provide a life for them. I want them to stay here. I go out when I talk about Nebraska. [LB1022]

SENATOR CHAMBERS: But you just do what those who send you out tell you to do, don't you? When you go someplace else, are you representing...do you tell them you're representing the state of Nebraska or are you representing these various Chambers of Commerce? What role do they think you're in when you talk to people from other states? [LB1022]

CHAD DENTON: A private business owner explaining my perspective... [LB1022]

SENATOR CHAMBERS: Okay. [LB1022]

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

Executive Board Committee  
February 05, 2016

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CHAD DENTON: ...of why Nebraska is a good place. [LB1022]

SENATOR CHAMBERS: I appreciate that clarification. Thank you. [LB1022]

SENATOR KRIST: Thank you, Senator Chambers. Anything else? Any other questions? Thanks for coming, appreciate your testimony. [LB1022]

CHAD DENTON: Thank you very much, appreciate your time. [LB1022]

SENATOR KRIST: Any other testimony on LB1022? Senator Watermeier, do you want to close? [LB1022]

SENATOR WATERMEIER: Yeah. Thank you, Chairman Krist, appreciate this from the committee and a long day, but very important discussion. I really appreciate Mr. Denton explaining what goes on behind these tax incentives and the amount of work that goes there. I've grown to appreciate that much more, and I appreciate the work that they do and how hard it is. And so I just recognize that today. I also want to thank Commissioner Fulton. We have had good conversations and it is tough for him to be on the job five weeks and to walk into this what we've had. So I really do appreciate that. But just to kind of summarize it a little bit, it's ironic that we're talking about this randomization. And just so you know the history behind it, as I said in my testimony that the randomization of being able to randomly pick this was only for the State Auditor because the Auditor would look at things in a fraudulent manner looking for fraud. We are looking at the performance of it so we absolutely have to have every single one of these in order to build a case to build the picture of what's actually going on to evaluate things. So that's the reason for the bill so thank you, Mr. Chairman. [LB1022]

SENATOR KRIST: Thank you. Any questions for Senator Watermeier? Okay. That ends our public hearings for today. If you would please leave, we're going to go into Executive Session. [LB1022]