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Urban Affairs Committee
August 24, 2017

[LR60 LR160]

The Committee on Urban Affairs met on Thursday, August 24, 2017, in North Platte, Nebraska, for the purpose of conducting a public hearing on LR160 and LR60. Senators present: Justin Wayne, Chairperson; Matt Hansen, Vice Chairperson; Sue Crawford; Sara Howard; and Dan Quick. Senators absent: Tyson Larson and Merv Riepe. Senator Groene, Senator Hughes, and Senator Williams were also in attendance.

SENATOR WAYNE: (Recorder malfunction.) ...Urban Affairs. We will start off having the members of the committee do self-introductions starting with committee clerk, Andrew.

ANDREW NORTHWALL: I'm the Urban Affairs committee clerk, Andrew Northwall.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford from District 45, which is the Bellevue area.

SENATOR QUICK: I'm Dan Quick; I represent District 35, Grand Island.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR HANSEN: Matt Hansen, Senator from District 26 in northeast Lincoln and I'm Vice Chair.

SENATOR HOWARD: Senator Sara Howard, I represent District 9 in midtown Omaha.

SENATOR WAYNE: We also have a couple of senators who are not a part of the committee here today: Senator Groene who will be sitting with us for the first hearing, and then will provide testimony on the second hearing. Senator Williams is in the crowd from Gothenburg. And we also have Senator Hughes from Venango who will be introducing one of the studies. So this afternoon we will hear two resolutions: LR160, an interim study to examine the ability of municipalities in Nebraska to offer relocation incentives to attract new residents and/or new businesses. LR60, an interim study that examines the issue related to TIF, tax increment

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financing, that was raised December 2016 in the State Auditor's report. In the left of the room we have testifier and non-testifier sheets. The blue sheet is if you want to testify. Please fill that out and hand it to Andrew over to my left. This will help us keep accurate information when we start to transcribe all the testimony. If you do not wish to testify, but wish to record your presence at the hearing, please fill out the pink sheet to the left. We ask that if you are going to give handouts, please allow ten handouts and give them to Andrew so we can make sure all the members of the committee get a copy. The testimony for each interim study will begin with the introducer's opening statement. After the opening statement, we have invited testifiers who we've sent out letters to which will have testimony, and then we'll take public testimony. We ask that you begin with your name, spell your first name and last name so we can have them for the record. We usually have a four-minute light system. As you can see there's no lights, so I have a yellow and a red (laughter); we make do with what we can. I will tell you that we're not going to be so strict about it, because not everybody has the yellow light, I mean red light and so you won't know. I will have a timer, but when I hold up yellow just know you've got about 30, 45 seconds left; red, I'll ask you to wrap up your statement because there still might be questions from the committee that you could still be able to answer. So I remind everyone, including the senators, to turn off your phone, since I have mine right here I better double-check because I'm using it as a timer, or put them on vibrate. And with that we will begin today's hearing with LR160. Welcome, Senator Hughes.

SENATOR HUGHES: Thank you, Mr. Chairman, members of the committee. My name is Dan Hughes. I'm the senator from the 44th District, southwest Nebraska. I would like to welcome you to the western edge of eastern Nebraska in North Platte. (Laughter) There's a lot of western Nebraska from here west, so if you have the opportunity, I would like to share that with you. I'm here today to introduce LR160. This is a resolution to review the current relocation incentives that can be offered by municipalities in this state, including incentives under the Local Option Municipal Economic Develop Act, commonly referred to as LB840. The relocation incentives currently being offered by municipalities in other states and examination of the provisions in the Constitution of Nebraska that could potentially limit the ability of the Legislature to authorize municipalities to offer relocation incentives. We need to keep jobs and people in smaller cities. In 2016, I introduced LB860. It allowed for the use of Local Municipal Option Economic Development funds to be used for the construction or rehabilitation for the sale or lease of

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housing as part of the work force housing plan. But we need to do more to keep our smaller communities intact and retain people. As I did a little research coming up to this, I looked at the unemployment numbers and the most recent numbers that we had, I think Nebraska--our unemployment was 2.8 percent. That's an incredibly low number. There were only two states who had lower unemployment rates than we did. Unfortunately for us, they're both in our region. One was Colorado and one was North Dakota. But there were three states that were under the 3 percent range which is where Nebraska is at. We are a large state with a small population. We need to do everything we can in order to encourage in-migration. By the unemployment rate, we know we have jobs available. So we have the jobs, we have the space, we just need the people. And this LR...and thank you, Chairman Wayne, for cosponsoring this by the way, is a way to look at the incentives that are available to us and also to examine what surrounding states are doing, not only from the municipality point of view, but see what we can do on the state level. I think just spitballing here, an idea would be if the state of Nebraska would waive state income tax for five years if you moved in. That five years would give you a chance to put down roots, whether that's constitutional I don't know, I've not researched that far yet. But if we can attract individuals from out of state to come to Nebraska it is a win-win for us. It's not costing the state any money, yet we are not gaining the revenue, but we're certainly not losing and those people are in the state. They're buying groceries and cars and paying property taxes, and that's a whole other issue. But we need to find incentives to bring more people to the state. Like it or not, we are in an environment where we need to be competitive with our surrounding states. Whether you believe in incentives working or whether you believe that we should be offering incentives, that's the environment that we're living in with our neighboring states. And we need to see what we can do to at least be competitive, if not come up with some innovative ways to attract people to make sure that they come to Nebraska and stay and become part of our population. So with that I'll wrap up. I appreciate the committee coming to western Nebraska. And I'll try and answer any questions and I look forward to the testimony that will be coming behind me. [LR160]

SENATOR WAYNE: Thank you. Thank you for being here, Senator Hughes. Any questions from the committee? Senator Crawford. [LR160]

SENATOR CRAWFORD: Thank you, Chair. And thank you for raising this question. It's an interesting one to figure out on how to make sure that we're attracting people to the state. Have

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you had a chance to talk to any municipalities about how they might use LB840 or 840 Program in this way? [LR160]

SENATOR HUGHES: Not specifically (LB)840. I do know the village of Curtis, which is to the south, about straight south here, maybe a little east, they are doing some things where they are offering free lots if you want to come build a home. They are looking at giving membership to the golf course, you know, free pass to the pool for the summer months, doing things like that. Now I don't know if they're using (LB)840 funds or where...what they're doing with those, but there are several communities who are offering free lots if you're willing to come and build. Now what they may be doing in addition to that I have not done that research yet. [LR160]

SENATOR CRAWFORD: Do we have anyone coming here today that is providing the free lots (inaudible). [LR160]

SENATOR HUGHES: I don't know if the city manager of Curtis is here or not. I have not seen him, but... [LR160]

SENATOR CRAWFORD: Okay. Right. Okay. [LR160]

SENATOR HUGHES: ...I hope he is. That would be good. [LR160]

SENATOR CRAWFORD: Interesting. [LR160]

SENATOR WAYNE: Any other questions? Thank you for coming. [LR160]

SENATOR HUGHES: Thank you. [LR160]

SENATOR WAYNE: So is there any public testifiers on LR160? Please state your name and spell your first and last name. I will definitely be using the light system with you today. (Laughter) [LR160]

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LYNN REX: I appreciate that. I'm glad they have a clock, I will be vigilant of that. Senator Wayne, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We really appreciate the opportunity to appear before you today to talk about LR160. We have a couple of city officials who had planned on coming. As Trevor, your committee counsel, is aware, and hopefully we will be able to get them at the Lincoln hearing or one of the other ones. I know that one of the issues that has come forward from some of our cities, especially from the city manager/administrators who come here from other states, is that other states do have things that municipalities can offer and incentives that can be offered for bringing people into their municipalities and keeping, especially younger people, in their municipalities. (Phone ringing) And I thought I had my phone off, if it isn't, Christy, maybe you can...is that me? Maybe it wasn't me. It was me? So sorry, okay. Thank you. Thought it was off, I apologize. So for example, one of the things that we've explored and one of our city administrators from Sutton, Nebraska, from Kansas suggested to us is why can't cities do what UNMC does which is, basically, when you get...if you pay for tuition for a medical student and then as a requirement of that, by contract, require that medical student to go into certain parts of the state of Nebraska where they need doctors. Is there a way in which municipalities could, in fact, say if you come to our city, we will do certain things for you? Well, there's a provision in the constitution against...prohibition against lending the credit of the state. And in fact, the exception to that is tax increment financing; it's also the foundational provisions of LR11CA which, basically, put in play LB840 itself. And as all of you know, under LB840 there's a definition of qualifying business. And so what we've told our cities is you just can't have a program saying we're going to pass an LB840 that's going to say we're just going to give money to individuals. They would not qualify as a qualifying business under the act itself. However, there might be ways in which municipalities could partner, for example, in an LB840 and give money to...money or loan, under LB840. And this requires, for those who that may not know in the audience, LB840 is a local economic development program that requires voter approval, not just by the city council or village board, but by everyone voting in the city. So perhaps you could put together something that would say for a qualifying business under the act, the business itself could do certain things for individuals. But you can't simply just give it to individuals directly. But in surrounding states and other states, there are direct benefits that are being given to individuals to come and to stay in the cities. And, again, one of the biggest ones that's being considered and the questions that we've been asked, the League office, to consider is

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what...is there anything that would say if a city would pay the tuition, let's say that your city happens to need certain types of contractors or you need to have...I know the Bar Association is doing something to try to get lawyers out to different parts of the state of Nebraska. Is there an incentive a city itself could provide? And constitutionally at this point, we don't see an option for that, but for an LB840, but it's got to be structured through a qualifying business. So we really appreciate the committee looking at this and exploring what other states are doing, what can be done in the state; but it's got to be done carefully because one does not want to have a situation where there's any potential for abuse. You want to make sure that those individuals are, in fact, staying in the state. We know that on law enforcement training, one of the things that has been done, but it's not necessarily directly related to this, is that the smaller cities--the second-class cities and villages, feel that they are the...they fund police officer training for first-class cities. First-class cities think that they fund police officer training for Lincoln and Omaha. And Lincoln and Omaha sometimes think they do that for the State Patrol. So we've had cities that have actually put together contracts so if you're going to go to The Law Enforcement Training Center, and I'm going to use this as an example, let's say Gordon, Nebraska, that Gordon, Nebraska, will pay for all the training and everything that goes through that the Law Enforcement Training Center in Grand Island, but then for five years you're going to come back and you will be a police officer in Grand Island (sic-Gordon) or you have to refund the money that they invested in you. So there are things like that that can be done, but that's basically a contract for services rendered and it's separate and distinct from an outright incentive. So in any event, we are continuing to explore with our legal legislative committees options from what other states are doing. We have a lot of turnover in this state with city manager/administrators. And when they come in from other states, the first thing they tell us is two things: one, they're shocked at the lack of incentives that municipalities are able to afford, not just to individuals, but to businesses; and how...and the second thing is how restrictive TIF is in the state of Nebraska. And I know that is our your hearing, so I'm happy to respond to any questions you might have. [LR160]

SENATOR WAYNE: Any questions from the committee? Senator Groene. [LR160]

SENATOR GROENE: Looking down the road, aren't you just going to create another escalation of a war between municipalities and incentives? I mean, you're doing it. I have to...then comes business. They come to your town and say, well, now we want TIF, now we want Advantage Act,

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now you got to build houses for our employees because "community A" will do that for us? Now, I always ask the question--why do we have a low unemployment? What came first--the chicken of the egg? Are we losing hard-working individuals, taxpayers from the state who are highly qualified and have a work ethic and go to another state and pay lower taxes? Or don't we have enough workers? So aren't you going to just create another war on incentives between communities? [LR160]

LYNN REX: I really don't think so, because I think the numbers you're looking at, Senator, would be much different. [LR160]

SENATOR GROENE: That's TIF. [LR160]

LYNN REX: I think the numbers you're looking at here would be whether or not, for example, Hickman could, in fact, do something to deal with having a doctor, that's another issue. I mean I know a lot of people may not be thrilled to find out that there's a need for more attorneys across the state, but I think everybody would applaud the fact that there are more--no offense intended--but that there are...but there's...I think everybody would applaud the fact that we need more doctors across the state. And by the way, we do need more lawyers across the state. That is, I mean, the right to justice and having fairness in a courtroom is critically important. So in any event, I don't think so, Senator Groene, because I think that these...if the Legislature does its job well by putting in proper protections so that you have enough local control and you have enough...you have the balance of local control and also statutes are clear in terms of what can and cannot be done. Other states have done this successfully. And you're not talking about...you wouldn't be talking about cities giving lots and lots of money to do this sort of thing. It doesn't take much. But one thing that I think was one of the most impressive hearings I attended, actually it was a bill we opposed, and that was a bill dealing with lids and levy limits a few years ago. And one of the individuals representing community colleges testified and made the comment...and referenced some type of a study, and I'm not...I should have gotten a copy of that study, but it basically is that where young people go to school for postsecondary education is where they stay. So when cities are wondering why is it that they're from western Nebraska that folks...these young folks come to Lincoln and Omaha, or they come to North Platte to go to the community college or they come to a postsecondary education school, you know, why is it that

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they don't come back home? Because overwhelmingly the study showed that young people stay where they get their education. And part of the reason for that is because they have internships, because they have access to employers. And frankly, to be blunt, they're larger cities, they're the North Plattes, the Grand Islands, Lincoln, Omaha, and those sort of things. So, Senator Groene, I think...I'm very confident in the fact that it's possible to put together a program. Other states have done it. I don't think it's a situation where we're not able to handle that. [LR160]

SENATOR GROENE: Do you know if there's any barrier for communities to start private foundations to do the very thing...this very thing? [LR160]

LYNN REX: Well, a city can't. A city cannot...in other words,...now could your local chamber decide to do certain things? Sure. Private sector folks can decide to do that. [LR160]

SENATOR GROENE: But can a city? A public college...can a public school can have a foundation. [LR160]

LYNN REX: Well, okay, let me structure it this way: There are cities that have foundations, but there are...and there some things that a foundation would be able to do that a city itself could not do. That's true. And that's something else that could be and probably should be looked at. That's a good point. But not all cities have foundations. [LR160]

SENATOR GROENE: Start them. [LR160]

LYNN REX: Not all cities have...but, again, I think, Senator, perhaps the blinders with which, at least, I've looked at some of these issues before deals with our larger cities--Omaha, Lincoln, first-class cities, larger second-class cities. The folks that also need help are the villages and the smaller second-class cities and our bedroom communities who play a vital role in providing housing and providing individuals the opportunity to come to Nebraska and work and hold down a job. [LR160]

SENATOR WAYNE: Thank you. Any other...seeing none, thank you for coming. [LR160]

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LYNN REX: Okay, thank you very much. Thank you. And we do thank Senator Hughes for bringing this to the attention of this committee and look forward to working with committee counsel, the Chair and others to see what other options might be available. [LR160]

SENATOR WAYNE: Any other testifiers on LR160? [LR160]

MELISSA NORGDARD: Good afternoon. My name is Melissa Norgard, N-o-r-g-a-r-d. I'm from the city of Sidney Economic Development Office. Thank you for bringing the opportunity to speak about LR160. I'm for the bill offering relocation incentives to attract new residents to municipalities in Nebraska. But in addition to offering incentives to new residents, I believe it's also important to offer incentives to retain current residents. Sidney's been challenged over the past year with the pending sale and merger between Bass Pro Shops and Cabela's. And we've lost a lot of the labor force there and it's been very hard to retain workers there with the white collar jobs that Cabela's offers. So at this point in time, I'm more concerned with how I can retain the current residents in Sidney than attracting new ones. So that was all I wanted to do. I'll entertain any questions. [LR160]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. [LR160]

MELISSA NORGDARD: Thank you. [LR160]

SENATOR WAYNE: Any other testifiers for LR160? I am an attorney so I say it three times to make sure I've covered us up. Any other testifiers for LR160? Great. Seeing none, you'd like to close on your...Senator Hughes waives closing. That will conclude the hearing on LR160. If you haven't figured out, this is the Legislative Urban Affairs Committee. If you're looking for the UP hiring training--that's right down the hall; and the career center is right behind us. So we will move to LR60 which is the interim study to examine the issues related to the use of tax increment financing, TIF, better known, that was raised during the December 2016 report issued by the state office. I will note that the purpose of this study is specifically to look at the issues in the Auditor's report and ask testifiers please try to keep your remarks focused on those issues. For this hearing, we will have a brief introduction to the issues that were raised by the Auditor's

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report from the committee legal counsel, followed by invited testimonies from the Auditor's Office, as well as municipalities whose TIF projects were examined by the Auditor's report, followed by invited testimony, and then from the public itself. So with that, I will turn it over to legal counsel for the introduction. [LR160]

TREVOR FITZGERALD: Good afternoon, Chairman Wayne and members of the Urban Affairs Committee. For the record my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LR60. [LR60]

SENATOR WAYNE: Typically, Trevor talks to us, but I know there's people in the back, might want a history. So, Trevor, can you talk...because the mike is still going to be recording, can you come sit up here so you can project out to them? [LR60]

TREVOR FITZGERALD: Sure. Of course. [LR60]

SENATOR WAYNE: Sorry about that, I just...I know there are a couple of people in the back who are trying to listen a little bit more. Sorry, Trevor, I should have thought of that earlier. [LR60]

TREVOR FITZGERALD: You're the boss. (Laughter) The purpose of LR60 is to take a comprehensive look at the December 20, 2016, report that was issued by the Auditor of Public Accounts. The report was issued following the Auditor's review of 22 projects by Nebraska municipalities that utilized tax increment financing or TIF. In conducting their review, the Auditor's Office initially selected 35 TIF projects, but only conducted examinations on 22 of those 35 projects. As committee members no doubt recall this past legislative session saw multiple TIF bills introduced, including three that were introduced to address various issues that were raised by the report. In addition to the Auditor's report itself, copies of those three bills are among materials committee members have in their binders. One of these bills, Senator Groene's LB597, was indefinitely postponed by the committee, while the other two, Senator Crawford's LB95 and Senator Groene's LB489, were held by the committee. As part of the audit, each of the 22 TIF projects that were examined by the Auditor's Office was reviewed for compliance with 14 different criteria. Rather than review each of those criteria separately, both my testimony and the

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corresponding committee memo will break down the issues identified in the Auditor's report into six main categories. In cases where legislation was introduced to respond to those issues, I will mention that as well. The primary issue identified by the Auditor's report was poor recordkeeping; in some cases amounting to a complete lack of records retention for certain TIF projects. Recordkeeping issues of some form or another were identified in 16 of the 22 projects that were reviewed by the Auditor's Office. While there are not specific recordkeeping requirements in the community development law, the Records Management Act governs record retention by local governments. Prior to 2009, the applicable records retention schedule for various records related to TIF only required municipalities to maintain records for between three and five years. Since TIF projects may last as long as 15 years, many records created prior to 2009 were not legally required to be maintained for the length of the TIF project at the time the project began. In 2009, the records retention schedule for city and village clerks was amended to require that any supporting document received or generated by the city or village that provides support for the receipts or payments associated with a TIF project be retained for three years following the end of the fiscal year in which the property taxes were divided. Because this language focuses on receipts and payments, however, it is unclear whether it necessarily applies to certain TIF-related documents such as redevelopment plans, substandard and blighted studies, cost-benefit analyses, etcetera. This is not to say, of course, that there were not significant recordkeeping issues with the TIF projects that were included in the audit. Multiple projects that began after the records retention schedules were changed in 2009, still had recordkeeping issues, and in some instances it appears that municipalities had failed to keep most records, relying on developers and their attorneys to keep some TIF records instead. One of the major changes that was proposed in LB95 last session was explicit statutory requirements that municipalities which use TIF retain copies of all redevelopment plans, substandard and blighted studies, cost-benefit analyses, and other supporting documents for a period of three years after the property taxes are no longer divided for TIF purposes. The second main issue identified by the Auditor's report deals with annual reporting through the Department of Revenue. Under current law, each municipality which has approved one or more TIF projects is required to provide an annual report to the Property Tax Administrator with a short narrative of the project and basic information about the division of property taxes. The Auditor's report found that the Department of Revenue had taken the position that the annual report is not required and that only amendments to the original TIF redevelopment plan not previously filed need to be submitted

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after the initial report is filed. One of the changes also proposed in LB95 was to clarify that this annual report on TIF projects is actually an annual report on TIF projects. The Auditor's report also found that 2 of 22 projects reviewed had inaccurate information listed on the Department of Revenue's TIF report, although the Auditor's Office did not determine whether it was the municipality's or the Department of Revenue who is responsible for the inaccuracies. The third main issue identified by the Auditor's report deals with cost reimbursement for TIF projects. In 6 of the 22 projects reviewed by the Auditor's Office, some issue related to cost reimbursement was identified, including cases where the developer incurred expenses prior to the approval of the redevelopment plan. Depending on the nature of these expenses, reimbursement of them could call into question whether the project meets the so-called "but for" test. Before committee members start looking for the but for test, I would note that the words "but for" do not actually appear in statute. Under Section 18-2116, prior to approving a redevelopment plan which utilizes TIF, a municipality must find that (1) the redevelopment project would not be economically feasible without the use of TIF, and (2) the redevelopment project would not occur in the community redevelopment area without the use of TIF. Together these two requirements are commonly referred to as the "but for test." Also as proposed, LB95 this last session would have prohibited the reimbursement of costs incurred prior to the approval of the redevelopment plan, except for costs related to the preparation of the redevelopment plan, the substandard and blighted study, or the cost-benefit analysis. The fourth main issue identified by the Auditor's report is the designation of areas as "substandard and blighted." While many people have a predetermined notion of what constitutes a substandard and blighted property, it's important to note that substandard area and blighted area are both defined terms under the community development law. These definitions which can be found in Section 18-2103 were already in statute when Article VIII, Section 12 which authorized TIF was passed by the voters in 1978. The only substantive change to these definitions of blighted areas was...since TIF was enacted in 1979, was in 1984 when the definition of blighted area was amended to add additional criteria and to place a maximum limit on the area and a municipality that may be declared blighted. A substandard area is defined as an area in which there's a predominance of buildings or improvements which with one of six factors or any combination thereof. Rather than read those factors, the list of factors can be found in your memo, as well as in the statutory language. Similarly, a blighted area is defined as an area, due to the existence of certain factors or any combination of factors, that substantially impairs or arrests the sound growth of community,

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retards the provision of housing accommodations, or constitutes an economic or social liability that is detrimental to the public health, safety, morals, or welfare in its present condition and use. The list of ten statutory factors for determining a blighted area can be found in your memo as well as in the statutory language. In addition to the list of ten factors for determining a blighted area, the statutes also require that at least one of the following conditions also be present: One, unemployment in the designated area is at least 120 percent of the state or national average; two, the average age of the residential or commercial units in the area is at least four years; three, more than half of the platted and subdivided property in an area is unimproved land that has been within the city for 40 years and has remained unimproved during that time; four, the per capita income of the area is lower than the average per capita income of the city or village in which the area is designated; or five, the area has had either stable or decreasing population based off the last two decennial censuses. The Auditor's report identified issues with substandard and blighted designations in 16 of the 22 projects that were reviewed. Some of the report's findings, however, appear to require more than what is actually included in the statutory definitions of substandard area and blighted area. For example, even though the definition of substandard area only requires a predominance of factors and not a majority, the Auditor's report highlighted 12 projects because they showed less than 50 percent of structures were determined to be dilapidated or deteriorating. In addition, in those cases where the municipality was unable to provide a copy of the substandard and blighted study conducted for the project, the Auditor's report appears to assume that because documentation was not provided, the area did not meet statutory definitions of substandard and blighted. As proposed this session, LB95 would have required that municipalities conduct a study or analysis on whether the redevelopment project meets the definitions of substandard and blighted, basically, codifying what is common practice in a lot of cities and also required that copies of the study or analysis be made available on the municipality's Web site or made available for public inspection at a designated location. The fifth main issue identified by the Auditor's report deals with the required cost-benefit analysis for TIF projects. Under Section 18-2113, municipalities are required to conduct a cost-benefit analysis for each redevelopment project that includes the use of TIF. TIF, while there's not a specific form required, the statute lists five factors that municipalities must consider in developing their model. Cost-benefit analysis issues were identified in 8 of the 22 projects reviewed by the Auditor's Office. In most cases where cost-benefit analysis issues were identified, the reason appears to be the municipality was unable to provide a copy of the cost-benefit analysis that was originally

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conducted. Finally, the Auditor's report identified a handful of other issues in 8 of the 22 projects that were reviewed by the Auditor's Office, some of which were unique to a single TIF project. For example, several municipalities' redevelopment agreements were missing required elements, and several TIF projects had late or outstanding property tax payments. The committee memo also specifically identifies four of the unique issues that the committee may consider examining in greater detail. Municipalities for two of the four identified projects plan to testify at either the Grand Island or Lincoln hearings, so I will not review these issues at this time. The first identified TIF project with unique issues in the Auditor's report was the Trotter's project in the city of Broken Bow which involved the city using several pieces of unrelated property to fund infrastructure costs at the Trotter's project location. Under Section 18-2147, municipalities that use TIF are authorized to divide the property taxes on all property located within the redevelopment project or any portion thereof. For example, if a city designated its central business district as a redevelopment area and then underwent a TIF project for a single building within that district, the city could elect to divide property taxes on the entire business district, just a portion of the business district, or just the single building. In the case of Broken Bow, the city chose to divide the taxes on five effectively cherry-picked properties around the city to fund the Trotter's TIF project which, while permitted under statute, was unique among the projects examined by the Auditor's Office. A narrative describing the Trotter's project along with a map showing the selective properties can be found on pages 7 and 8 of the Auditor's report. And on that note, as introduced LB95 would have required that if a redevelopment plan divides the taxes on only a portion of the real property, that portion shall be clearly related to the redevelopment plan. The second identified TIF project with unique issues was the revolving loan fund created by the city of North Platte. As detailed on pages 9 and 10 of the Auditor's report, the city of North Platte created what they called The Community Redevelopment Authority Redevelopment Fund, or CRARF, a revolving loan fund designed to fund smaller non-TIF projects using bond proceeds that have been loaned to developers for TIF-related projects. While the Auditor's report noted that this funding mechanism appears to be permitted under the community development law, there is some question about whether it amounts to using TIF funds for non-TIF purposes. Specifically, Section 18-2147 restricts the use of TIF revenues to payment of redevelopment costs, and it's potentially unclear whether those bond proceeds would still be considered TIF dollars once they were repaid to the city. As noted in your memo, on July 10, Senator Wayne sent a letter to each municipality that had a TIF project included in the Auditor's report

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requesting that they send a representative to testify at one of the committee's hearings on LR60. The committee has received confirmation from all but five of those municipalities of their intent to testify and that information can be found on the list of audited TIF projects document in your binders. With that, I've reached the end of my brief remarks. (Laughter) I would be happy to answer any questions the committee may have at this time. [LR60]

SENATOR WAYNE: Questions from the committee? Nothing? Seeing none, we will start with invited testifiers. We are going to pop around here a little bit, but we will start first with the Auditor's Office, followed by the city of North Platte. And Mr. Hawks, before you go, I was going to...well, I'll keep the city of North Platte together, and then we're going to jump up...or Scottsbluff...Scottsbluff, I'm going to move you ahead of the city of North Platte, so...I know you guys...long drive back. So sorry about that North Platte, but it's your hospitality in North Platte and so you're okay with that...being such great hospitable people. So we'll start with Craig from the State Auditor's Office. [LR60]

CRAIG KUBICEK: Well, thank you for inviting the Auditor's Office to give testimony on this LR. My name is Craig Kubicek, C-r-a-i-g K-u-b-i-c-e-k, and I'm an assistant deputy auditor with the Auditor of Public Accounts. Our task today was to give an overview of the letter that we issued that Trevor just did a great job in doing, but I'll kind of hit in some other points that he did miss and I'll open up to any questions that you guys have. We're providing this testimony on a neutral basis. Our office is neither for nor against TIF in the state, and that's the views of Charlie Janssen, the State Auditor as well. We were tasked by some senators saying, hey, this is an area that has never been looked at, maybe this is an opportunity to look at it. So we took that and we asked...sent a letter to every single state senator and asked is there any projects in your specific districts or areas that you would like us to look at. Based on those, we selected 35 projects to task based on either those responses or based on responses that we thought we should look at these projects just based on the project. It wasn't all these 35 came back from senators, we also chose some of those projects. Like Trevor said, based on those responses and the lack of response from some of the municipalities, we cut that down to 22. It just wasn't timely to continue requesting for documents that probably did not exist or were not kept. So we cut that number down to 22 and that was kind of the summary of our testing in the letter that was spread across 13 counties. Like Trevor said, we had a set list of criteria that we tested against based on

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statute. One of the issues that we did have is a lot of the statutes that were out there did not specifically...were not clear as to, you know, what it was specifically requiring or it kind of left at the end, it also let you do this. And so a lot of the people were, you know, where does this fit in? Well, it's in this other section. So from an audit perspective, we had a little bit of a hard time with recommendations because sometimes, you know, if there's no criteria there, what do you say? Just good business practice or those sort of things. And so that's where those potential issues came from because there wasn't really necessarily a set criteria what said you can do this, you can't do this or you cannot do this, and so that's where those came from. And Trevor hinted on them, but we had the Trotter project that used projects from different areas, nothing really said you couldn't do that, but to us nobody else is really doing that so it was kind of unique in that case. And then we had one municipality that was building roads and parks and that sort of thing with TIF dollars. Now is that necessarily allowed? We could not particularly point to a statute that basically said you could not do it, so it was one of the things that we wanted to bring up to the Legislature to...is this the intent or is the way that you guys want this to be ran? We found a lot of cases where TIF monies were being used to reimburse costs that had already been paid for or way after the fact. We had one example where the land has been purchased, the land has been cleared, development has been started, and then we see in the documents it says this plan is not going to move forward unless we get TIF. Well, is that true? We don't know. But a lot of the costs, you know, you could tell they were going to go through with this project--they've already purchased the land, they're already developing it, but then they're saying that, no, we're not going to move forward unless we get TIF. Whether that would happen, I don't know; but just a lot of costs, you know, some of the costs were pretty much all paid for before the plan was even approved and then those were later reimbursed with the TIF dollars. So, nothing that says you can't do that. Just wanted to bring, again, bring those to the attention to determine if that's reasonable or not. We noted one city that was using TIF dollars for wall panels, sun shades, stair towers, painting, heat pumps, building enhancements. When we asked where that fit in, it was the other improvements in accordance with the redevelopment plan. So that's kind of what I was referring to earlier where when you put those clauses at the end, you can kind of take those and do with what you want with those because there's not really...yeah, there might be strict criteria, but when you say other improvements in accordance, well, as long as it's in that plan, you can pretty much do what you want is the way we...their response to us. Trevor did a good job of kind of going through those areas. We kind of did it in a different...we kind of looked at each...you

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know, we had 14 to 22 that lacked documentation and that...and I think the overall, from our perspective, that was kind of the big overall concern was the lack of documentation. I mean, if you're only keeping it for five years, that's great; but how do you know if the costs...if you keep having costs, how do you know if those TIF monies have exceeded those costs? And if so, when does that money stop or are you just going to let it go until 15 years or when does it, you know, because it should stop once the bonds are paid off if paid off before then. With that I'm just not...you know, we had one village that the bonds were missing, the TIF revenues exceeded the amounts. After we initially requested the information they said, oh, yep, we agree; we're going to send that money back to the county. If we wouldn't have done that, would they have recognized that? Probably not. It's all hearsay now, but it probably would not have happened. So we had, based on those testing, I'm not going to go through everything, it's in our letter, but we had some recommendations to municipalities. The first thing was to respond to the APA timely. We have put in some...or had some legislation put in to help us with that. The county put some more teeth into getting the documents and requests more timely. And if they don't, it kind of put some more teeth into some requirements if they don't. But that was our number one. If you don't have it, it doesn't help to just delay, delay, delay; just let us know you don't have that information. And then, ensure project costs are adequately documented with contracts, agreements, invoices, or receipts. And from our perspective, we would like to see if the project is ongoing, that that documentation needs to be kept. I think it's just good business practice, like we said earlier, Trevor said earlier. There was some legislation trying to put in to get that to change, but that, from the Auditor's perspective, you know, if it's not there you don't know. And that was the case that we had. Was there a cost-benefit analysis conducted? We don't know. There's no documentation to support it, so all we can say is one wasn't done because somebody telling us that there was sometimes isn't good enough. Costs should equal or exceed the amount of TIF revenues to be received; ensure the ad valorem taxes distributor received and are paid are accurate; ensure the study areas, redevelopment plans, and cost-benefit analysis meet the statutory requirements; maintain adequate documentation for public notices; obtain general understanding of the community development laws. We had a lot of entities that we talked to or municipalities that relied on their legal counsel or the legal counsel for these TIF projects. And once they left, they really didn't have a good grasp of, from our perspective, of what they're actually signing or what those requirements met. And then the governing body should be approving documents and ensuring consistency. I think Trevor mentioned the options for the

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Legislature that we kind of recommended that should be for you guys to consider and potentially put into place. We've also done one, we issued an audit in April of 2017 on another municipality outside the letter and we found similar concerns. They had no documentation to support any of the redevelopment plans, the costs, and so we just wanted to highlight that, that it's not just necessarily picking on these 22. I think it would potentially be more widespread. But again, the biggest issue was how can we test against it if there's no documentation to support it was actually tested? With that, Russ Karpisek, our legislative liaison is here as well, but I would be happy to...or he would be happy to answer any questions that you may have. Again, Trevor did a good job of going through kind of the issues that we raised and kind of put it back onto your plates or the Legislature's plate to determine what needs to be changed. [LR60]

SENATOR WAYNE: Thank you. Any questions from the...Senator Crawford. [LR60]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for your report. As I understand it from your summary here today as well, the real core concern was recordkeeping. And then we don't know, really, on those entities without records whether they were following those steps or not. Is that fair? [LR60]

CRAIG KUBICEK: Yeah, I mean, there's a lot of issues that we addressed, but you just...I guess we did not expect that to be our number one concern when we're testing these sort of projects. I mean, you test government, you expect the documentation to be there, so I...whether it was surprising or the underlying major concern, I don't know which falls more, but it became a more concern once, you know, we found out that the documentation did not exist. [LR60]

SENATOR CRAWFORD: Thank you. How did the additional city come to be audited? So you mentioned you have a new one that you audited. [LR60]

CRAIG KUBICEK: We don't do a lot of cities, villages, unless there's fraud or we get a call to our hotline. We're not out bidding for cities or villages on a regular basis. This was a city that we had a fraud case a couple of years ago and because there was a number of issues we decided to do again and it was kind of...the entity was requesting their TIF monies back and the city had no idea the year prior or the year current that they even had a TIF project. There was some turnover

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and I think that kind of leads into a problem with the documentation, you know. In 15 years a lot of people can come; and go and if there's no documentation to carry forward, how does the new people or the new administration and the new clerk or the new mayor know that the project existed? So that was the case in this one. It was just a regular audit that we were doing because they originally had fraud and we backed up that audit because they had so many issues the year before. So we're not out looking for those, but they do...we do come across it and we're going to test that because we do test for compliance. [LR60]

SENATOR CRAWFORD: So did somebody request it or it was your office (inaudible)? [LR60]

CRAIG KUBICEK: We...our office...no, the fraud, yeah, the TIF side we test for compliance, so we don't test 100 percent of the statutes. But because we had concerns in this, you know, we're going to do those compliance type tests because of that. [LR60]

SENATOR CRAWFORD: When you were looking at recordkeeping, did you have any analysis that looked at those projects since the passage of the 2009 statute to clarify which of these cities were...would have been required to be keeping those records? [LR60]

CRAIG KUBICEK: We did not. We...again, kind of what I mentioned, we thought as long as the project is still ongoing that the documentation would be there. I know there's some back and forth on whether it is required or not, but we felt from a...if the project is still ongoing, you know, similar to a contract, if you're still working under a contract, it's a ten-year contract, you just get rid of everything after five years? We would recommend no. But I mean, I guess that's the way we felt. [LR60]

SENATOR CRAWFORD: And currently if someone has concerns about a TIF project in a community, can they contact your office? [LR60]

CRAIG KUBICEK: Yeah, I mean, we have a hotline and our phone number is 402-471-2111 and we get calls daily whether fraud abuse, anything from the lights are on down at the community hall, can you go check it out, and some of those things we don't, you know, aren't going to look

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at, but we would be happy to take a look at it and see, you know, based on our other priorities and cases that we're looking at we would take a look at those, yes. [LR60]

SENATOR CRAWFORD: Right. So there is a state oversight function in your office for TIF projects that get...if...on a complaint basis. [LR60]

CRAIG KUBICEK: On a complaint. Yeah, we're not out looking at TIF and say, oh, we got a new TIF project, we need to go out and look at that, no. It would be strictly if we get a complaint into our hotline saying, hey, city XYZ, this doesn't smell right, look right, we would take that complaint and investigate it and determine if we need to do any more work. [LR60]

SENATOR CRAWFORD: Or it sounds like if some other audit in your office, in 2017 another audit in your office... [LR60]

CRAIG KUBICEK: Right. Right. [LR60]

SENATOR CRAWFORD: ...causing you to look at a TIF project. [LR60]

CRAIG KUBICEK: Right, right. [LR60]

SENATOR CRAWFORD: Is that fair? [LR60]

CRAIG KUBICEK: Yep. [LR60]

SENATOR CRAWFORD: So you have the power to do that without a complaint? [LR60]

CRAIG KUBICEK: Right. [LR60]

SENATOR CRAWFORD: Thank you. [LR60]

SENATOR WAYNE: Any other questions? Senator Hansen. [LR60]

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SENATOR HANSEN: Thank you, Chair. Thank you for sharing that, Mr. Kubicek. I just had a question. So it seems like one of the issues, obviously, is the documentation. In your experience, was the lack of documentation kind of unique or distinctive to TIF projects or is that a common problem you find when auditing municipalities? [LR60]

CRAIG KUBICEK: Like I said before, we don't do a lot of municipalities, but to your point, I thought...we did not think that would be a potential issue that the documentation wouldn't be there or have so many issues. I mean, we had to cut down our sample because we weren't getting responses. And I have to assume that was because the documentation wasn't there. I don't know that, but it seems that why wouldn't you respond to those questions if they were asked? So I thought it was unique that the documentation was not there in and for a lot of these cases. [LR60]

SENATOR HANSEN: Okay. Thank you. [LR60]

RUSS KARPISEK: If I could, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. I'm the legislative liaison in the office. And Craig knows all this stuff. I just wanted to remind Senator Crawford that we did pass a bill a couple of years ago letting us audit TIF projects. That was not prior...well, it was one of those gray areas, again. [LR60]

SENATOR CRAWFORD: Right. [LR60]

RUSS KARPISEK: I just also want to say, I know that people think, oh, well, you picked this one and that one; it really was not the case. As Craig said, we picked ones that we were asked to pick and some other bigger ones that had some questions. We would have...I would have liked to see a lot more done, but we have about roughly 45 people on our staff that keeps getting the budget cut (laughter) and so to do all those things, we just can't. I know your question about the new one. I think there was also a...the individual that's getting the TIF money is being told something by the city and so we're getting calls from them, so then we go back to the city and try to find out what's really going on. To say every time we do go into a city to look at TIF, I don't think it would be accurate. And I have had talks with the League of Municipalities, they want to do it right. I think everybody wants to do this right. And again, Auditor Janssen is very

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clear...wants to be very clear that he is not pro- or anti-TIF. As Craig said, the rules are very vague. And it just seems like, well, almost anything fits. Now, I know there will be people behind me that will argue that case, and that's fine, but it just seems very wide open. And if that's what the Legislature and everybody wants, that's fine; we're just here to report to you. Thank you. [LR60]

SENATOR WAYNE: Any other questions from the...Senator Crawford. [LR60]

SENATOR CRAWFORD: Thank you, Chairman Wayne. I am not...I actually supported the bill to have the Auditor have this role, so I didn't intend my question to be a question in terms of a complaint about your oversight role. I was, instead, clarifying there is an oversight role and it continues to be an active one. So I want to clarify that. [LR60]

RUSS KARPISEK: But it's certainly not when one starts are all boxes checked, is this happening, is that happening? And, again, with all the recordkeeping, maybe that isn't in statute, but I would think being on a city and a county and the state before, I would think anything you keep your records until it's done. But, again, I don't think that there was any malicious intent there. I think people are trying to use it as they can and these are problems...just questions we had. And again, Senators, is that how you see this should be working? [LR60]

SENATOR WAYNE: All right. Any other questions? Thank you for coming. [LR60]

CRAIG KUBICEK: Thank you. [LR60]

RUSS KARPISEK: Thank you. [LR60]

SENATOR WAYNE: Welcome. [LR60]

JOHN SELZER: Chairman Wayne, thank you. Chairman Wayne... [LR60]

SENATOR WAYNE: You're going to have to speak up a little bit because we have people in the back. [LR60]

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JOHN SELZER: Okay, I'm sorry. I'm John Selzer, J-o-h-n S-e-l-z-e-r. I'm a deputy city attorney for the city of Scottsbluff. I guess my plan...the city was asked to send a representative about their TIF audit and I was sent on behalf of the city. And thank you, again, for letting us go first, I appreciate that. My plan was just to kind of discuss our four projects that were audited. We had four projects audited which was the most out of any other city, other than the city of Omaha also had four. And then kind of talk about the findings and I'll entertain questions, I suppose. The four projects, one was what was called the Cyrus House Project, which is a...began in 2002 and the TIF is now done on that, that went through the end of 2016. And that was a housing development for special needs people in Scottsbluff. And TIF on that was \$200,000 and it helped with the water and the sewer...sewer line for that project. Airport development was a project that doesn't have anything to do with our airport, that was just the name of the developer. That was a downtown building that was dilapidated that was torn down and a new office building was built there. That helped...the TIF there helped with the alley behind there and the sidewalk in front of that building downtown. Again, that was a 2009 project and it is done. The more two recent ones were Reganis subdivision was a Honda dealership that recently went in, and that was a unique project because on the site where it was built there was some old sewer infrastructure that needed to be cleaned out. And then there was some work that needed to be done to Winters Creek canal which is an irrigation canal that goes through our town for drainage purposes, and so TIF helped with those issues. And then kind of at the same time, the Reganis subdivision in near that area, a Fairfield Inn went in there and the TIF...to back up, the Airport Development Project was \$130,000 of TIF. The Reganis, the Honda dealership was \$408,000; and then the Fairfield Inn, there was a TIF there, it was for site acquisition, utility extensions, site preparation, and that was \$980,000 of TIF. And so we were audited on all four of those projects. The issues that were pointed out in the audit, it was mentioned kind of in passing that the blight studies for the Airport Development and the Cyrus House Projects were two large blight studies for our...kind of our whole downtown area. Then it did say in passing that there was less than 50 percent of the buildings being dilapidated when the statute indeed says the predominance of buildings. But those blight studies also had several of the other factors that are required to qualify as blighted and substandard. And I will note that the State Auditor did not, I guess, say that our blight substandard studies were deficient in that area at all. They just mentioned that there was less than 50 percent of the structures to be dilapidated, and they pointed that out. So the only issue on the four projects...out of all four projects, the only issue that we were, I guess, downgraded for was

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the 2002 project, the Cyrus House Project. There was no separate cost-benefit analysis done, there was not a separate form. Now we use a separate form on every project since then; we use a separate form that we had the council and our CRA as well, sit down and go over, at their public hearings, to go...and we think that's a very important part, but in the 2002 Cyrus House Project there was no separate form for that. Will mention that all the requirements for that project that are required under statutes for the cost-benefit analysis were in the plan itself, except for employment, the effect on employment, and that really wasn't applicable to that project. That was a project where it was a housing development for some special need folks in our community. So that was the result of our audit. And if you have any questions, I'd be happy to answer them. [LR60]

SENATOR WAYNE: Any questions from the committee? So looking back, because I have to tie this to the audit so I'm going to... [LR60]

JOHN SELZER: Um-hum, sure. [LR60]

SENATOR WAYNE: We'll get there. If there was another tool besides TIF any...don't think about the law, think about what would benefit you looking at the...what could you have used instead of TIF or in addition to TIF looking at those four projects? What would have been a better use or a better... [LR60]

JOHN SELZER: A better incentive for those projects? [LR60]

SENATOR WAYNE: Yes. [LR60]

JOHN SELZER: You know, I don't know, and Nathan, our city manager, is here. I don't know if any of those projects used LB840 or not. But those projects were fairly big projects and the TIF on them was not gigantic. I mean, there's \$200,000 on one, \$130,000 on the other, and so those are just...those were ways to allow the...those projects to occur in those blighted areas. It just got them over the hurdle of saying, okay, this area is not a good place to develop; but if the city can help out with one or two things to get you kind of on ground level with other areas that you might want to go, we can get you in there. [LR60]

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SENATOR WAYNE: Thank you. Any other questions? Seeing none, thank you for coming today. (Inaudible.) [LR60]

JOHN SELZER: Thank you. Thanks for having us and thank you for moving us up, I appreciate it. [LR60]

SENATOR WAYNE: No problem. Well, you drove all the way down here, do you want to testify? [LR60]

_____ : I don't have anything other to add other than we try to use as many tools as possible to get economic development in our community. [LR60]

SENATOR WAYNE: All right. Well, thank you; thank you for coming. I will go to Mike Jacobson, city of North Platte. [LR60]

MIKE JACOBSON: Does it matter which chair I sit in? I'm (inaudible) this chair (inaudible). (Laughter) [LR60]

SENATOR WAYNE: Could be something to it. (Laughter) [LR60]

MIKE JACOBSON: May be...may be. [LR60]

SENATOR WAYNE: Please state your name and the spelling of your name for the record. [LR60]

MIKE JACOBSON: My name is Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n, and my address is 3020 West Leota Street, North Platte, Nebraska. Chairman Wayne and members of the Urban Affairs interim study Committee, I'm the president and CEO of NebraskaLand National Bank and have served as chairman of the North Platte Community Redevelopment Authority since its inception in 2001. I've come before you today to respond to the Auditor of Public Accounts, APA, December 20, 2016, report and address the issues relating to TIF in Nebraska. First, as it relates to audit findings, as it relates to the APA audit, I want to point out that although they

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created a list of 14 attributes for testing, only 12 of the 14 attributes referenced a specific statute. The other two had no reference. Of the two attributes that had no statute reference were first that the expenditures could be traced to supporting documentation; and, two, that property tax payments for the TIF project are property or properties are current. In North Platte, we qualified the expenditures from the application and concluded that the expenditures involved, including land acquisition costs, which of course are allowed, would well exceed the TIF bond proceeds. Additionally, the APA noted in their concluding remarks on page 29 of their report that Section 18-2143 calls for the liberal construction of (Section) 18-2147 to (Section) 18-2153 which provide the express authority and guidelines for using TIF to pay for redevelopment projects undertaken pursuant to the community development law. Further, I do not understand why the status of property tax payments was an issue. In some cases, the developer and CRA has no control over the subsequent payment of property taxes. There are cases where the project may involve the resale of the project to multiple individuals who may have no interest in the TIF bond. We should also keep in mind that the payment of property taxes is the only source of repayment of the TIF bond. Let me repeat--property taxes from that project are the only source of repayment of the TIF bond. No tax authority is ever on the hook for payment of the TIF bond. The APA also noted, and I might also cite that tax certificates are sold and they stand in line to buy the tax certificates because you earn a 14 percent interest rate on tax certificates. So when those tax certificates are sold, the dollars flow. So payment of property taxes seems to be a nonissue. The APA also cited that NPCRA, North Platte Community Redevelopment Authority, for not having a cost-benefit analysis as outlined in (Section) 18-2113 for the 2004 Wilkinson strip mall TIF bond. In fact, the NPCRA did have a study provided and we confirmed in writing to the APA that all the factors were considered by the NPCRA prior to recommending the project. The other two factors cited in the report dealt with issues relating to the county assessor and treasurer. Those issues were outside the control of the NPCRA. I should, however, remind the committee that repayment of the TIF bond is dependent solely on the real estate tax flows generated by the increment created by the development project. The bond size is based upon initial projected tax assessed value, which should go up over time, the interest rate on the bond, the years to maturity, and the projected mill levy. If the bond is sized too large, then the bondholder won't be fully repaid at the end of 15 years. If it's sized too small, the bond pays off early. As it relates to the NPCRA redevelopment fund: the NPCRA created what is referred to as the CRA redevelopment fund... What do you call it? CRARF? [LR60]

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TREVOR FITZGERALD: I called it CRARF? [LR60]

MIKE JACOBSON: I'm going to...I'm going to let you do your CRARF thing. All right, all right. ...in 2003. It was created in an effort to provide assistance to smaller projects that are generally located in an area of town where for one reason or another traditional TIF is not cost effective. Qualifying projects must meet the same test as any traditional TIF project, including the requirement that they be located in areas that is declared blighted and substandard, and must be approved by the city council. As a general rule, the NPCRA found that projects that move the increment by less than \$350,000 generally have trouble justifying the cost and effort to apply for traditional TIF. Generally, projects located in the downtown area of smaller communities do not move the tax assessed value in relationship to the cost improvements, although these projects will enjoy the benefit of lower, ongoing property taxes as opposed to spending the same dollars for new construction in a better area. The projected property tax increase following the project completion does not generate a sufficient bond size. And I think I pointed that out to those on the tour in the downtown area. Through the redevelopment fund, the CRA loans funds to the qualifying project in amounts that would mirror the traditional TIF project. The incremental tax base produced by the project goes on the tax rolls along with the initial tax base. The savings in property taxes due to the smaller valuation increase resulting from the improvements are then used by the owner or the developer to repay the loan. Funding for the CRARF comes from the traditional TIF projects. Section 18-2107 specifically authorizes the CRA to provide grants, loans, or other means of financing to public or private parties in order to accomplish the rehabilitation or redevelopment in accordance with a redevelopment plan. The NPCRA proposes in the...proposed to the North Platte City Council...was proposed to the North Platte City Council at their February 19, 2002, meeting. An amendment to the original TIF public policy statement authorizing this to disburse 75 percent of the TIF bond proceeds to the developer in the form of a grant, and 25 percent of the proceeds of the TIF bond in the form of a loan. I want you to note that all of the TIF proceeds go to the developer. And that's where I would disagree with the Auditor's report. I think if you follow their flow chart, they're showing 75 percent of funds going to the developer, 25 percent going to the CRA. A hundred percent of the funds go to the developer as the statute requires. The developer then repays 25 percent of it back to the CRA through negotiated terms. Those funds coming back then are used in the redevelopment fund to be used for these other projects. TIF history in North Platte: I've attached a spreadsheet outlining

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some of the key facts regarding the 13 TIF projects that have been completed in North Platte. You should note that the first three projects were completed by the city council through the community development agency that they had formed in 1997. The CRA was created by the city council and the initial five members were approved on June 15, 1999. You will note that 13 total projects have been approved since 1998. Column 10, which is highlighted for you, identifies the amount of annual increase and the real estate taxes generated from the incremental increase in property taxes for each project. The numbers are as of the date the bond was repaid, or the most recent amount on the books for those that are still not been repaid. As you can see, the TIF projects in North Platte have increased the real estate tax collections by over \$1.45 million annually. This number, of course, does not include the domino effect of the spin-off projects built as a result of the TIF projects, the personal property taxes collected, the sales tax collected, and the job growth created as a result of TIF. It is intellectually dishonest to suggest that TIF projects in North Platte have in any way reduced property tax collections or negatively impacted the school district. In fact, it is clear that the use of TIF has helped to bring new students into the school district. It should also be noted the school district has continued to experience enrollment declines and are experiencing a surplus in school facilities and the school district...while the school districts in Lincoln and Omaha continue to find themselves building new school facilities as the out-migration of students in the third district continue to move to the metro area seeking better jobs and more abundant and affordable housing. And I would note that if I look...and I can provide you stats on North Platte Public Schools, we've run about 4,000 students; they have closed one...actually they've closed two school buildings, one of them is a central office, another one is a Class I school just north of town that was closed a few years ago when Class I's merged just a couple years after that. We're losing about 120 students this year. And so when you start looking at cost-benefit analysis, they're easy to come by. More students...we have plenty of student capacity here. So doing a TIF project that brings more students into the school district ends up with the school district receiving more money from TEEOSA, but...and ultimately are guaranteed a higher tax base down the road, which we're seeing now. I'd also note, if you look at the spreadsheet, that there are only four projects that have not completely repaid their bonds; and all of them have paid early with the exception of the first one, and that one the bond didn't get completely repaid to the developer. Recommendations: The APA report raised legitimate issues that should be addressed by this committee and that changes are warranted to make the program more consistent and more effective. I would caution, however, that careful consideration be given

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to changes that could prevent communities from effectively using this important tool. I've outlined my specific concerns and recommendations below. The statutes specifically place the responsibility of approval for TIF projects in the hands of the local city councils. I believe this responsibility is well placed. The city councils are elected by the residents in their communities to oversee the affairs of the city. This includes the authority to assess property taxes, charge certain sales and occupation taxes to fund their budgets. They have a vested interest in this area and are in the best position to make decisions that affect the local citizens. TIF has many safeguards in place today to allow for ample public input, including the input of other taxing authorities impacted by TIF. Local control of TIF should continue. Any obligations of the developer and the CRA...and this goes to some of the after-the-fact concerns...any obligations of the developer and the CRA should be specifically included in the statutes. In other words, if you're going to audit us, tell us what we need to keep so we can give it to you. Don't make us guess what you're looking for. And should not have any performance tests that extend beyond the closing of the bond other than proper division of the taxes and knowing that we cancelled the bond when it needs to be cancelled. Okay, if you think about it, once that bond has been approved, we've gone through the cost-benefit analysis, we've gone through the blight and substandard studies, we've done all of the pieces; once that bond is closed, the horse has left the barn. At that point in time, what we need to be concerned about is--are we dividing the taxes correctly by the county treasurer? Is the CRA distributing the monies where they need to go? And are they keeping records on the bond payments so that when the bond is fully paid, it's cancelled; or when we reach the 15 years, it's canceled? And those seem to be the issues that I think we should be focused on after the fact. Anything beyond that is probably going to be beyond the control of the CRA, beyond the control of the developer; and, furthermore, I'm not sure what you do once the horse has left the barn. So I think you should focus your attention pre-bond closing and have whatever you need there, but make it clear to us what you're looking for. The APA report began their summary on page 29 of their report by stating "some consider TIF to be not only beneficial to local communities, but also necessary to promote the continued growth and economic prosperity of Nebraska's municipalities. It is not the intent of the APA to opine either way that viewpoint or the purpose for the community development law." I wholeheartedly support the latter view. Growing our tax base is critical to reducing our tax burden. Incenting growth in areas where growth would not occur on a timely basis without incentive is critical. Healthy communities require great healthcare; affordable housing, including senior living,

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assisted living, and skilled nursing; broad retail availability; good-paying jobs; and recreational and cultural opportunities. Attracting large retailers not only will bring new shoppers to our community, which is a positive pull factor, but also keep existing residents shopping here. Local retailers benefit as more shoppers are in the market. It is the shopping mall effect: shopping malls charge lower lease rates to large retailers to attract them as anchor tenants in their malls, smaller retailers pay more, but benefit from the draw of the larger retailers. And finally, the APA report made reference to (Section) 84-305--record retention, and raised several issues that impacted the constraints associated with compliance with the statute. I would suggest that the committee consider the actual value associated with monitoring projects once the bonds are closed and the funds are disbursed. It would seem to me that confirming that the proper steps were followed prior to the bond closing is essential, but there is really very little that could or should be done once the bond closes, as I stated before. Streamlining and spelling out the specific monitoring requirements would be helpful for future compliance. It should be noted that the APA audit report was the first time an audit was conducted on TIF projects and that they date back to 1997. So we're going back a lot of years asking for records that no one ever thought they had to produce and that were behind us, particularly when you consider that TIF projects only run maximum length of 15 years. Since most record retention rules reach back only seven years, a 20-year look-back is clearly challenging. Conclusion: one of the greatest problems impacting communities outside the metro markets is the lack of quality housing. This problem is exacerbated when you consider the cost of construction is generally 10 to 15 percent higher. During the housing crisis that began in 2008, many developers and their bankers lost millions of dollars. It became very clear that speculative residential real estate developments are not for the faint of heart. As a result, the development of new subdivisions has generally come to a halt. Meanwhile, homebuilders have found that the only way to bring down the cost of construction is to build multiple homes simultaneously. This requires that developed lots are available or they receive an incentive to offset some of their costs to create a new development. Additionally, the only lands available to create new housing developments are generally located outside the city limits. In large metro areas like Lincoln and Omaha, these large developments can be funded through a sanitary improvement district, SID. Unfortunately, SIDs are simply not feasible in smaller communities in outstate Nebraska. As a result, the only remaining options to fund these projects are to have the city itself build the development or to create an incentive for a private developer to build the project. The economics associated with this type of private development

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simply are not feasible without significant financial assistance. That is why TIF is such an important tool. If new homes are not built, no new tax base is created, no growth in the population occurs, and no new workers come to the work force. I guess I would just say in closing that it continues to be very challenging. I'm not saying TIF is the...has all the answers, but I would tell you that it's been probably one of the few tools that we've been able to use effectively. If we lost the use of TIF by either putting the constraints that will nullify it or take it away completely, I think it's a self-fulfilling prophesy that we're going to see the out-migration from the Third District to the First and Second District continue. I would also tell you that I did receive some numbers from the North Platte Public Schools. They were just looking at second graders alone. I think three of the second graders that they lost went to the Lincoln or Omaha area. They lost, I think, a total of 12 of the second grade class. They were either going to other states or they were going to metro area. So clearly we're seeing what's happening there. We've got to be able to have some kind of a tool to continue to create economic development in these communities. And I would also tell you that I left you some other handouts there and some narrative that I'm not going to read because I'm getting a sense that Senator Wayne is going to give me the hook here in just a minute, but it deals with specific executive overview of the redevelopment plan. It also gives you the numbers so you could look through the numbers and see how the spreadsheet works to tell you how we came to that. And I also included a handout on how we conduct the TIF program in North Platte, along with the flow of funds. So if you have any questions today, I'm here to answer them, hopefully; and if not, feel free to call me at any time if you've got questions. [LR60]

SENATOR WAYNE: Any questions from the committee? I have a question. On the CRARF... [LR60]

MIKE JACOBSON: We need to come up with a different name. Can you get us something different? [LR60]

SENATOR WAYNE: Are those TIF dollars or not TIF dollars? [LR60]

MIKE JACOBSON: Well, I would argue that those are loan proceeds were being repaid. I mean the money goes into the project initially. And when we negotiate the repayment of those loans,

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the repayment of the loans is dependent upon what the needs are of that developer. If that developer tells us I need three years before I can start making loan payments, we start making loan payments three years later. In the case of Cabela's who said I can borrow the money cheaper, I'm going to write your check, and pay it back now, at the end of the day all of the money is made available to the developer to pay legitimate development costs. [LR60]

SENATOR WAYNE: I understand how it works. I guess what I'm trying to figure out is if those are TIF dollars being used on non-TIF projects. [LR60]

MIKE JACOBSON: Well, I would tell you if somebody comes into my bank and I loan them money and they come back and pay me back, they're not giving me the same dollars I loaned them. [LR60]

SENATOR WAYNE: So you're using just the proceeds? [LR60]

MIKE JACOBSON: All of the proceeds are going to the developer to do his project for qualified expenses. [LR60]

SENATOR WAYNE: So if it's a 14 percent interest rate, are you using only the 14 percent or are you using the principal too? [LR60]

MIKE JACOBSON: I'm not sure I understand. [LR60]

SENATOR WAYNE: So would the principal be TIF dollars? [LR60]

MIKE JACOBSON: Well, I guess what I'm saying is if the project...if the TIF bond is \$1 million, \$750,000 is going out as a grant and they're signing a note for the other \$250,000. And so I'm giving them two checks payable to them to go to their project to cover at least \$1 million worth of qualifying TIF expenditures. So they're getting \$1 million and they're walking out of the...they're walking away from the bond closing with \$1 million and a bond in...and the bond is either held by them or their lender if the lender loans them money to fund the bond. So then they're going to pay us the dollars back. They're going to pay \$250,000 back, okay. But the

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money initially, they walked out the door with a \$1 million and they're going to pay me back...they're going to pay us back \$250,000 with interest, so plus interest. And the interest rate typically is 4.5...was typically national prime. [LR60]

SENATOR WAYNE: Maybe this is a question for the city...I don't know, I guess is there...what legal analysis or is there an AG Opinion saying that's okay to use TIF dollars for non-TIF projects? [LR60]

MIKE JACOBSON: Well, and actually I would argue that it's not going back into non-TIF projects. In other words, it's coming back and being used for projects that are located in blighted and substandard areas. We're conducting it just like a TIF project in terms of its qualifications. And we're going to the city council for approval of the use of that...of this other...of this other fund. So it's pretty much...it's the same as TIF only we're expediting it and we're not taking the new project that these dollars go for off the tax rolls. [LR60]

SENATOR WAYNE: I understand that and excuse my ignorance. I'm a criminal defense attorney. So when the feds seize clients' monies, whether they use the proceeds from the money they originally have, they consider it all the same money. And that's where I'm confused with...and we can talk more off mike. I'm still trying because this is the first time I've heard of the provision in the Statute 18-2107 that says you can make loans. And I don't think...I think that's being very liberally construed. [LR60]

MIKE JACOBSON: And then we'd be referred to the other statute, the other section in the statute. (Laughter) [LR60]

SENATOR WAYNE: That why I said...that's why I used those words. I know (inaudible) statute. [LR60]

MIKE JACOBSON: I would suggest this. I would suggest that you read through the program and follow the flow and...because it seems to me that if you want to drive dollars into downtown and areas that people visualize in their minds as substandard, blighted and substandard, there's a way you can get it there. And you're doing it with the larger TIF projects but...and so that was the

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reason we did it. And I guess I would say that obviously we're relying upon the liberal interpretation...relying on the statute on loans and grants to get there, but we also are using all the safeguards by making sure that the city council approves those projects, that they are in blighted and substandard areas, and that they meet every other test of TIF. [LR60]

SENATOR WAYNE: I don't disagree with that. I'm just...you understand the question. [LR60]

MIKE JACOBSON: I do. I do. [LR60]

SENATOR WAYNE: Any other questions from the committee? [LR60]

MIKE JACOBSON: Yes. [LR60]

SENATOR WAYNE: Yes. [LR60]

SENATOR CRAWFORD: Thank you, Chairman Wayne, and thank you for being here to testify. Do you have any briefing with the council when a TIF project closes where you go over how it worked or what the proceeds will be now so that the city council can learn to identify those projects that might be most effective and ones...or just learn to make sure they're making good choices at the outset? [LR60]

MIKE JACOBSON: Well, typically what I've done multiple times with the city council and typically after there's an election where we've got new city council members, I will go before the city council probably in a work session and give them and then before any TIF project is presented, I walk them through that spreadsheet or that...the colored papers that are attached to your...to my testimony and really walk them through what TIF is, how it works. And again, what I think is unique and I know Senator Wayne asked the previous presenter the question what else could we be doing? And here is why I think TIF is so valuable. If you look at LB840, LB840 is a great program and its funding is really coming from sales tax collection and then you're also getting funding from occupation taxes, okay? So when you look at what funding is available, there's occupation taxes which in theory don't directly impact the local residents but it impacts...the hotel owners say it impacts them, and people that are using them say it impacts

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them. You've got sales tax which, of course, impacts anybody who does business in your city. You've got income taxes which affects anybody who pays income taxes. And then you've got property taxes which affects everybody in your jurisdiction who's within your taxing authority. TIF in its best form is if this project otherwise would not have been built, the developer who builds the project agrees to build the project still pays you everything you're getting on your tax rolls today. So you don't lose anything on your tax rolls. And then it's the taxes that they pay on the new project that they built because of TIF that's then used to repay the bonds that they have. And if the tax increment isn't enough to pay the bonds off, they eat the loss on the bonds. And if the taxes they pay come in at a higher pace, the bond pays off early. Most of our bonds, and you'll see them on the spreadsheet, have run 7 or 8 years or maybe 9 when they were really set up to run for 15 and largely because we use a conservative estimate on what the property tax and what the mill levy is going to be and they typically pay early. And I think Menards was about an eight-year project. So at the end of the day, if you look at all the forms of taxes and you look at the...and the ways of funding economic development, this one is self-funding, particularly if the project wouldn't have been built otherwise. Now can I sit here today and say absolutely, positively none of those projects would have been built without TIF? I can't prove a negative. But I can point to projects that failed or the business failed after the TIF was approved and they built their building. I can assure you those would not have been built without TIF and yet the property is still on the tax rolls. And we went on the tour of the one, the truck wash. The business failed two or three years after the building was built. Well, there's two other businesses in there today. The property values continue to go up. Once we build the building, it's here. It's on the tax rolls. That's the beauty of TIF. That business doesn't have to continue to operate because somebody else can go in and take the building. It's still on the tax rolls. So...and in the case of Walmart, the food distribution center was...they were looking at two sites: They were looking at the site where it's located now in North Platte, Nebraska, or they were looking at Pueblo, Colorado. Those were their choices, one or the other. We TIFed the project because we had to give them the land that was going to cost us \$1 million for the land, bought the land next door with that project, put in infrastructure, and now for those who went on the tour saw tremendous expansion that's occurred out there. We've got two...we've got three TIF projects in that area. The Walmart food distribution center, the truck wash I just talked about, and Cabela's. All of the other development there has been done without TIF. And it's a significant impact. And what's happened is that there's Inland Truck Parts. There's another brand...there's a truck...I guess a truck stop there. The

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second truck stop was built. There's another truck wash out there that was built. Everything out there along that street was built largely because they wanted to be closer to Cabela's. By having the extra land next door, we came very close to getting Blue Bunny Ice Cream to come here and build next to Walmart but at the time our sewer facility wasn't up to the level of that they needed. It would be today. We now recently talked to a potential egg-laying company that wanted to locate a facility here for hens and they would be thinking about putting a facility next to Walmart that would process the eggs and deliver them to Walmart. When you start looking at the multiplier impact of that, it's tremendous. That's why I'm just so passionate that TIF does work and we've only done 13 projects and our CRA has approved 11 of them since I've been involved back in 1999 I guess was technically the first one that we did. So the fact is we aren't indiscriminately doing TIF projects. We're doing less than one a year. But we're very selective about what we do. We've turned down multiple TIF projects which we don't disclose to the public. But we're...I'm a taxpayer. I'm a fairly large property taxpayer. I'm not interested in giving anybody a free ride but I am interested in seeing economic development and broadening of our tax base and I think TIF is how you get there. [LR60]

SENATOR WAYNE: Any questions from the committee? Thank you for coming. [LR60]

MIKE JACOBSON: Thank you. [LR60]

SENATOR WAYNE: Next we have Jim Hawks, city of North Platte. [LR60]

JIM HAWKS: Chairman Wayne and Committee, I appreciate the opportunity to come in to talk to you. My name is Jim Hawks, J-i-m H-a-w-k-s, and I am currently the city administrator for the city of North Platte and was in this position during the development of two of the three tax increment projects that were audited by the Auditor of Public Accounts. These projects were Eagle Estates and Southwest Implement, both of which were developed on land that was previously designated as blighted and substandard. My background primarily is in engineering and surveying. It goes back 30 years in and around the city of North Platte and Lincoln County. I've seen the benefit that these three tax increment projects have brought into our community. These projects have brought in both job growth and expansion of local economic base from the projects themselves and, as was previously testified to, have served as the catalyst for further

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development of growth in the areas surrounding these projects. I'd like to specifically address the Auditor's findings of the two projects that occurred during my tenure as city administrator. The Auditor of Public Accounts states the documentation was not maintained by the city to support actual costs on the TIF projects on both the Iron Eagle and Southwest Implement projects. While this is not currently a requirement, it was not required of the developers on these projects, we have adopted a process to acquire this documentation on any projects moving forward and have also required this type of documentation from the developer on the last project that we had done which was not audited. I'd also like to say that being in the field I am I often have the opportunity to work with the developers, engineers, and surveyors to work on these projects and develop estimates on the eligible costs of these projects and that infrastructure cost as well as site acquisition and site preparation on these costs would have definitely exceeded the amount of the TIF bond by quite a bit. In today's world of high construction costs, I would hope that any changes to the rules governing the use of TIF on eligible projects would not be significant in nature as it is one of the more valuable tools we have to offer to these qualifying projects. We've seen tremendous growth in the area surrounding these projects, most of which has been spurred by the TIF projects. And as Mike testified to earlier, Mr. Jacobson, you saw that when you were on the tour with us earlier today. This also has allowed the extension of necessary infrastructure in the area where infrastructure was either absent altogether or lacking in capacity to serve the improvements necessary to facilitate new growth. If changes were made to the tax increment financing regulations, it would certainly hinder the growth of our rural communities while we are already struggling in some cases to maintain our vitality. I'm involved in several state organizations, sit on several state boards, councils, and task forces and know that everyone is working hard towards growing a stronger Nebraska. To modify a change or make the use of tax increment financing more cumbersome would certainly hamper a community's ability who are working towards this goal. And I think most of the time when you look across the state and you look at where the growth is coming from, it's coming from the communities. It's coming from the locals. Local control has always been the best control. And working with our partners at state level, I'm sure that we can arrive at a solution to resolve any issues that may need to be addressed without jeopardizing any future use of this valuable tool. And I think, as has been testified to earlier, we're willing to work with you. I think that there are already a lot of safeguards built into the TIF process. I feel that the city councils, the CRAs, and all of those involved in this do their best to try and meet all the rules and regulations that are already set and in place. And as I said,

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the two deficiencies on the...it was actually the same deficiency on the two projects that were done under my tenure, we've already implemented internal processes to make sure that we have the proper documentation. And in fact, we already have one project that we have walked through that process with the developer on and have corrected those deficiencies. So with that, I appreciate the opportunity to come in. Again, we work very hard out here in western Nebraska to try and maintain our economy and continue to see it grow. And this is just one of the tools we can use to do that and to expand the infrastructure of the city into areas, again, where oftentimes it's deficient or perhaps nonexistent at all. So with that, again, I would also answer any questions. [LR60]

SENATOR WAYNE: Questions from the committee? Seeing none, thank you for coming. Next we have Brent Clark. Please state your name and spell your name for the record. [LR60]

BRENT CLARK: My name is Brent Clark, B-r-e-n-t C-l-a-r-k, and I'm the city administrator for the city of Broken Bow. Good afternoon. Welcome to North Platte. Thanks for having me. I appreciate the invite. I also want to say thanks to all the senators that made time out of their busy schedule to come over to North Platte for this hearing as well. As you note, we are on one of the projects...two, the Trotter A and B Project in Broken Bow. I was not the current administrator at the time. I've been there for about 2.5 years. We also...we really don't have anybody on the administrative staff who was a part of the project. This is one of those unique projects I kind of call the bucket TIF that you might know of that we had an outside attorney come in and develop this project for us and implement it with the city council and the administration at the time. We did have some bookkeeping issues as far as documentation and some public notices that we couldn't find. We have had some turnover in the past couple years when it comes to the city clerk, treasurer of 40-plus years that retired, and those things. Since then, we have kind of changed how we process TIF projects with the new administration and the new mayor and council that are on board. We now separated those duties into a city treasurer and city clerk role along with myself. All the projects that we've done currently are in great standings, phenomenal documentation. And I would invite all of you to stop any time or give me a call and I can provide you with the way we currently do TIF projects. We appreciate the Auditor's Office and the APA audit on our project to make sure that we do not have those same issues in the future moving forward. [LR60]

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SENATOR WAYNE: Any questions from the committee? I have one. Do you guys still use that same outside attorney? [LR60]

BRENT CLARK: No, we do not, at least not since I've been there and not for quite a few years. The project is a phenomenal project and actually if you've been to Broken Bow lately is really what drove all the development out west with the Trotter Project, the gas station truck stop, Taco John's, the Trotter service center, Cobblestone Hotel and Suites, the convention center, Dairy Queen, the Mid-Plains Community College that's now there, Heritage Bank. I mean it was a great project. Maybe not following the rules as specific, you know, a little more broad, you know, looked at it more broadly than maybe what current administration would have done. And so...but without that first project, the Trotter TIF Project, none of that development would occur out west of Broken Bow. It's a big deal when we land Dairy Queen. It's not a big deal for Lincoln or Omaha or North Platte or any of those things, but Farm Credit Services is now building out west on the other side of the highway. And so this really was the driving force of starting all the development out west of Broken Bow. For a town of 3,500 people, that means a lot to us. TIF is one of those tools that allows us to continue to just retain population and try to grow a little bit but not decrease population and that's the goal. [LR60]

SENATOR WAYNE: Senator Crawford. [LR60]

SENATOR CRAWFORD: Thank you, Chairman Wayne, and thank you for being here to testify. [LR60]

BRENT CLARK: Yes. [LR60]

SENATOR CRAWFORD: Can you talk a little bit about how you communicate with schools and counties when you're considering a TIF project if that has happened in your tenure or if you're familiar with what that looks like. [LR60]

BRENT CLARK: Yeah, we have a great relationship with our county supervisors. We communicate with them in making sure the valuation is somewhat in line of what the project is maybe going to look like when it's done and finished, making sure that cost-benefit analysis is

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conducted. We don't communicate as much with the school district. That's something that we invite them to the public hearings, of course, with the CRA as well as the city council meetings for all the public hearings, but nothing that we have one-on-one meetings with. [LR60]

SENATOR CRAWFORD: From your perspective, have they been supportive of this project and the consequences of the project? [LR60]

BRENT CLARK: You know, that's kind of a loaded question with any school board. You know, they all have different opinions and different mission statements. But I think the number one goal is to continue to grow their community and to have tax dollars coming in to pay for operating expenses. As mentioned in prior testimonies that we don't have that many streams of revenue to offer when it comes to paying our expenses as a city side. Everybody wants all the amenities and accommodations but nobody knows how to pay for it, nor do they want to pay for it. And so this is one of those resources that the school and the city have to attract additional students and additional valuation in the future. [LR60]

SENATOR CRAWFORD: Thank you. [LR60]

SENATOR WAYNE: Any other questions? Thank you for coming today. [LR60]

BRENT CLARK: Thanks for having me. Have a good day. [LR60]

SENATOR WAYNE: Next we'll have Jo Leyland from city of Imperial. And just so you guys know in the audience, we are still keeping track. We did have one person go about 4:45, but with questions everybody is still under ten minutes so I'm not really fighting anything yet. But we are still monitoring, so don't get long winded as we get longer. But we'll keep it going. Thank you for coming. [LR60]

JO LEYLAND: Good afternoon. Thank you. My name is Jo Leyland, J-o L-e-y-l-a-n-d. I'm the city administrator, clerk, treasurer in Imperial, Nebraska. We're a community of 2,071 above average citizens (laughter). And we struggle, as most rural communities do, to retain our population and to grow. TIF is a tool that we've utilized. The project that was cited in the State

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Auditor's study was a project called Heather Estates. It was completed in 2013. Our original substandard blight study was completed in 2007, so we waited quite a while before we had a project that we felt like would help our community. But as most small communities, we don't have the expertise on staff to do a substandard and blight study of our own. So we hired a professional firm to do that for us in 2007. And from the outset we had problems. We were new to it, but the firm that we chose was not particularly helpful and we identified a lot of errors. The things that were revealed in the State Auditor's study almost to a fault were number four on Trevor's list, the designation of substandard and blight were the areas that we felt we were low in on our TIF project. But we had corrected a number of errors with that study initially. When the Auditor started asking questions, it became clear that there were some areas we had missed. Two items were of particular concern were that the area where this TIF project occurred, and frankly where all of our TIF projects occurred, is an area of land about 70 acres in size that has been in the city limits for well over the 40-year required time period. Our study says 20 years. But when that site was developed, it was not owned by the city. A couple years later the city purchased that site and zoned it for multiuse both...all commercial, light industrial, and housing, which we all know housing is important to attracting business and every other aspect of your community. But when we included that in the site, frankly I looked at that study and said, gosh, I thought the statute said 40 years. And rather than going to look it up I thought, well, this professional person knows what they're talking about and I didn't call that out. So while the Auditor's report did say that it was noted it really was in this...in the city limits for the required 40 years, our study said 20. So that was an issue that I would chalk up as more a typographical error than a real problem with TIF. The other problem that we cited, this particular study area within our substandard and blight included not only this 70-acre tract but another area that was an older part of town that included some businesses that had been there some time and we felt like it was an area that could be redeveloped when we started the study. So it wasn't just a nice square area. There were a lot of jigs and jogs to the boundary of that particular study area. And one of the areas that we intentionally excluded was an area where a new home had been built, so we intentionally left that out of the substandard and blight area. However, when the map was drawn, that became clear when this study happened, it was exactly a block off on the map. So this will make sense--the area that we intended to leave out was a block north of this redevelopment area that happened. So when Heather Estates was considered for TIF, the first development that happened there was ten rental homes and four spec homes that have all been sold. The northernmost spec home was

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outside the mapped substandard and blight area because our map was just that one block off. So the Auditor's report shows that one of...some of the area that we included in our TIF and redevelopment area was outside the study. That was again an error in our substandard and blight, one that we just did not catch because it was...everybody looked at it and thought there it is, right on the corner. Yes, that's that house that was constructed. We're fine, but our map was incorrect. We have since contracted with another firm to redo our entire substandard and blight study to eliminate these problems. The only other thing noted in our citing from the State Auditor's Office was untimely responses from county officials, which I might chalk up to the time of year when the information was requested because we were all very busy with budget information at that time and I know the county is, too, although I haven't visited with them specifically. I might just tell you that since...this was our first TIF project in Imperial. Since then we've done three additional ones which accounted for \$3 million in investment for infrastructure. The city has been the developer for all four of those projects so the TIF revenues come back to the city to help pay those infrastructure costs in building streets, sewer, sanitation, water, all that. The property was completely barren when we purchased it. Now there are 20 homes on that property. There were three businesses; unfortunately one of those burned. So that was an unfortunate incident, but we have a contract now on two more lots for additional businesses. And in a community of 2,071 people, that is extremely significant. So it has been a good tool for us. I think as many people have testified to already, it's a tool that we were able to use. Some of the state incentives are difficult for us to use because our projects are typically not huge in nature. And as has been questioned in previous testimony, we're not really stealing from anyone else. This is...these are businesses that have come from local, for the most part, local people that needed a place to grow or to build. And we had land but there was no infrastructure to those lots. So in order for them to build, we had to build the services to go to them. And it's expensive. Like I said, we've spent \$3 million and for a community our size, that's a lot of money. And to be able to retain that from...to get that reimbursed from the business that locates there is very significant to us. I'd be happy to answer any questions or clear up anything if you have any questions. I guess I would also say to your previous question, we don't have opposition from the other taxing entities in our community. They get certified notices of all the hearings and we have only once had anyone come to the hearing and that was the very first hearing we ever had and people didn't understand what it meant. So we explained it in great detail to everyone who came and we haven't had any opposition. [LR60]

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SENATOR WAYNE: Any questions? Seeing none, thank you for coming today. [LR60]

JO LEYLAND: Thank you. [LR60]

SENATOR WAYNE: That's all the cities that we had that we received RSVPs from basically. And so, Senator Groene, you are next on the list, followed by Christy, and then we'll open it up to the public. We're going to keep you at a minute, thirty. (Laughter) [LR60]

SENATOR GROENE: I kept my mouth shut like you told me. (Laughter) Didn't ask any questions. You folks all know...thank you, Committee, for coming out to North Platte. You all know my position on TIF. I'm a very firm believer in the rule of law. It holds us together, protects our freedoms. TIF, we're not talking about economic development. We're talking about TIF. If we were talking about economic development, I would not be in front of you. I would be in front of Revenue Committee which I sit on. Your duty is urban affairs--SIDs, zoning laws, urban renewal. That's why TIF was sent to the Urban Affairs Committee originally. I understand the use of TIF for economic development but that isn't the purpose. We all know that. It was intended for urban renewal. As to Senator Crawford's question to the State Auditor, I've sat on the Government Committee and, as you know, I worked with Senator Murante to put that ability of the Chairman of the Government Committee, Murante, to put that ability of the Auditor, State Auditor, to audit TIF and other such funding mechanisms where money is taken from the city and given to another organization to spend. It's after the fact. The deed has been done. They have no enforcement duty whatsoever. They have no ability to tell anybody they did it right or wrong. We have nowhere in state statutes to give guidance to local officials. I was impressed by the lady from Imperial. It sounds like they're doing it right. You read the constitutional amendment, it's the city who's supposed to have the debt. The city is supposed to fund it and the city is supposed to collect the tax increment financing to pay off that debt. That is the way it should be done. We don't need all the attorneys in the middle, all the recommendations from the consultants. We just need the city to do the right thing. I'll go to...I'll stick to the audit and their recommendations. They, as they told you, recordkeeping is atrocious. Nobody told the cities what they needed to keep. Nobody told them that they had to balance the books. You gave this bond, you gave this money, and here's documentation of invoices where it was spent. Was it spent for sewer? Was it spent for curbs? Was it spent to demolish? Show me an invoice. Nobody told them they had to do

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that. I think we should listen to the Auditor when he says...when they said we would recommend the Legislature review and, if needed, clarify the language in 18-2117 regarding the contents of the required annual filings. Basic accounting practice--you gave them the money, where did it get spent? Show me the invoices. That would help everybody to make sure it was used on infrastructure as was supposed to be. I appreciate you mentioning my LB489, Trevor, but my two bills for actual oversight were IPPed by the committee in 2015. LB489 was just to strike a vague language of what they could spend it on. But they have been IPPed. Not proud of it, but we keep fighting on. I get this where these cities...I don't know why. I thought government entities existed to supply services, not to be venture capitalists. A community does have economic development tools. They're called low property taxes, good public safety, good schools. That's what...how they attract businesses. To get in competition with other communities over a project coming to town doesn't help the community, doesn't help the state. I wanted to bring up a comparison. In yesterday's paper there was a story about County Assessor Diane Battiatto from Douglas County and the mess they're in. That's one of the other exceptions to...one of the other exceptions to the constitution on uniform and proportional. Imagine if we let county assessors go wild. They're running for office. They go out and tell everybody wink and a nod. I'll lower your property taxes on your business, on your home. You just vote for me. Imagine that. That's why we have the TERC Board. That's why Battiatto got in trouble. We had oversight that it was done right. We have absolutely no oversight on the other exception to the uniform and proportional which is TIF--none, no state oversight, no guidance to communities. These folks want to do it right. As you said, as...do it right. That's what somebody quoted Ms. Rex saying from the League of Municipalities. How can you do it right if we don't show them how to do it right? We don't. We have a property tax problem in this state and TIF is growing--\$70 million last year from about \$33 million 10 years prior. Yes, you are taking money from normal growth from the schools, from the county, from the NRDs. You look at the Omahas, the Lincolns, the North Plattes. North Platte finally has been able to lower their levy lately. We haven't had any new TIFs lately. All those other communities with the old adage we grow and everybody will get tax relief isn't working. Why? Because we TIF growth. You let infrastructure age for 15 years. The ideal growth is you get new growth, you take the money off the new infrastructure of taxes, and you fix old infrastructure. You've lost that money. And in 15 years then that infrastructure needs repairs and now we're further behind. The property tax system works. You grow, you need more schools, you need more police officers, it pays for it. You're diverting it. So anyway. And I'm just

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going to clear some things up. Our schools have lost enrollment. I'm in contact with, because I'm Chairman of the Education Committee, with my local superintendent. It's option enrollment. Those students were lost to Hershey, Sutherland, schools around here, same thing that happens to OPS. They're moving. Parents want smaller classrooms, smaller schools. It's not because we're losing a whole bunch of students because people are moving out of town. The Menards...I mean the Walmart distribution center, there is no such TIF, there never was, called the Walmart distribution center. It was called the DevCo, the Development Corporation. Menards came mostly because of the Advantage Act--huge amount of money. They wanted a piece of ground. The local CRA has seen 200-some acres out on outskirts...out on prime real estate out on interstate exchange. They TIFed it. They TIFed the proceeds from Walmart to buy the 300 acres or whatever it was and they gave 70 or 80 acres to Walmart. That's all they wanted. I believe the city paid...the city taxpayers paid for the extension of the water mains and sewer out there. It was not paid by TIF, if my memory is correct from the battles we had over that. We didn't fight the Walmart one because we all looked the other way because of the jobs. On the Community Redevelopment Authority loan revolving fund, this is how it works. You issue a bond for \$1 million. It's given to the developer; it should be kept by the city. Developer keeps \$750,000, gives \$250,000 back to the city for money that was never loaned in the first place out of...you cannot find a transaction where the city took \$250,000 out of their general fund and loaned it. You can't find it. A million dollars, \$750,000 is kept by the developer, \$250,000 is given to the city. The increment taxes are collected until the \$1 million bond is paid off; \$250,000 is not used on the project. It is used...it is diverted and it is not used specific to the project which state statute is pretty clear. That's how it operates. But for, always remember but for is you will build it not on the outskirts of town as we all tried to stop when we voted for TIF in 1978, but you will build in the inner city. It's not you will build in Pueblo, Colorado, or build here. It's you're coming here, now the city management goes to them and says hey, Menards, you're coming here because you did your studies. You found out you have a customer base here that will support that store. Would you please build down at the old railroad tracks and the warehouse area. We will clear the area. We will help you with infrastructure. Build here, not here. That is but for. Read the statute. Trevor read it and that's what it says in his introduction. What do we need to do? We need to listen to what the Auditor said. We need to fix what contents of reporting needs to be done. It needs to be done annually. We need to create an enforcement, just like we have the TERC Board. We need to put the Revenue Department over oversight so that a concerned city councilperson, a

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concerned city manager can get a hold of somebody at the state, are we doing this right? Is this allowable? Are we really following the definition of blighted and substandard? We understand this affects our tax base. Are we doing it right? I heard that we extended our services, our infrastructure. That isn't part of TIF. That is not part of TIF. TIF is to replace existing deteriorating infrastructure. The word economic development is not used in the law, not anywhere. You can add some infrastructure if it's been in the city for 40 years as Imperial did because of some reason, a low area in the city a lot of times, sloughs, creeks. You can do that. But to extend for growth, I can't find it in the statutes. I can't find it. You know, you look at North Platte...you took a tour I guess. Did you notice Nebraskaland Bank, which Mike Jacobson has been a great employer to the city. It was a blighted area. He built that bank without TIF. You go further into town. You find the Equitable Bank. Tore down I believe an old hotel, no TIF. The Walgreens, they came, they never even asked. They just started building, blighted area. O'Reilly Auto Parts is brand new. Good businessmen decided they want to be good citizens and help their schools, their communities, and pay their taxes. They came to town and built. You will find most of the TIFs are corporations that don't live there. They just build. It's a bottom dollar. The local people in most cases pay their taxes. Pals Brewery on the outskirts of town, somebody could have claimed that was blighted. It probably is, I'm not sure. The Tru Hotel going up, that's not TIFed. Tractor Supply, I could go on and on. Growth does happen without TIF. You would have believed with what you heard here today, it cannot happen and does not. The free market system is broke and will never be repaired. But if you're a businessman and somebody is going to give you free money, you're going to take it. I don't blame them at all. TIF is a good program and it needs to be used in the inner cities. Did they take you through our old downtown? It's sad, folks. It was never used there because our policy says that it's not enough dollars involved if somebody wanted to remodel one of them old buildings down there and turn them into apartments or something. That's what the CRARF or whatever you want to call it is supposed to be for. You look at a Hastings, Kearney, they did it that way. They redid their downtowns. The Old Market in Omaha, in Lincoln the Haymarket, it was used correctly. That's how it's supposed to be used. It's not an economic development tool, never was meant to. And we need to fix it because it's getting out of hand. This movement into housing, we heard about work force housing. There's nothing in TIF that has anything to do or anything under your purvey as a...that has anything to do with housing, expansion of housing. That's an economic development issue, if any, and it should be handled by the Revenue Committee. The rule of law, that's where we're at here. That's our duty.

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It's a sworn duty that we have to do. Nobody is trying to kill TIF. Use it right. I'm going to bring legislation next year to just strike...not ten minutes, is it? (Laughter) [LR60]

SENATOR WAYNE: Yeah, you're at 10:49. I was letting you go a little bit, but you kept going. [LR60]

SENATOR GROENE: In high school I couldn't come up with a minute speech. But anyway, misuse of existing law, 18-2123 in 1951. We all know what that is. That's the mark. That's the one. The salesman comes to town. The lawyer comes to town and tells the community that a good city manager, the mayor, and the city that, here, you can build in an open cornfield because it's right here in 18...we need to strike that. It needs to disappear. It was from 1951. It was meant in good nature that you had a TIF project...not a TIF project, a redevelopment project and you needed a couple acres. It was a ten-acre project and you needed one or two acres because it overlapped outside the city limits, that you could take those one or two acres and add it in to finish a project. That's what it was meant for. I just helped fight an issue in Ashland where they annexed three or four old houses and annexed 45 acres in. Not one dime was going to be spent on those three houses. Everything was going to be on the 45 acres. They can do it because we have no oversight. We have nobody to tell these people no, don't be intimidated. You know, people volunteer basically to be on a city council in a small town. They need guidance. They should not be intimidated that unless you give this to us we are not going to build. That's wrong. I'm done, Wayne. (Laughter) [LR60]

SENATOR WAYNE: This is your district, so I'm trying to be respectful. Do you have any questions for Senator Groene? Seeing none, thank you for coming. [LR60]

SENATOR GROENE: I'll get to Lincoln and lecture you some more. [LR60]

SENATOR WAYNE: Yes. I was...I had...Larry, I'm going to have Larry go next, Christy. Sorry about that. [LR60]

CHRISTY ABRAHAM: It's no problem. [LR60]

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SENATOR WAYNE: I didn't know I was going to get lectured again. (Laughter) [LR60]

LARRY SCHERER: Good afternoon, Senator Wayne, members of the Urban Affairs Committee, Senator Groene. Thank you for the time today. I appreciate getting a little bit ahead of the game. I have an appointment here on campus. I should have made it for later, so my fault, but I really appreciate this. I'm here today just to talk about the impact of TIF on school funding, TEEOSA. [LR60]

SENATOR WAYNE: State your name. [LR60]

LARRY SCHERER: Oh, I'm sorry. Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r, and I work for Nebraska State Education Association. I'm the director of research. And my history is in school finance in area of...for a long time. So we thought it might be useful to start talking about it from the school's perspective. Senator Groene mentioned that it does impact state aid. It impacts local property tax receipts and the question is always asked, there's a perception that state aid comes in and fills the bucket. Well, not always. Sometimes it does; sometimes it doesn't. And so that's what I want to talk about. I put an example here of a \$2 million loss in valuation. I know that's not exactly the way it works in TIF, but that's the way it works in TEEOSA. You lose valuation that's counted as a receipt from the local effort rate. So that's where I'm starting from and we can approach it from a different angle if you'd like somewhere down the line. So in other words if this...if there's a \$2 million loss in valuation, the school district ends up losing this \$20,000 in property tax. That's the starting point. From there, is there a dollar for dollar? You know, that depends. It depends on whether if you're already qualifying for equalization aid, needs exceed resources, then yes, TEEOSA comes in and fills the bucket mostly. And I say mostly because if you're levying actually more than the local effort rate which is \$1.0203, then it doesn't completely replace that funding. So we have a district; it only replaces it dollar for dollar if you're levying pretty much exactly at that local effort rate. If you're levying above that, not completely doesn't do that. Then you have the districts that are so far away from getting equalization aid that they just lose the property taxes. There is no replacement. Then you have a group that are close to getting equalization and this may put them into the status of getting equalization aid. So those are the examples there in the first section. What happens if you have a district that has a very low levy, say, 50 cents? Well, it's, you know, \$2 million of valuation, it's

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only going to be half as much lost because of that. So the loss isn't as big but they replace basically zero on the equalization aid side of it. And that's what those last examples are. One of the things that we don't think about often is equalization aid, the amount of it is driven by how much resources and how much need is out there. So when you reduce how much resources are out there because of TIF, it increases the amount of state aid that is payable. Now that's fine and good I guess if the Legislature doesn't change TEEOSA and cap it. If they do, it's good...it's okay for the school. It's not necessarily the Legislature which has to come up with the dollars. But if there is a cap on the amount of aid, then less districts will qualify for equalization aid. And usually the formula is adjusted by adjusting that local effort rate up so that means more districts will be out, or reducing the inflator on needs and that also kicks more districts out. So that is the basic message that I wanted to talk to you about. We are concerned. I think there's been discussion in one of the bills of having an impact statement on, you know, students. How is this going to affect students in TIF districts? We definitely support that. We'd also like there to be some analysis, some impact on TEEOSA. How is this going to affect the school funding, so at least that's a known factor when the city votes. One of the other things we've talked about and think might be a good idea is to have the city...a school board member--60 percent of the property taxes is for schools--at least sitting at the meeting so that they're fully informed. Right now there's a notice goes out and, you know, sometimes a school shows up. Sometimes they don't. Sometimes there's a special visit. I know in Lincoln there is. The city goes and meets with the school district all the time, so they're aware of it. And generally speaking, increasing the value of property is not a bad thing for schools. It's the loss of revenue in that intervening period that's the problem. So and another recommendation is when TIF causes aid to go up if it's capped, again, you have districts that are losing aid and there's not as much aid to spread around, so. One of the things we're talking about is having the school board vote on TIF, on their portion of the TIF property taxes. I would imagine that would create some issues in terms of interlocal arrangements. But it's an option we're looking at right now and we'll talk to the League and the School Boards Association. And I think Jason Hayes will have more testimony for you at the Lincoln hearing. I happen to be out here today for another meeting, so I wanted to do my part while I was out here anyway. Are there any questions? [LR60]

SENATOR WAYNE: Any questions? Seeing none...Senator Crawford. [LR60]

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SENATOR CRAWFORD: Thank you. I think as we move forward on the analysis, it's important to look at both sides of the equation. One is the temporary loss...the temporary deferment of the tax dollars to pay off the bond. But then after, according to most of the analysis we've seen, there's an increase in the valuation... [LR60]

LARRY SCHERER: Right. [LR60]

SENATOR CRAWFORD: ...which is an important part increasing the revenues and decreasing the need for that aid. So it's important that the analysis that we do for this conversation... [LR60]

LARRY SCHERER: Shows that as well. [LR60]

SENATOR CRAWFORD: ...includes both of those pieces because they're both part of that analysis of what is the impact on aid because...there's both of those are parts of that impact on school funding and aid. [LR60]

LARRY SCHERER: Sure, yeah. That's very...there's a short-term and a long-term impact and they should both be a part of that analysis. One of the issues is probably the rural-urban issue where you have schools that don't have equalization aid. The taxpayers in that district are paying the bill until the new valuation comes in. Were that an equalization district, the state taxpayers come in and support it. And is that part of the equalization concept? Should it be part of the equalization concept? Just asking the question, I don't have the answer to that. But that has caused some real issues between schools in our state and you'll hear about them again, I'm sure. [LR60]

SENATOR WAYNE: Thank you. Any other questions? Seeing none, thank you for coming today. [LR60]

LARRY SCHERER: Yeah, thank you for having me. [LR60]

SENATOR WAYNE: And our last invited testimony would be Christy Abraham from the League of Municipalities. [LR60]

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CHRISTY ABRAHAM: Thank you, Senator Wayne and members of the Urban Affairs Committee. I am so happy to be with you in beautiful North Platte. My name is Christy Abraham; that's spelled C-h-r-i-s-t-y A-b-r-a-h-a-m. I am here representing the League of Nebraska Municipalities. And I really just want to focus on the audit report. I understood that's what we were here to testify on so that's what I'm going to focus on on my testimony. As you heard from the Auditor and several other of the cities, lack of documentation seems to be the theme of the day. The municipalities did not do a great job of ensuring they had the proper documentation. So I just wanted to go through and I apologize, Senator Wayne. I think I can do it in ten minutes. I have seven things that I want to mention that the League is doing to help address this issue. The first is we are doing, continue to do, have done in the past, training at all of our conferences. We had a session in our June conference, we are having another one at our September conference, and we will continue to educate on this issue. One of the things we were working on this summer is we're calling it the city official checklist regarding TIF. And I know I'm showing it to you and this is like a teaser because I'm not going to give it to you. It's not done. But we're pretty excited about this document and this is something that came directly out of the audit report. And what it's going to contain is literally a checklist that each time the city does what is statutorily required they can literally check it off. And the document includes everything that's in TIF that cities are statutorily required to do. The other feature that I think is going to be helpful with this is we've also added lines where you can then say this is the date that we adopted the substandard and blighted study and this is where it is stored in our community. I know Trevor is already laughing at me. And certainly sophisticated cities like North Platte, Mike Jacobson does not need this checklist (laugh). But there are other committees that I think really will find this helpful and hopefully when it's done it will be sort of an all-inclusive document not only ensuring that they've checked off everything that they were supposed to do, but will also say, look, this is when we did our data publication. This is where the cost-benefit analysis is filed. This is where it's stored. This is where it is so they can easily find it. I also want to mention that Senator Crawford introduced a bill, LB95, that contained a lot of provisions about recordkeeping. The League supported all of those provisions and would certainly encourage our cities to follow those recordkeeping procedures. In addition to the checklist, we're putting together a handbook. The handbook, unlike the checklist which we're hoping to have it only be three or four pages, the handbook is going to be a more extensive guide for TIF for city officials. And in it we're going to put in best practices for TIF. At our last legislative committee meeting,

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we actually had a city ask the question, well, what is best practice on a cost-benefit analysis? We're not exactly sure what that should look like for a city of a second class. That's very helpful for us. So those are the kinds of things we'll put in the handbook so there will be best practices like this is what your cost-benefit analysis should look like. Another thing that the League participated in, for the attorneys in the room, it's called a red book chapter. Apparently these are books that the Bar Association puts out. They're red. I don't know. We're going to call them the red book chapter. It's definitely a very technical document. It's written for lawyers by lawyers. The League was involved in it along with attorneys that extensively work on TIF. It's a legal document, maybe not for your city clerk but definitely for your city attorney. And I will be presenting on that TIF chapter at the Real Estate Institute next month. The other thing I want to mention is municipalities are really responding to the audit also and taking local action. I think the best example you probably know, Senator Wayne, Omaha just passed a resolution saying that every year the Omaha City Council is going to be briefed on current TIF projects that are happening. So they'll get sort of an annual review of how their TIF projects in their community are working. North Platte, and you heard in their testimony, mentioned that they've already created internal policies on recordkeeping. And if I could go off the audit report for just a second, I would also say we're hearing cities talk about that they're inviting their school board members to be part of their CRA so that school boards already do have representation on the CRA in their community. And the final thing I want to mention, I haven't seen the yellow card yet is that the League has put together a model ordinance for municipalities on TIF. Right now we have a working version...there's really two versions, one that's just straight this is what the state law requirement is. Another version goes beyond state law and it gives additional reporting requirements they have to do, additional auditing requirements, additional notice provisions. This, again, is still in the process of being reviewed, so I'm sorry I can't give you a copy now. But I did want you to know that these are the items that we're working on to address the issue in the audit report. I believe you all have a handout from us. It goes into even more detail about some of the other things we're doing, but those are our main points. And I'm happy to answer any questions you might have. [LR60]

SENATOR WAYNE: Any questions? Seeing none, thank you. [LR60]

CHRISTY ABRAHAM: Thank you so much. [LR60]

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SENATOR WAYNE: And we have letters for the record, just so I can do this before public comment before I forget: Phillips County Development Corporation, South Platte United Chambers of Commerce...Commerce for letters of records. And now we'll open it up to public comment. If you would like to give any public comment testimony, please turn in your blue--got to look over to make sure the blue one was the right one--blue one to the committee clerk and have a seat and we're happy to entertain any testimony. [LR60]

KARL ELM SHAEUSER: I don't know if it will be entertaining. Good afternoon, I'm Karl Elmshaeuser, K-a-r-l E-l-m-s-h-a-e-u-s-e-r. I'm representing West Central Nebraska Development District today. And if you look on the card with a map, the orange area is the area that I represent--18 counties and 23...58 incorporated communities. I've been working with Community Redevelopment Authority, CRAs and CDAs for 23 years. I won't rehash testimony, good testimony that's been given today. I want to keep it on point for LR60. A couple things that were brought up by the State Auditor's Office, that they also identified that there were quite a few changes over personnel over time. And with that, I would like to see the State Auditor's Office actually make a written request for information versus an e-mail because of the turnover in personnel as they identified in the report, they sent out e-mails, sometimes those bounce, sometimes those people are gone. Anything else that we do, usually you have to send a certified letter or written request to the community. That might have solved some of their response rate issues. Also I want to make sure that the board is well aware and keep in mind the audit was not a statistical sample. They were specific projects picked out by specific senators. I think there are things to be gleaned from the audit. There's always information we can learn to improve best practices. I do believe of the majority of the elements that are in LR60 that the reporting requirements currently in effect are sufficient. I also agree that records should be kept and available and making those clearly delineated as pointed out by Mr. Jacobson's testimony is important as well. But at the end of the day, it's still a local control and accountability issue. And I want to make sure that we're not trying to have so much state oversight that we're impeding that local control and accountability. She doesn't know I'm going to do it to her but Ronni Harding is here from the village of Bartley. She didn't want to speak. She's sitting back there, because Bartley also has done tax increment financing. Bartley is a population of 283 people. And if you get a chance to visit Bartley sometimes, it's amazing what they have done from the proceeds, as Mr. Jacobson pointed out as well, it's not just the project. And, Chairman Wayne, you'd also

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asked about that. Proceeds that do come back into that, in the case of Bartley they have used it to improve roads for truck traffic. They've taken down vacant and dilapidated structures which is all the things that the CRA is supposed to be doing outside of a project as they have proceeds to take care of those things to eliminate the blighted and substandard area. I see Senator Hughes has left but even the village of Venango, population 164, they also have tax increment financing, recently demolished an old gas station and a vacant dilapidated house. So in those communities, it is a very effective community development tool and it's also a way for them to provide infrastructure, public infrastructure. I know, is Jo still here? Jo Leyland, by the way, is a shining example in the city of Imperial which is in my region as well. When you see things that have improved, Imperial is one of the leaders in that area. And Jo is an exceptional administrator. She's been clerk of the year. Just keep in mind that these communities are trying to do the best they can and I understand the weight as state senators when you're trying to adopt statutes and policies for the state. I'm just representing at this point the rural communities. When I say rural, I said 164 in population in Venango, that whatever you're trying to decide for them as oversight has a lot of impact to them and it's already, as you've heard today, a significant challenge. And so I don't want to see additional burdens put on them, but I also believe that they should have their records and accountability. And with that, I would entertain any questions. And that's pretty dangerous. [LR60]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for coming. [LR60]

KARL ELM SHAUSER: Thank you, Chairman Wayne. [LR60]

SENATOR WAYNE: Any other public testimony? Not everybody come up at once. Oh, there we go. [LR60]

CHAD NABITY: I'll come up, Senator. [LR60]

SENATOR WAYNE: Come on down. You're the next contestant on The Price is Right. [LR60]

CHAD NABITY: Yeah, then I'd have to pay the taxes on it. (Laughter) [LR60]

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CHAD NABITY: I read that article the other day. Thank you and I'm glad you're having this today. My name is Chad Nabity, C-h-a-d N-a-b-i-t-y. I am the planning director and community redevelopment authority director for the city of Grand Island. We were one of the communities that is not one of the 22. We did respond. It took us a little while to get everything put together. I think they sent several gigabytes of data to the State Auditor, and I'm not sure they had time to wade through everything by the time we got it. One of the issues, and it may be something that they have been able to address, is one of the things that they asked for was a general redevelopment plan. Find in statute anywhere that there is a general redevelopment plan. I challenge you to find that. There isn't one. There is a redevelopment plan and there is a general plan for the city and it has to be consistent with the general plan for the city. As a planner, I would call that the comprehensive plan. If you look under the planning statutes, it's identified as a comprehensive plan or comprehensive development plan. So I think there are some terminology issues that could potentially be cleaned up, and we all know that's the way statutes work is you're thinking in these terms and it's not quite what you expected. So there are generalized redevelopment plans though. Generalized redevelopment plans, the way we use them in Grand Island, they give our CRA authority largely to spend the levy that the CRA has been authorized by the city council in certain things that the city council has said we think that's a good idea. We think you ought to be able to give grants to...from those property tax dollars, not from TIF dollars, but from those property tax dollars for commercial facade improvements in the downtown. We think you ought to be able to give grants to people who are doing upper story apartments in downtown Grand Island because we know there's a gap between what they can borrow and what they can get...what they can get and we just don't have the market quite strong enough yet. So, okay, you can do that. That's part of the general redevelopment plan. TIF projects take a site specific redevelopment plan in Grand Island and we jump through all the hoops for every single one and that plan always includes the cost-benefit analysis as part of that plan. And the statutory references are in there that it meets all five of the criteria so that it's pretty easy to follow through. So I think there were some issues with the Auditor's request for information and how that request was made that caused some confusion. The...does everybody always do everything right? No. And do I always...am I doing things the way I did 14 years ago when I started as CRA director? No. Why not? Because I did what the person before me did and have decided that there are better ways to do things. There are better controls to put in place. There are better ways to do the recordkeeping. There are better ways to make that happen. And

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what we really are doing is always do better. Do the best you can but always do better on the next one. And with something as general as TIF is in terms of the authority that's granted, you know, it's wide open and it's supposed to be broadly interpreted. Well, if you're broadly interpreting it, that gives you a lot of authority but you also want to make sure that you're accountable. Accountability, our school system has asked that we specifically identify...specifically let them know as soon as we get a TIF project in that involves housing. We send them a letter before it goes to the CRA to the CFO of Grand Island Public Schools. We got this project. If you've got comments on it, let us know. But prior to that, if we had projects that involve significant housing we ask them. We ask the developer, you go talk to the school district and find out what they have to say about it ahead of time because this will impact them. With that said, the other thing, and I'm going to pass this out, this is our latest TIF project. This is a housing project. Now, Senator Groene, you may not agree with it, but I think you might agree with this one. This is a developer that has taken a single family house that's dilapidated and vacant since 2013 in an area that's zoned for high density residential. They're tearing down that house and replacing it with a fourplex. Our school district has said we will take every single one of these projects you can get because we already have people living there or we have people living there in conditions that, quite frankly, they shouldn't be living in. School children that live in healthier conditions do better than school children who don't live in healthy conditions. The pictures on the back were taken yesterday. The contract on this was signed two weeks ago. So the developers are ready to go and they are pushing this forward. They'll have this up in the spring. To disagree with Mr. Jacobson a little bit, we do small projects. This is a \$58,000 project. We encourage those small projects, but we do it by trying to keep the costs as low as we can for the smaller projects in terms of what it costs them to do a TIF project. And then we encourage those to occur. What does the developer really get out of this? They're getting, in essence, a free lot after the course of 15 years. With that, I would take any questions that you might have and hopefully I mostly stayed on topic. [LR60]

SENATOR WAYNE: Any questions from the committee? No, you testified. [LR60]

SENATOR GROENE: Can I make a comment? [LR60]

SENATOR WAYNE: Uh-uh, can't. [LR60]

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SENATOR GROENE: It's a good TIF. (Laughter) [LR60]

CHAD NABITY: Thank you. [LR60]

_____: Did we get that on record? [LR60]

SENATOR WAYNE: Make sure that's in the transcript. (Laughter) Any other questions? [LR60]

CHAD NABITY: And if I may just follow up, I will not be in Grand Island. I'm here today because I'm...I already had vacation scheduled for that hearing. I'm going to be in Atlanta, so. [LR60]

SENATOR WAYNE: Thank you for coming today. Any other public testimony? Other public testimony? Senator Williams, do you want to say anything? [LR60]

SENATOR WILLIAMS: Thanks for being in North Platte and out this way. [LR60]

SENATOR WAYNE: Well, with that, that will conclude our hearing on these two interim studies. We'll be in more communication and as we develop where we...as we keep going through this process and if you have any questions or concerns or ideas, please contact my office or our legal counsel, Trevor, or any senator sitting up here will pass it on. Thank you for coming. [LR60]