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Urban Affairs Committee  
January 30, 2018

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[LB846 LB874 LB967 LB1085 LB1085]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 30, 2018, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB846, LB874, LB967, and LB1085. Senators present: Justin Wayne, Chairperson; Matt Hansen, Vice Chairperson; Sue Crawford; Sara Howard; Dan Quick; and Merv Riepe. Senators absent: Tyson Larson.

SENATOR WAYNE: Good afternoon and welcome to the Urban Affairs Committee and TIF day. My name is Senator Justin Wayne and I represent the 13th Legislative District in north Omaha and northeast Douglas County. And I serve as Chair of the Urban Affairs. We will start off by having staff members...we will start off by having members of the committee and staff do self-introductions, starting on my right with Senator Howard.

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

SENATOR RIEPE: I'm Merv Riepe. I represent Legislative District 12, which is Omaha, Millard, and Ralston.

SENATOR HANSEN: I'm Matt Hansen, I represent Legislative District 26 in northeast Lincoln.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR QUICK: Dan Quick, Legislative District 35 in Grand Island.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford, District 45, which is eastern Sarpy County, eastern Bellevue, and Offutt.

PRECIOUS McKESSON: I'm Precious McKesson, committee clerk.

SENATOR WAYNE: Also assisting the committee is our committee page, Claudia Grano (phonetically)?

CLAUDIA GRANILLO: Granillo.

SENATOR WAYNE: Granillo, from Omaha, who is a political science major at UNO. This afternoon we will be hearing four bills and we will be taking them in the order that is listed

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outside the room. On each of the tables in the back of the room you will find a blue testifier sheet. If you are planning to testify today, please fill out the blue sheet and hand it to Precious when you come up. This will help us keep accurate records for our hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill, you must testify in the position during the bill. If you do not wish to testify, but would like your position on the record for that particular bill, please fill out the pink sheet in the back of the room. Also, I would note that the committee's new policy is that beginning with next, well, this week's hearing, January 30, all letters must be received by the committee by 5:00 p.m. the prior day of the hearing. So that would be Monday, and if Monday is a holiday we will extend it to this day at noon but 5:00 p.m. prior to the hearing date. Any handouts submitted by testifiers will be included as part of the record as exhibits. We would ask that if you do have handouts, please bring ten copies of them and give them to the page. If you need additional copies, the page can make those available. Testimony for each bill will begin with the introducer's opening statement. After the opening statement we will hear from the supporters of the bill, then we will hear in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will be given the opportunity to make a closing statement if they wish to do so. We ask that you begin your testimony by giving your first name and last name. Spell them both for the record, please. We will be using the four-minute light system today. When you begin your testimony the light will turn green, yellow light will appear when there is one minute left, and the red light will appear we will ask you to wrap up your final thoughts. I would remind everyone, including senators, to please turn off your cell phones or put them on vibrate. And with that, we will begin today's hearing with LB846. Senator Briese, welcome to your committee on Urban Affairs.

SENATOR BRIESE: Thank you, Chairman Wayne. And good afternoon, Chairman Wayne and members of the Urban Affairs Committee. My name is Tom Briese, T-o-m B-r-i-e-s-e, and I represent the 41st District in the Nebraska Legislature. I'm here today to present LB846. LB846 concerns tax increment financing, or TIF, which is a method of financing community development projects using funds from the incremental increase in property taxes accruing from that project to finance infrastructure, renovation, and other capital costs. Nebraska voters approved the concept in 1978. The Legislature passed enabling legislation, the Community Development Law, in 1979. Final authority to approve a TIF project rests with the governing board of the local government. The current statutes governing TIF use in Nebraska lay out a groundwork of requirements to be followed in approving a TIF project. One statute, Nebraska Revised Statutes 18-2116(1)(b) requires a finding by the governing body that "(i) the redevelopment project in the plan would not be economically feasible without the use of tax-increment financing," and that (ii) "would not occur in the community redevelopment area without the use of TIF." This requirement is commonly referred to as the "but for" test or the causation requirement. And this causation requirement is what this bill, LB846, addresses. There is a concern, founded or unfounded, depending upon your perspective, that this causation requirement is too often only given lip service. In other words, a concern that causation is found

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to exist when in reality it doesn't exist. A belief that in too many cases the project would take place even without the use of TIF, in which case TIF would needlessly siphon away property tax dollars. Clearly, the intent of the statute is that TIF should be used only where the project is not feasible without its use and where the project would not occur without the use of TIF. This bill will help us adhere to the intent of the TIF statutes. It will do so in two ways: first, on page 2, it will amend Section 18-2116 by requiring that the findings required in (1)(b)(i) and (ii) are supported by clear and convincing evidence; that the findings are documented in writing, such writing to include an analysis of return on investment with and without TIF. All of which must be supported by at least two affidavits from experts in the field of public finance describing their rationale. Second, the bill on page 3 would amend Section 18-2142.01 by requiring that in any action brought within 30 days involving the enforceability of an agreement using TIF, the city, village, or authority must prove by clear and convincing evidence that the causation requirements have been met. Let me be clear, I consider myself a supporter of tax increment financing. Countless economic development officials across my district have stressed to me the importance of TIF, and I agree with them. But I also understand the concerns of those who point to the \$60 to \$70 million of property tax base dedicated towards TIF. It is my belief, however, that if it is TIF that makes a project feasible and the project would not occur without TIF, then that TIF project is a win for our taxpayers, and concerns over the lost tax base are unfounded. With that in mind, the intent of this legislation is twofold. First, LB846 will help to ensure that we adhere to the intent of our community development law. In doing so, it will help protect our taxpayers by ensuring that TIF projects are a win for local taxpayers. But second, and perhaps most importantly, in doing that it will help to diffuse concerns and arguments that our community development law is not being used appropriately. I like the language of the bill, but if folks coming after me or the committee have suggestions for improvements, I certainly would be willing to entertain those ideas. I would ask for your support on this bill. With that, I would be happy to entertain any questions the committee might have. [LB846]

SENATOR WAYNE: With that, thank you, Senator Briese. Any questions from the committee? Senator Howard followed by Senator Crawford. [LB846]

SENATOR HOWARD: Can you walk me through what the clear and convincing evidentiary standard is, what that means? [LB846]

SENATOR BRIESE: Clear and convincing, as you probably are aware, is a higher standard than simply a preponderance of the evidence. We are attempting with this bill to raise the standards somewhat higher when the burden is flipped in 21...for the second part of it on page 3, excuse me, on page 4. And so essentially the language in page 4 relative to 18-2142.01 flips the burden to the proponents of TIF to demonstrate that the causation requirements have been met. And they are to demonstrate those requirements have been met by clear and convincing evidence, which again, like we said, is a slightly higher standard than simply a preponderance of the evidence.

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Now, clear and convincing is a standard I use also on page 2. I'm not confident if that should be included in the language relative to 18-2116. But again, I like the language as originally proposed here. I would be open to suggestions or comments. [LB846]

SENATOR HOWARD: Thank you. [LB846]

SENATOR WAYNE: Any other questions? Oh, Senator Crawford, sorry. [LB846]

SENATOR CRAWFORD: Yes, thank you, Chairman Wayne. And thank you, Senator Briese, for bringing this bill. I wanted to just walk through a bit who the experts in public finance might be and whether you talked to some of those experts about this kind of role that they might play in this process in Nebraska. [LB846]

SENATOR BRIESE: I haven't inquired of those experts or who those folks might be. I'm confident those folks exist. If they should be described in a different way other than "experts in the field of public finance," I would be open to suggestions there. But the point is, we need to have authorities...or an authoritative voice tell us in an affidavit that this analysis or these standards have been met. Again, who those so-called experts should be I'm not really sure. [LB846]

SENATOR CRAWFORD: Okay. [LB846]

SENATOR BRIESE: And I haven't talked to those individuals that I would deem in those capacities as to whether they could be part of this. [LB846]

SENATOR CRAWFORD: So it might possibly be a bond counsel? [LB846]

SENATOR BRIESE: Could be. [LB846]

SENATOR CRAWFORD: Okay. So we would need to figure out who they would be, who would qualify. [LB846]

SENATOR BRIESE: Yeah. And so some other...more specificity in here relative to those experts might be a desirable change here. [LB846]

SENATOR WAYNE: Any other questions from the committee? Go ahead, Senator Riepe. [LB846]

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SENATOR RIEPE: Thank you, Chairman Wayne. Thank you for being here. I noticed that the United Cities of Sarpy County are standing in opposition. And their contention, as I read it, is that two sworn affidavits are excessive on experts in the field of public finance. Do you have some sense why you disagree with that? Obviously you do. [LB846]

SENATOR BRIESE: Yes, I do. One would hope that the entities employing TIF are relying on experts to start with. One would hope that they are using the advice of these experts already to determine whether the requirements of TIF have been met. And so I question whether there would be much of an added burden on these local authorities in acquiring this testimony or these affidavits. [LB846]

SENATOR RIEPE: In the medical business I've always been curious about why the second opinion is more valuable than the first, so. [LB846]

SENATOR BRIESE: Sure. [LB846]

SENATOR RIEPE: You know, in terms of an expert here, what makes them better than your own staff or your own people? That's just curiosity. [LB846]

SENATOR BRIESE: And the key here is to make sure we have individuals out there that are willing to sign an affidavit, and in that affidavit describing the reasoning and rationale for arriving at the conclusion that the requirements of the statute have been met. [LB846]

SENATOR RIEPE: Is this believed to be onerous because of the cost or just the process? [LB846]

SENATOR BRIESE: I'm not sure. I would tend to think that the process wouldn't be problematic. I would assume folks are referring to the cost. But again, I question whether the cost would be that significant. One would hope that they're already employing experts in the field to guide them through this process. And asking folks to sign affidavits outlining their reasoning and their rationale I wouldn't think would be that great of a burden, that great of an additional burden. But I'm confident we'll hear from some of the other folks that may have a different opinion on that. [LB846]

SENATOR RIEPE: Okay, thank you. Thank you, Mr. Chairman. [LB846]

SENATOR WAYNE: Senator Crawford. [LB846]

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SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you, Senator Briese. I wanted to walk through a bit of the language on page 4. [LB846]

SENATOR BRIESE: Sure. [LB846]

SENATOR CRAWFORD: I worry when we put too much of a veto authority on one, potentially one person. So I'm trying...in the language on page 4, we're talking about "any suit, action, or proceeding involving the validity or enforceability of an agreement for a redevelopment project." So I can...I can imagine one would be a suit by a citizen. I'm trying to understand what these other actions or proceedings may be in terms of what this burden is, that what does one person need to do to really stop the process and require a process to determine...process that does put that burden for clear and convincing evidence in place before any further motion after you've had a process of public bodies who have been elected by people saying it is important to move forward. So can you talk a little bit about what those actions or proceedings might be? [LB846]

SENATOR BRIESE: Well, that language simply replicates the language in (ii) that has been contained in the TIF statute for some years. (ii), the current language, refers to "any suit, action, or proceeding," and they're talking about the time line there in which that suit, action, or proceeding must be brought or essentially be barred. And so in my opinion, typically that would be a lawsuit. But again, those suit, action, or proceeding is language contained...is currently contained in the statute and so I'm essentially just replicating the language there. And again, what that might be, again, like I say, my opinion of that would a lawsuit. [LB846]

SENATOR CRAWFORD: Right. I think it's intentionally broad above because it's the other direction. And this is in the direction of stopping a project, so it might need some care and attention to what those processes are in that case. So I appreciate your attention to that. Thank you. [LB846]

SENATOR WAYNE: I'm assuming what you're trying to get at is, for example, under Nebraska Advantage Act and a couple other tax credit programs there's some kind of affirmation or...I don't what to say an oath or I'm not even sure if they're under the penalty of perjury, but there's some kind of something that says that what we're saying here is true. The projection is to a reasonable degree of certainty what we based things on are true. And that's what you're trying to get at with the affidavits, I'm assuming? [LB846]

SENATOR BRIESE: Yes, I would say that's a fair characterization of what we're trying to do. [LB846]

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SENATOR WAYNE: So I'm going to reach out because I'm interested in this part. I'm going to reach out to the Department of Revenue and some other people who deal with the business credit side and see what they do there. And if there is some mirrored language, maybe we can have that conversation about how that looks. Because we are essentially talking similar using some type of state money. So I'm willing to have that conversation, so I just wanted to see if that's what you were getting at. [LB846]

SENATOR BRIESE: Yeah, and that sounds like a good place to be exploring. It might be something we can mimic there or replicate there, what they're doing on that site. [LB846]

SENATOR WAYNE: Thank you. Any other questions from the committee? Seeing none, thank you. [LB846]

SENATOR BRIESE: Okay, thank you. [LB846]

SENATOR WAYNE: First up we'll have proponents. [LB846]

LARRY DIX: Good afternoon, Senator Wayne, members of the committee. For the record, my name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in support of this bill. It's rare that I have the opportunity to come in front of the Urban Affairs Committee. [LB846]

SENATOR WAYNE: I appreciate it. [LB846]

LARRY DIX: I typically get here maybe once a year. But from NACO's perspective, there are some things that we're starting to see that is changing across the state in regards to TIF. And we are hearing from more and more county board members that are saying we believe we need to get involved in some of the TIF debate now. We're looking to get involved in it because we are constantly concerned about tax base and things like that. So we're constantly in front of the Revenue Committee talking about tax base. But as we talk to more and more county board members and we...you know, in 1979 and '80s, when we were starting to get TIF projects going at that point in time, some of us have been around long enough to have been here and so have gone through some of these processes. Predominantly, it was cities. I mean, and when I say cities, it predominantly was Lincoln and Omaha. That was where this all started. As we start to see this move out to rural areas, we're starting to see some unique things that are changing, and county board members are starting to hear when people come and protest their valuation. They're starting to protest about tax base and things like that. So county board members are now starting to hear during the protest process about complaints on some TIF projects. And so that is why the

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NACO board had said I believe we need to start to get involved in this process. Senator Briese's bill, I think, while based on some of the questions and concerns about experts and things like that, we had some of those same conversations of does it truly...what does the expert need to do? But what we felt is it opened the door to have more of the political subdivisions that are impacted by TIF enter into the conversation. And for that reason the NACO board thought that it would be wise that we start to enter into these conversations and participate in some of the TIF hearings. Senator Wayne rightly said this is TIF day in the Legislature. And typically, for many years that I've done this, TIF day in the Legislature meant I can go to other committees because I don't have to be in front of Urban Affairs. That's probably going to start changing because there is getting to be more and more concern. So that's sort of where we're at on this bill, why we support it. We sort of like the idea that Senator Briese's opening this. And that we really, really make sure that we are held to the right standard when we approve these TIF projects. I'll probably comment a little bit more on when Senator Groene's bill comes up, but you can sort of see the genesis of why counties are starting to get involved in that discussion. So with that, I would be happy to answer any questions anybody would have. [LB846]

SENATOR WAYNE: Any questions from the committee? Senator Riepe. [LB846]

SENATOR RIEPE: Senator Wayne, thank you. Thank you for being here, Mr. Dix. My question is this. Did NACO ask Senator Briese to carry this bill? [LB846]

LARRY DIX: No, we did not. [LB846]

SENATOR RIEPE: Okay. [LB846]

LARRY DIX: Nope. Certainly not. NACO did not...any of the TIF bills that you will see in front of you today, NACO did not. The history, NACO never has. I would like to put on record, though, we appreciate your legal counsel consistently keeping us in the loop on TIF bills and when certain things are coming up. It's always been a great working relationship, just so that we're aware they're coming up. But, no, this is not a NACO bill. [LB846]

SENATOR RIEPE: Is there a difference of opinion here going between the League of Municipalities and NACO? [LB846]

LARRY DIX: Oh, I think you'll see that. I don't want to overplay that. But it isn't that the League and NACO are consistently lock-stepped on every issue that comes. I would tell you there's a lot of them we are, we really enjoy that partnership. But last week or two weeks ago we had a bill in

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front of Revenue that we supported, the League opposed. So it isn't that way, but there's a great working relationship between NACO and the League of Municipalities. [LB846]

SENATOR RIEPE: Okay, thank you. Thank you, Mr. Chairman. [LB846]

SENATOR WAYNE: Any other questions? Seeing none, thank you for coming today. [LB846]

LARRY DIX: Thank you. [LB846]

SENATOR WAYNE: We look forward to seeing you more. Any other proponents? Just real quick, show of hands. How many people are going to testify on all TIF bills? All of them? Okay, just wanted to see. I was going to see if we were going to keep having the same conversation. Go ahead, sir. [LB846]

MIKE WATERS: Thank you, committee. My name is Mike Waters, M-i-k-e W-a-t-e-r-s. I'm the superintendent of Crete Public Schools. I would like to thank the Urban Affairs Committee for the opportunity to present testimony on Senator Briese's LB846. Currently, we have a TIF project in the boundaries of our school district that is proceeding to potential completion or acceptance in a village in our communities. The part that why I would be in support of this, and the Crete Public Schools to be in support of this bill, is that the additional piece that Senator Briese had gone through, the causation requirement would help school districts in making a decision as to whether they would support or oppose a particular TIF project. In most cases that I am aware of, and I would speak for Crete in the one that we're involved in now, we remain neutral on the TIF project as we see it. The main reason for that is we do not have the legal standing or the vote by the board of education, does not have any legal bearing one way or the other as to whether the village approves or denies the proposal. So in that, we have remained neutral on that particular issue. I think the components of this bill would help the board of education to make a decision based on the causation effect or the causation requirement of that. Any additional information would certainly help the board of education, so we stand in support of this bill. And at that time, I would take any questions that the committee may have for me. [LB846]

SENATOR WAYNE: Any questions from the committee? Senator Crawford. [LB846]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for being here today. Do I...is it my understanding that if you had this kind of information that would be provided by the first part of the bill that that would allow you and your board to make a decision and then step forward with a position? Are you saying you would stay neutral in either case? [LB846]

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MIKE WATERS: I think the additional information would be helpful to school districts to be able to move forward if they choose to do so. You know, in TIF projects the boards of education are in a unique position that if they vote to support it there are certainly some patrons within the district that will not agree with that. If they vote to oppose it, then there's certainly patrons within the district that will not agree with that. So it's always a balancing act. But I believe that more information to the board of education and to the other entities that are affected within the tax base of that would be very helpful. [LB846]

SENATOR CRAWFORD: And could encourage you to support a... [LB846]

MIKE WATERS: Could potentially, yes. [LB846]

SENATOR CRAWFORD: Thank you. [LB846]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for coming today. [LB846]

MIKE WATERS: Thank you, Committee. [LB846]

SENATOR WAYNE: Any other proponents? Welcome. [LB846]

BRUCE RIEKER: (Exhibit 1) Thank you. Just as Mr. Dix said that he isn't before this committee, I think this is the first time in 11 years I've been before this committee. But my name is Bruce Rieker, it's R-i-e-k-e-r, vice president of government relations for Farm Bureau, and testifying in support of LB846. By locking in the valuation, TIF allows communities to use property tax revenue generated by new development or other TIF projects. In December of last year, Nebraska Farm Bureau hosted hundreds of farm and ranch members at our annual meeting, where our TIF was once again a topic of discussion. Our official policy book now reads, as a result of those discussions, "We support the original intent of tax increment financing. However, we support the exploration of new incentives, especially for new development in rural areas." This change to our official policy occurred in part because Nebraska Farm Bureau members recognize the economic development tools such as TIF play an important role in the communities across our state. However, the ubiquitous use of TIF has caused heartburn in many areas already struggling with high property taxes. By locking in the base value of a project, especially those which include housing, TIF has allowed for erosion of the property tax base in many areas, leaving only a few to pay for additional costs of growing communities, including education and infrastructure. By requiring stricter scrutiny, as it relates to the use of TIF, LB846 could alleviate some of those concerns that we have heard from community developers and

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property taxpayers alike. Under Senator Briese's bill, a developer would have to demonstrate in writing that a project would not be economically feasible without TIF. The bill also requires all costs and benefits of the project to be analyzed thoroughly to determine the project is in the best interests of the community. Nebraska Farm Bureau supports that clearer definition of property...we also support the clearer definition of property considered substandard, blighted, or in need of redevelopment, the necessary designation for TIF-qualifying projects. We ask the committee to take into consideration the size and scale of the TIF projects when it comes to requiring additional information from public finance experts and preserve the rights of local authorities to determine what is sufficient return on investment. We also encourage the committee to consider work already completed, especially in rural areas, where even small TIF projects often require a great deal of human capital and resources. We appreciate Senator Briese bringing forward LB846 and we look forward to further discussion on the issue. We encourage the committee to advance this measure. [LB846]

SENATOR WAYNE: Any questions from the committee? Well, thank you for coming. [LB846]

BRUCE RIEKER: Thank you. [LB846]

SENATOR WAYNE: Any other proponents? Any other proponents? Seeing none, we'll move to opponents. [LB846]

DAVID LANDIS: (Exhibit 2) Members of the Urban Affairs Committee, David Landis, Urban Development Department director for the city of Lincoln, testifying on the city's behalf in opposition. Senator Wayne called this TIF day and so we'd like to make some comments that are just generally about the agenda of TIF. And if I get a chance, I'll make some specific comments about this particular bill. This is about the fourth year in which you've been facing the problem of wrestling with TIF. And in that time we've learned some things. We've had a State Auditor's report that was very helpful, it taught us that we should do better by our recordkeeping. It taught us places where unsophisticated cities had not followed the statute particularly well. And we've learned from that. We've learned from it because we wanted to make adjustments in-house to improve that. And so we focused training at every League conference, including two sessions in the coming conference, on how to do TIF and do it accurately. We've created a checklist for city officials and it was distributed to cities so that they could follow the laws appropriately. In the case of the city of Lincoln we had a \$30 million project they reviewed. And they said, you know what? You used a notice from this section of the statute, it ought to have been the notice from this section of the statute. And that was the sum total of our review. And we've learned from that and we now know which section we should use for our notice. The League staff participated in the creation of a Redbook chapter for the Nebraska Bar Association, presented it at the Real Estate Institute. They've developed a model ordinance from municipalities focusing on notice

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requirements. Some of which go beyond state law to ensure political subdivisions are aware of TIF projects, so that they can make use of the hearing process that every other citizen gets to use when they're faced with public policy questions. Municipalities are taking action on their own. Omaha introduced a resolution that requires an annual report to the city council on the state of current TIF projects. And in fact, that idea will work its way into today's discussion. In other words, there have been improvements in our system off-line because we want to get it right as well. What I would suggest is this, that there is a desire at some point to come to an end of this uncertainty that occurs with year after year of these attempts. Last night, we had the biggest single-building TIF project approved in the state of Nebraska...I'm sorry, in the city of Lincoln, in the last, well, forever, as a matter of fact. \$70 million of money from a New York developer who came to town and sat down with us and said, look, we want to make sure that we get our schedule, but we want to attack this now. One of the reasons is that we want to make sure that this agreement, consistent with state law, is executed before we get to the legislative session and the Legislature changes the rules on us. We've got 47 other states where we could go, all of which are more generous than the state of Nebraska, but we like the development in Lincoln. We just want to know what the rules are and we don't want them changed in the middle of the stream. There is reason to come to an end of this process if at all possible, and I think the committee has given us a framework to start that. A lot of hard work by the committee has given us that framework, we'll talk about it later today. We have some refinements to that framework, we don't think it's exactly there. But we would like to make some recommendations. At the 30,000-foot level I would suggest this: the private sector appreciates certainty and reliability. And we haven't been able to give that to them in the last four years. And it's time that we wrap this up. On a basis that the committee is satisfied with, but that can also give the private sector the kind of assurance and stability that allows for investment decisions to be made wisely. I think I'm going to be out of my time, so I'll stop there. [LB846]

SENATOR WAYNE: Thank you, Senator Landis. Any questions from the committee? [LB846]

DAVID LANDIS: These are ten projects in recent years, all of which have been done during the time that you've been watching us and giving us advice and the like. I hope you see that they are emblematic of what TIF was designed to do: replace blight and substandard conditions with new redevelopment. [LB846]

SENATOR WAYNE: I have a question for you. We talked in general, in generality. Is that a word, General...? Transcribers might have a problem with that one. What specifically about this bill are you opposed to? [LB846]

DAVID LANDIS: Actually a question from you, Chairman Wayne, was I think very emblematic of that. I do not know the state of the Nebraska Advantage law at the moment. I do know when it

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was passed because I wrote it. It did not have a claim in which we said: to a company that was thinking of expanding and creating jobs. We didn't say prove up. Are you sure you want to do this? Are you sure you want to invest? Are you making a smart decision? Can you prove to us that expanding your business in Nebraska will be a smart and a rational decision? We were just darn grateful to expand jobs and create more opportunity in Nebraska. Now, if it's sprung up since then, fine. It's unbeknownst to me. But the notion that this bill is aimed at is forcing a developer and a city to take what is essentially a subjective question and turn it into an objective reality. The subjective question to the developer is, if I get TIF help I will invest here. If I don't, I will either not invest or I'll invest someplace else. But I won't invest in an area that is blighted and substandard. That decision is a private sector risk-taking decision. It is not mathematics, it is the place in which the developer says to themselves: I will build, and with this incentive I will build here. That is, I think, a subjective choice on their part. And turning it into a mathematical formula I think is difficult at best. It also just places the developer and the city on the odd end of the level of enhanced review that the standard in this case is suggesting. So for that reason, I find the bill problematic. I do think that there's something to be said for the line of inquiry that the chairman suggested which is, what standard are we doing for ourselves? Is that standard one that we could apply to cities? I don't know the answer to that question, but I think it would be revealing. Because a standard that you apply to yourself, I would understand why you would want to apply it to us. And that I think is legitimate. There's a big difference between do as I say, not as I do, and a consistency between those two. So I'm going to be educated by what the Chairman learns. And it may affect the reality of how we respond to this kind of an idea. [LB846]

SENATOR WAYNE: Now I know how you got all those bills passed. You put it back on the person who asked the question. Any other? Senator Crawford. [LB846]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you, Mr. Landis, for being here. Can you talk about what liability the bond counsel has for providing sound advice to the city in terms of...or helping the city to ensure that they're following statutory guidelines? [LB846]

DAVID LANDIS: We do have the city's law department, or maybe a bond counsel. While I could render an opinion on the subject, it would be woefully inadequate and unprepared. [LB846]

SENATOR CRAWFORD: Okay. Okay. [LB846]

DAVID LANDIS: And while I'm not adverse to speaking out on the subjects I know nothing about, it wouldn't be wise in the face of this committee. [LB846]

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SENATOR CRAWFORD: Okay, sure. [LB846]

DAVID LANDIS: There might be some committees in the Legislature I wouldn't mind trying that with, but not the Urban Affairs Committee. [LB846]

SENATOR CRAWFORD: Thank you. [LB846]

SENATOR WAYNE: Senator Howard. [LB846]

SENATOR HOWARD: Thank you, Senator Wayne. Senator Landis, just for the record, how many bills did you pass during your tenure in the Legislature? [LB846]

DAVID LANDIS: 391. [LB846]

SENATOR HOWARD: Thank you. [LB846]

SENATOR LANDIS: It's more legislation than anybody else in the history of the state. [LB846]

SENATOR HOWARD: I thought so. [LB846]

DAVID LANDIS: It also didn't produce a great many headlines because I worked very assiduously in bringing in parties early and writing bills that people could live with. And those bills don't create a great deal of controversy or headlines. [LB846]

SENATOR WAYNE: So noted. Any other questions? Nope. Thank you for coming today. Or, I'll see you in a little bit. [LB846]

DAVID LANDIS: Yes, you will. And if I'm here, I'll be on favor of your bill. [LB846]

SENATOR WAYNE: Okay, put that in the record. Welcome to Urban Affairs. [LB846]

KENT SEACREST: Good afternoon, Senators. My name is Kent Seacrest, K-e-n-t S-e-a-c-r-e-s-t. I'm a land use attorney that have had the privilege of doing TIF projects for 35 years representing the private sector primarily, but sometimes small or just kind of Nebraska communities. On behalf of the Chamber of Commerce of Lincoln and the State Chamber and the Omaha Chamber, they have asked me to submit the following letter raising concerns regarding

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LB846, LB874, and LB967. But I'm here to really talk on my own behalf based on my experience. And David took away a lot of my presentation about the uncertainty factor, particularly the last four years, and what that's done perhaps to the private sector as well as the public sector. It's just created a cloud. TIF under the statute is already a very time-consuming, very complicated, and a very expensive proposition for both the cities and the private sector follow. And every time we make it more complicated, more time-consuming, it causes less public benefits to show up at the end of the day. And that's what I think is a lot of these efforts the last four years have been well-intentioned, but it has produced probably the opposite result than they wanted to. And it's that uncertainty factor David did so well talking about. Redevelopers are becoming more gun-shy because of the uncertainty factor that these bills are raising on an annual basis. What I saw this year scared me even more, and that is the number of lenders has diminished. In the past the cities are making the redevelopers buy the TIF bonds or get their bankers to buy the TIF bonds, and the number of bankers willing to buy these TIF bonds diminished this past year in my opinion. Those that stayed in the game, the other thing I saw was their interest rates went up. And they specifically stated, because of the uncertainty factor that the Legislature is creating here, anytime interest rates go up, again, less public benefits can be funded. The state statute today already has two "but for" tests in it. And this one, the third being proposed, is pretty redundant because this one says, "return on investment with or without TIF." And we already have one that says, "economically feasible." So I don't see the difference myself. But what's scary to me is this return on public investment needing two affidavits by public finance people. Well, first of all, return on investment can be both a public sector question as well as a private sector. Normally, public bond counsels and people like that do not have to make the public investment question, is it a wise choice. They advise on the legality and the risk factors, but they don't make that normal return or that normal decision. I can tell you these same public investment people surely do not...are not paid to make the private investment analysis, and that's what you are also probably seeking, and will create more time and more money along the way. The other issue that I want to talk about is these "but for" are predictions, they're not facts. They're your best prediction, will this or will this not be successful in the future. It's not like determining is there blight today. You're asking, will it solve it tomorrow. These are tomorrow-type questions and, as a result, these raise the question of your standard of clear and convincing evidence. You have the wrong standard in this bill in my opinion along the way. In fact, I think it creates some very serious problems for you because, number one, what it's doing is I went and looked at 30 places in state law that this standard applies. And it applies to where there are rights involved today, not the future, but rights today. Things like criminal cases, child support, child custody, controlled substance, revocation of your probation, revocation of licenses, seizure of private property, and reducing prior offenses on pornography cases, sexual advances, and impeachment of senators and judges. These are things that are nothing close to predicting the future. These are rights today. And so as a result, clear and convincing makes sense on rights today but not on trying to predict the future. And finally, another thing that I think is not wise to do, is if a lawsuit under the current law is brought today,

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the plaintiff or the taxpayer or the citizen that is upset has the burden of proof to show beyond a predominance of the evidence that the government was improperly acted. This bill flips that and now we are saying the cities have the burden to prove their own cause of action was lawful. And that's just a difference of civil action that we just don't normally see. The plaintiff is supposed to have the burden, not the defendant. And secondly, you are also then giving the city the burden in addition, saying it's not your predominance of evidence but it's this higher standard. Which I told you before has to do with existing rights in the past that you would, if you approve this bill, would be applying it to future perspective guesses of whether or not something is going to be economically viable in the future. And with that, I would be glad to answer any questions you might have. [LB846]

SENATOR WAYNE: Any questions from the committee? So currently, the law is you present a prima facie case on a civil action saying the city didn't follow, or village didn't follow, X, Y, and Z. And they rebut that by saying, yes, we did. How is this different? You say that the rules... [LB846]

KENT SEACREST: Normally the plaintiff would have the burden to say the city did not follow the process and they'd have a predominance of the evidence. And as soon as they submitted that evidence the burden would switch to the city. Under this, as I read it, when the suit is brought the city has the burden to start with to prove that they did it lawfully. And then in addition, not only do they have to go beyond the predominance of evidence, they now have a clear and convincing standard before they can shift it back to the plaintiff to say...and have the plaintiff be able to attack. [LB846]

SENATOR WAYNE: So you're saying the "but for" test right now is preponderance? [LB846]

KENT SEACREST: In my opinion, that's correct. [LB846]

SENATOR WAYNE: I thought it was clear and convincing. [LB846]

KENT SEACREST: Not under the current statute that I am familiar with. [LB846]

SENATOR WAYNE: Well, it's case law, not necessarily statute. [LB846]

KENT SEACREST: Well, I'm...a lawyer. [LB846]

SENATOR WAYNE: You're okay. I have to go back, I made a note to look at it myself. Any other questions? Senator Crawford. [LB846]

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SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for being here and sharing your experience. Can you...you were talking about concern about what experts in public finance would be able to do an analysis of return on investment for the public sector and the private sector. And so I wanted to just go back to that point just a little bit that the analysis that's done now currently, can you explain what that looks like in terms of a convincing preponderance of evidence that the tax increment financing is critical? [LB846]

KENT SEACREST: Well, again, I don't think it's clear and convincing today. [LB846]

SENATOR CRAWFORD: Okay, sure. [LB846]

KENT SEACREST: Okay. So what we have now is a cost-benefit analysis requirement, as well as the statute has two "but fors" in it today that the city must find in order to approve the redevelopment plan and the redevelopment contracts. So those are the standards that are in the law today. And, you know, it's I think worked well. Now, some communities might have violated and not followed it very well, but I'm practicing in Lincoln and other major communities where that's a very serious standard. And it's a hard standard, though, to prove. Like it is, do I have termites in my house today? You're asking do I...will I have termites in my house tomorrow? Will it be economical tomorrow? I mean, those are judgment, those are subjective standards. And to then put a standard of proof that's the higher than predominance, I think is just overwhelming. The court system is just going to overwhelm the city attorney on lawsuits. And again, good intentions are going to lead to bad consequences. [LB846]

SENATOR CRAWFORD: That analysis...currently, is that analysis something that you conduct or someone else that you work with conducts that cost-benefit analysis? [LB846]

KENT SEACREST: Usually in the case of the city of Lincoln, the city of Lincoln staff members are doing that analysis. The private sector is always asked, can you give us more information on jobs, benefits, the multiplier effect, how much construction dollars? So we do aid the city in that cost-benefit, but at the end of the day it's their scrivener hand that indicates that they're comfortable with it and they can recommend it on to their elected bodies. [LB846]

SENATOR CRAWFORD: Thank you. [LB846]

SENATOR WAYNE: Thank you. [LB846]

KENT SEACREST: Thank you very much. [LB846]

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SENATOR WAYNE: Any other proponents? I mean, opponents. Sorry. [LB846]

JEAN PETSCH: Good afternoon, Senators. I'm Jean Petsch, J-e-a-n P-e-t-s-c-h. I'm executive director of the Associated General Contractors Nebraska Building Chapter. The Building Chapter, it's made up of the vertical, commercial contractors, and it's made up of about 130 construction firms here in Nebraska. We oppose this bill for several different reasons. One, tax incremental financing is really the only tool that the development community has available to refurbish, revitalize, and redevelop the Nebraska communities and neighborhoods. Many of our member firms have a multitude of experience working with TIF projects of all types and sizes across the state. Based on their past experiences and positive successful outcome of the past TIF projects, we oppose any legislation regarding TIF that constricts the use or increases the amount of regulatory process of approving TIF for future projects. We are particularly concerned about placing the burden of proof on governing bodies to show clear and convincing evidence, that particular wording that Senator Briese mentioned, does cause particular concern. We feel that a rigid standard that's used by the courts to pass judgment on something that has occurred might be an elevated standard that will be difficult to meet when applied to economic, financial, or market feasibility studies for future happenings. Additionally, every time you add additional reports, cost analysis beyond what is already required, you're adding additional cost and time constraints to the project. We also pretty much agree with most of everything that's been presented thus far by other opponents, so. We're usually the end of the food chain on most TIF projects because we're the ones that take the good ideas and actually build them. So thank you for your time. [LB846]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. Any other opponents? [LB846]

MATT DWYER: Good afternoon. My name is Matt Dwyer, M-a-t-t D-w-y-e-r. I am the principal of a company called GreenSlate Development in Omaha. We are an urban real estate development company. Over the last five years we have been, I would say, kind of poster children for TIF. I think we're on our tenth project that has required TIF in what is known as the Blackstone District in Omaha, which is midtown Omaha, between 36th and 42nd Street on Farnam. These projects are traditionally really difficult in nature. Urban in-field development is extremely strenuous, time-taking, you have tight sites, oftentimes poor soil, oftentimes contaminated soil, bad buildings. You know, when you're trying to preserve old buildings, it's expensive. Land costs are high, building costs are high because you have tight sites. All of these things. And so when you go to try to prove up your financial analysis, TIF becomes a critical piece of that. So the "but for" clause that is being discussed today is something that we have no trouble proving. And it is proven through both narrative and the financial analysis on our TIF applications with the city of Omaha. So the written piece of this is in fact done. Going out and finding two outside parties that would, you know, submit affidavits for this seems exhausting to

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the process. It's already a seven to nine-month process for this to happen, a lot of these projects take two to two-and-a-half years from beginning to end to just bring to completion. And it's really, really challenging. It's difficult, it's a labor of love. And they all have wide-ranging return on investment criteria, right? I don't think that's for any government to determine what a return on investment should be based on a specific risk profile based on all of these projects. They all vary from tenant types and who you're putting into a building, and the risk profile associated with those tenants. So to try to drill down into that and get somebody to give you an affidavit to say, yeah, we think this is viable based on this rate of return just seems unnecessarily unfair. The process that involves a preapplication process with the TIF, you know, I suppose the city of Omaha with the folks in charge of TIF. And then you have a TIF committee process or a meeting, and then you have a planning board meeting, and then you have city council. You have a lot of these layers in between us and the forum, if you will, to have these approvals met. And then you also have us as developers and us as private investment guaranteeing TIF loans and guaranteeing construction loans, and doing all these things where we're placing the risk on us. So the risk for the city or the risk for the county or the risk for whoever, whoever is at stake, is really not anything in comparison to what the developers face and the investors privately putting their money behind these projects. So I'm here to submit my objection to the amendment...or to the bill itself. And ask that if you have any questions, please let me know. [LB846]

SENATOR WAYNE: Any questions from the committee. I have a couple. So when you do your construction bonds and you do construction loans, you often sign an affirmation or affidavit saying what you say in here is true. That's almost at everything about a loan, isn't that correct? [LB846]

MATT DWYER: Yeah, I mean, you know, if they'll review your financials, they'll review your proposals, right? And it's awfully difficult too throughout the process for that to change dramatically without there being any substantial conversation around that. So, you know, whatever the language is in each loan is different. [LB846]

SENATOR WAYNE: So you essentially take a loan out or use money from a private entity, you make that oath. Do you think it's not fair to do the same thing for the state of Nebraska and the taxpayers? [LB846]

MATT DWYER: Well, I think that we essentially are making that oath by putting our word and our TIF application on public record, saying this is what we believe the financing to be behind this project. [LB846]

SENATOR WAYNE: And I've always... [LB846]

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MATT DWYER: So, yeah, I'm not saying it's not fair. But we are making that oath. [LB846]

SENATOR WAYNE: Right. [LB846]

MATT DWYER: So to find two other people who have no real skin in the game, so to speak, to make that oath just doesn't seem necessary to me. [LB846]

SENATOR WAYNE: I've always wanted to ask this, so bear with me. So Blackstone, I was there last weekend. [LB846]

MATT DWYER: Thank you. [LB846]

SENATOR WAYNE: Do you feel it's...and this is more of a philosophical question and you can say, I don't want to answer. But I always wanted to ask a developer, so this is what I got to do. Like when you took the risk in the beginning, it was a significant risk, especially in a substandard and blighted area. But now that you guys have built that up significantly, and I give you all credit for that. You guys did a great job there. At what point do you think TIF shouldn't be applicable, that it's no longer...from a developer standpoint, you took the risk and now Justin, Chairman Wayne wants to come in after you built it all up and I get the same benefit. It's more of a philosophical question. [LB846]

MATT DWYER: Yeah, I think if costs remain where they were five years ago, I would say that it should maybe be...maybe it no longer is necessary. But costs escalate, right? And people that sit on substandard land or blighted land and say, hey, I'm sitting on a goldmine here. I'm going to wait until my payoff comes. And so in order to continue development, you need to find a willing buyer, willing seller scenario. And so the margins don't change as you move forward, right. The progress changes and the development continues, but the margins don't necessarily change, right, because the costs are not flat. They continue to increase, so. [LB846]

SENATOR WAYNE: I appreciate that because that's part of the argument that I hear out in part of the rural in our tours that this part was already built up so it shouldn't, we shouldn't use TIF anymore. And so I appreciate the explanation that costs don't just stay flat. [LB846]

MATT DWYER: Yeah. No, not quite at all. You become your own worst enemy in some regards. Yeah, so to that end, you know, I can categorically say that our projects do not work without TIF. And I'm not just blowing smoke at the Legislature, they just simply don't. And they're tough even with TIF. So to have private money being put to work, and you know, we're talking about \$85 million worth of investment in that neighborhood. You know, it's been a pretty significant

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change: 350 jobs created, 30 small businesses. I mean, the revenue associated with that and the taxes associated with that, you know, I can't begin to get into that because that's not where my mind goes. But it's positive. So we're proud of what we've done and we appreciate TIF for how it is today so. [LB846]

SENATOR WAYNE: Thank you. [LB846]

MATT DWYER: Thank you. [LB846]

SENATOR WAYNE: Senator Howard. [LB846]

SENATOR HOWARD: Thank you, Senator Wayne. Thank you for visiting with us today, Mr. Dwyer. And I appreciate all the work that you've done in my district. But I'm not sure how long you're going to stay, and so I wanted to ask you, you use TIF but you've also used state historic tax credits. So how is that going? [LB846]

MATT DWYER: So we just finished a project at the Colonial, which was a really, really critical project. [LB846]

SENATOR HOWARD: Is it done? [LB846]

MATT DWYER: Which was a really critical project. It has been...yeah, the certificate of occupancies are done, so we're moving people in. But so this is a great example. This was also a TIF project, but I mean, this took TIF, this took state historic tax credits, this took federal historic tax credits and we still coasted in on fumes. You know, I mean, these are really difficult projects. That was three years in the making. That was my only tax credit project, we're looking at another one currently. Critical to this, I mean, truly will not happen without it. And it will be an iconic project, but without these, without help, I mean, these are investments that in my opinion that communities make in themselves, you know? And we're honored to be the vehicles in which they choose to invest in. But it's really critical to have them. [LB846]

SENATOR HOWARD: Thank you for your work. I appreciate it. [LB846]

MATT DWYER: Thank you. [LB846]

SENATOR WAYNE: Senator Crawford. [LB846]

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SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for being here. Could you just speak to the analysis that you show the city or that you provide for the city when you're having the conversation about the fact that it's only with tax increment financing that you can succeed? Like you can show here's our return on...or here's what we're expecting to see in the future if we get this investment? Do you currently...what's your current analysis or conversation about what it looks like if you don't get the investment? [LB846]

MATT DWYER: Well, so our...the analysis, just short and simple I suppose, is pretty basic, right? You can go out and raise capital by private money at a certain rate of return that is expected based on the risk level of a project. It's urban in-fill stuff to Senator Wayne's, Chairman Wayne's, comment. It may seem like from the outside in that it's a done deal because the Blackstone District has sort of reached a critical mass. We don't feel that way, I mean, you know, each project sort of is risky on its own. But so you can go out and find private money at a certain rate of return, you can go out and borrow money at a certain rate of return. And when you can go out and put in that present value against TIF dollars at a certain rate of return, you just simply do the calculus on those three sources of capital against what your projected returns are on a project. And these are all things that have to be underwritten by banks as well. It's not as though this is happening in a vacuum where we just get to get bank loans and TIF loans without this calculus making sense. You know, if there was ways to find cheaper capital from private sources, it might change the equation a little bit. But as it stands now, if you take your private capital calculus and your bank loan calculus there's a gap there that needs to be filled. And you can fill it with private money, you can fill it with, you know, MES financing type stuff which is expensive, or you can fill it with an incentive like TIF. And that typically would create that "but for", right? So you can achieve that return for your private capital while satisfying your debt guarantees. [LB846]

SENATOR CRAWFORD: And that's analysis that you conduct and show to the city? [LB846]

MATT DWYER: Yeah, it's part of the TIF application. [LB846]

SENATOR CRAWFORD: Thank you. [LB846]

MATT DWYER: You're welcome. [LB846]

SENATOR WAYNE: So one more question I have. So part of the argument that I hear in my district regarding TIF, against TIF, is that the whole gentrification argument where this area is blighted, people come in but yet don't lift up the people or provide jobs. Can you kind of say what you do in the Blackstone as far as trying to help small businesses around the area and people in the area? Because I know you guys do it, but I just... [LB846]

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MATT DWYER: No, that's a great point. You know, I mean, I think between that and making sure there's affordable housing, I think those are important, right? You know, again, the district itself, there's been 30 new businesses that have started there in the last five years. And we calculate, I mean, I can't tell you its exact number, but we estimate about 350 jobs have been created in that six-block stretch. That's pretty important to me. You know, there is a business association that's been started around that, so you have a collective of these 30 businesses working together to beautify the area; to market the area; to, you know, continue to try to enhance their bottom line so they can continue to grow and provide jobs and provide tax receipts. But aside from that, you know, we don't...we're not a business incubator, if you will. I mean, we try to provide compelling real estate for which this to happen. [LB846]

SENATOR WAYNE: Thank you. Any other questions? Seeing none, thank you for coming today. [LB846]

MATT DWYER: Thank you. [LB846]

SENATOR WAYNE: Thank you. Welcome to...welcome back, I guess. It's a new year. It's the first time you're here, but you're usually here every week it seemed like last year. [LB846]

JENNIFER TAYLOR: Good afternoon, Chairman Wayne, members of the committee. My name is Jennifer Taylor, it's J-e-n-n-i-f-e-r T-a-y-l-o-r, and I am an assistant city attorney for the city of Omaha. I want to thank Mr. Dwyer. We've obviously worked with Mr. Dwyer before, but I want to thank him again for his comments. He actually did help explain some of the things that were in my testimony so I don't have to repeat them here for you. But briefly I do want to say Mr. Dwyer touched on the process that we go through when we review a TIF application. So I want to briefly share that with you as well. When we have a TIF application come into the city of Omaha, we have an entire checklist of information that we ask them to submit. And part of that information includes a financial analysis. So we ask them to demonstrate for us how much money their projects will cost, their sources, and uses of funds. And that also includes how much they're investing from their own equity, how much they are getting from private investors, how much they're getting from a loan perspective, how much they need in tax increment financing to make their project work. When that application is reviewed, it's reviewed by our economic development department. So we have an entire...you know, we have a department within our planning division that is focused on economic development. Their sole skill set is to review these types of applications and then understand whether or not they are good, not only for our community, but also whether the application is appropriate and makes sense. Once the application passes that initial level review internally, it goes before what we call our TIF committee. So you've heard people who have applied for TIF at the city of Omaha talk about the TIF committee. The TIF committee is made up of several members of the city of Omaha staff.

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That includes members from the law department, members from the planning department, members from the public finance department, members of the public works department, and members of the mayor's office. So we bring all of those skill sets together into one committee, and that committee actually reviews that application to begin with. So you have legal, finance, infrastructure, kind of a general oversight of the community as a whole. All of those people bring all their skill sets together to review a project before it even goes to our planning commission, where then it has a public hearing, and then to city council, where it has yet another public hearing. So at the planning commission level you also have seven members who have various different skill sets who look at a project. Who look at all the information that that individual has submitted for that project, including what they plan to build or what they plan to rehab, the public improvements that are associated with that, the financing that's required, and exactly what they think the benefit will be to the community when they're done. And after they go to the planning commission and those seven members with those seven different skill sets review the project, they go to city council where seven more people with seven different skill sets review the project, review the financing, and review how it's going to impact our community. So through the process there's no less than 20 to 25 individual people within the city government and city boards and all of their individual skill sets that are brought to bear in reviewing a project. So to that extent, I think our concern would be then to defer that analysis to a simple expert in public finance or whatever else it might be, would be to lesson all of the skill sets that are brought to bear when reviewing a project in the city Omaha to begin with. And as I'm running out of time, I'll just touch on a couple other things. Our other concerns is that to get for the city of Omaha 20 or so projects with two opinions would be 50 opinions we would have to go out and seek. That becomes incredibly time-consuming to get those individuals to develop the necessary time to review the amount of information, interview people, talk to community members to render an opinion not only time-consuming, probably somewhat cost-prohibitive for yet another several thousand dollar cost on to the developer before bringing a project into the city of Omaha to be reviewed, again by the 30 people that are inside the city that look at it as well. So we understand the concept behind it and we understand where we're coming from. But we think we're already doing that and we're happy to share our process with other communities across the state to help them do the same. We think we were already doing an adequate jobs of that review, and that review that we're doing now is more than sufficient. And I see that my time is up, so I'm happy to answer any questions. [LB846]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming. Welcome back to Urban Affairs. [LB846]

MIKE JACOBSON: Always great to be here. [LB846]

SENATOR WAYNE: Do you have your blue copy. [LB846]

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MIKE JACOBSON: I do, right here. You haven't started the clock yet, have you? [LB846]

SENATOR WAYNE: You're already on red. (Laughter) [LB846]

MIKE JACOBSON: Well, Chairman Wayne and members of the Urban Affairs Committee, I think I'm glad to be here today. I'm here to...my name is Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n. I'm president of Nebraska Land National Bank and serve as chairman from its inception of the North Platte Redevelopment Authority. I'm here to speak in opposition of LB874 and after reading the bill...oh, excuse me, I'm going to speak on... [LB846]

SENATOR WAYNE: You're already opposing my bill and we haven't even got to it. [LB846]

MIKE JACOBSON: If you're still on LB846, I'll do that. [LB846]

SENATOR WAYNE: Yes, we are. [LB846]

MIKE JACOBSON: All right, that's good, that works fine. I'm opposed to LB846 as well. And I'm going to get you the blue paper. That's good. Well, my concern specifically with LB846 really has to do again with this issue of getting the two people to come in and sign off. And what comes to mind is the old proverb of "death by a thousand cuts" because that's where we're getting to with TIF. I have to echo the comments of Senator Landis. Every year we've got new rule changes that are being proposed and every year we pile on something additional. And at some point, the weight gets so heavy that we're going to lose TIF all together. I mean, everybody wants to add something a little, boy, it would be nice if we could do this; it would be nice if we could do this. But we're completely disregarding that we have a city council who's been elected by the people in that city to serve in the role of making those decisions. They appoint a CRA who is made up of people who are experts in finance, real estate development, and cross sections of the community to investigate these TIF projects. I can tell you for certain in North Platte, I don't know...I know what I pay in property taxes, I have to think I'm probably in the top five in the city in terms of total property taxes paid. I certainly am not in favor of seeing higher property taxes but I am in favor of growth and I am in favor of development. And the only way that's going to happen in some cases if we can effectively utilize TIF. And we've done that. In North Platte, we've only done 13 projects since we started the program, you know, back in '79. We are not indiscriminately using TIF, but it's also very, very hard to prove a negative. And the other thing I would say is, think about two projects in particular in North Platte: the Walmart food distribution center. They were either going to build in North Platte, Nebraska, or they were going to build in Colorado. That was the two choices. We had no ability to satisfy the monetary requirements for them to relocate in North Platte without TIF. Could Walmart have afforded to build that project without the use of TIF? Yes. Would they have? Absolutely not. Cabela's.

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Cabela's came in and said, we'll put a call center in your town. We can put a call center anywhere in the world but we'll put in your town, but we want TIF. So our choice wasn't could Cabela's afford to build it without TIF, our deal was that they weren't going to build it in North Platte if they didn't get TIF. And that's part of when our redevelopment fund was first created, and we felt that that also helped augment that. So I'm just saying that I think there's flaws in the bill really from the standpoint that there's concern that there's other factors out there other than just purely economic when it comes with the if not by for. And I think at the end of the day we need to really rely upon the city councils to let them do their jobs and not die a death of a thousand cuts. So that would be my testimony. And I'll do some of this in the further testimony too, and I'm ending early. Don't count on that in the future. Any questions? [LB846]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. [LB846]

MIKE JACOBSON: Thank you. [LB846]

SENATOR WAYNE: Any other opponents? Welcome. [LB846]

ANN POST: Welcome, thank you. Good afternoon. My name is Ann Post, that's A-n-n P-o-s-t. I'm an attorney with Baylor Evnen Law Firm. I practice land use and real estate law and often have the privilege of working with developers as they work through a redevelopment project. Everything from land acquisition to negotiating with the city and working to get a redevelopment agreement in place. Now most things that I can say about this bill have already been said already, but the few points that I want to reemphasize are the facts that redevelopment projects are inherently risky. That's why we had tax increment financing to start with. They often involve assembling multiple parcels. There's already a myriad of things that can go wrong when you're buying one commercial property, now you're looking at buying maybe five commercial properties with five different sellers, five different sets of circumstances. More than that, you're working in the built environment. Maybe your infrastructure is 100 years old. Whether you're tearing down the building or rehabilitating the building, you're going to have unforeseen cost and expenses. And the question is just how much they're going to be. In these type of projects, any additional expense and any additional delay is additional risk, risk that the project may or may not be able to bear. LB846 directly introduces additional costs with additional opinions needed, additional steps taken, redundant steps since there are already two iterations of the "but for" test in the law. And also delay for the additional documentation that's going to be needed. And more than that, there's a whole new category of risk, which is this invitation to litigation. And that is the fact that anyone can come through, file a lawsuit, and if not halt a redevelopment project, file your...gosh, I have to admit I'm not sure what the filing fee is...\$86 dollars, \$87 court case to stop a \$10 million project, \$70 million project, as Mr. Landis said our most recent one was, to halt it

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for maybe six months, which is a huge...time is money in these projects and that is a huge expense. So to summarize, we are directly increasing costs, we are also directly, hugely increasing risk with this bill. Now in Nebraska we recognize that tax increment financing, as a state we amended our constitution to recognize that redevelopment is necessary. Redevelopment in blighted areas in the built environment is necessary, and that we needed tools to do this. Tax increment financing may not be the perfect tool but it's the best tool we've got. And on a whole, it's been used to the great benefit of Nebraska's communities. So for these reasons today I'm here in opposition to this bill, and I would ask if you have any questions. [LB846]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. [LB846]

ANN POST: Thank you. [LB846]

SENATOR WAYNE: Any other opponents? [LB846]

DAVID LEVY: Good afternoon, Chairman Wayne and members of the committee. David Levy, D-a-v-i-d, excuse me, L-e-v-y, Baird Holm Law Firm, in opposition to LB846 on behalf of Turner Park North, the Nebraska Association of Commercial Property Owners, and the American Institute of Architects Nebraska Chapter. I also passed out a letter to you from the Cline Williams Law Firm. Little bit awkward to pass out a letter from a different law firm but I was asked to do that. And they are very fine lawyers and you should take their comments to heart, so I would ask that you do that in all sincerity. You've heard a lot on this bill, and I only want to make two points. And I will be brief. The first point is with regard to the burden shifting in the standard of review. I've practiced land use law and done land use approvals and land use litigation for almost 20 years in multiple states across the country, and I have never seen a situation where the burden is on the city or the approving entity to prove its case, to have the burden of proof. Or to have a burden of proof that is a clear and convincing evidence type of standard. Mr. Seacrest explained well why that type of standard is used in certain cases and why it's not in so many cases. And I'll give you an analogy. When you go to court on a land use matter, the city council or whoever it might be, or if I'm challenging a statute, the Legislature is sort of like the trial court. The trial court is like an appellate court, so a challenge to a city council's action approving a TIF project, approving whatever it might be, is like an appeal already. So what LB846 would do is essentially if I'm in the court of appeals from a trial court decision, would put the burden of proof on the appellee, not the appellant. And would say to the appellee, hey, you won below in a public proceeding on the record, on the evidence, but now the burden is on you and the burden is higher to prove your case on appeal. It doesn't make sense, it doesn't work that way in any other situation of which I am aware. And so this would really almost be discriminating against tax increment financing and holding it to an entirely different

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mechanism or context of legal challenge and legal support than any other type of municipal action, whether it be land use or otherwise. It would be like telling the city of Omaha, hey, you passed a budget but we're not going to recognize your discretion, we're not going to give deference to your discretion as a municipal entity with all of the expertise, all of the public process, all of the things that go into that. The second point I want to make, actually, there's something in LB846 that I think is a good thing, and it's something that I advise my clients to do all the time in matters such as this. And that's written findings, right? Show your work is what I always tell clients. Because if there is a challenge, you want to be able to show in the record, you want to be able to connect those dots between the evidence and the decision that was made, the findings that the city council made on the record. So those written findings connect those dots. They say, we find, based on this evidence, that this conclusion is our conclusion. And having that in writing, having that as part of the record of approval is a good thing. I'll be back to testify on LB874 but one of the things I would say about that, so consider yourselves forewarned, I'm sorry. But one of the things I would say in LB874, if that bill is to go forward with amendments, one of the amendments that I would support in there is some kind of written findings requirement like that as set forth in LB846. So with that, I would be happy to answer any of your questions. [LB846]

SENATOR WAYNE: Any questions from the committee? So what you're saying is you're in support of a written findings. And if we somehow incorporated this into another bill it would...you would be in support of it? [LB846]

DAVID LEVY: Yes. Yeah, I think that's a good practice, and I have no objection to that being in statute. [LB846]

SENATOR WAYNE: As a practicing attorney, I'm going to put you on the spot. But do you know where they're getting their preponderance evidence from? Because I really don't know where that came from. [LB846]

DAVID LEVY: You know, in my experience I've used different terminology. So I'm not trying not to answer your question, but to try and answer your question. When you challenge a municipal action or a government action it's an abusive discretion standard. Did the Legislature abuse its discretion? Did the city of Columbus abuse its discretion? And what abusive discretion means to me, and what I've always read in the case law and understood, is a government entity abuses its discretion if it makes a decision that is either not...did not follow proper procedures or is wholly unsupported by the evidence in the record. If there is evidence in the record to support the city of Bellevue's decision on a land use project then courts are to defer to the city's decision because the city made that decision through an open, public process and it was based on evidence in the record. If the city made the decision wholly devoid of evidence or in a manner

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that made a decision contrary to every shred of evidence in the record, arguably then the city abused its discretion. And so that's the way I state that standard. I suppose a preponderance of the evidence standard being kind of a 50.1 percent type standard. Might even be a little bit higher than an abusive discretion standard, but it's a different way of coming at it, I think. [LB846]

SENATOR WAYNE: It's extremely higher because the case law that I keep seeing is abuse of discretion, arbitrary, capricious, or bad faith. [LB846]

DAVID LEVY: Right. [LB846]

SENATOR WAYNE: Which essentially means if there is, like you said, a shred of evidence to support it there's nothing the taxpayer really can do, even as a tactic. So I think, I mean, there's stuff they can do at the city level. [LB846]

DAVID LEVY: Right. [LB846]

SENATOR WAYNE: But I think that's where Senator Briese's trying to figure out, and we're all trying to figure out, is there something? Maybe there's not. We'll figure that out as we keep going forward. [LB846]

DAVID LEVY: And I don't want to belabor it, but make the connection then between that arbitrary and capricious to the deference that's given to a sister governmental entity, right? Between a court and the Legislature, between a court and the city. The city goes through this open, public process. You know, if they don't act arbitrarily then cities get to decide a little bit, do they want tall buildings or short buildings, you know, and so forth so. [LB846]

SENATOR WAYNE: I appreciate it, thank you. Any other questions from the committee? Senator Crawford. [LB846]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you, Mr. Levy, for being here. Could you speak to the finance experts that you have that assist you with the analysis that you do for the city? [LB846]

DAVID LEVY: Thank you for asking that question. That reminded me of another point. You know, we...I am not an expert in real estate finance. I've worked with it for a long, long time, and I know a lot about it, but we rely on the developer. We rely on the developer's financial advisers. You heard from Ms. Taylor about the city of Omaha, when we go meet with the TIF committee, the city finance director, who is absolutely an expert in municipal finance, is in that room. One of

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the other points I would make about this is if I'm in Omaha and I have to go find these two experts, that's one thing. It's very time-consuming, it's expensive. They're essentially giving me a legal opinion and they're putting themselves on the line. They're going to charge me accordingly. If I am in the city, or it might even be a village of Friend, Nebraska, or if I'm in McCook, where do I go to find those two experts? Nothing against the folks who work in McCook but the smaller communities and the communities farther out from Omaha and Lincoln, you might have a time...either a hard time finding these people or you might have to go all the way to Omaha or Lincoln to get them. And it's just yet another burden where we're making it even harder for these smaller communities to develop and to use TIF. [LB846]

SENATOR WAYNE: Any other questions? Seeing none, thank you for coming. [LB846]

DAVID LEVY: All right, thank you all. [LB846]

SENATOR WAYNE: Any other opponents? Welcome to your Urban Affairs. [LB846]

WALTER RADCLIFFE: Thank you, Chairman Wayne, members of the committee. My name is Walter Radcliffe, R-a-d-c-l-i-f-f-e. I'm appearing before you today as a registered lobbyist on behalf of the Nebraska Realtors Association in opposition to LB846. And I'm also going to, if time permits, testify on LB874 and LB967. You'll probably hear me say the very similar thing which is the realtors are very supportive of TIF. It's really the only development tool that cities have. And quite frankly, their position is that anything that makes TIF more difficult, makes it a longer process, impedes the ability for a political subdivision, for a city to use it, they're opposed to it. And they view LB846 as such an impediment. So that's the basis for their opposition. [LB846]

SENATOR WAYNE: Thank you. Any other...any questions? Thank you for being here today. [LB846]

WALTER RADCLIFFE: Thank you. Yep. [LB846]

SENATOR WAYNE: (Exhibits 3, 4, 5, 6, 7, 8) Any other opponents? Anybody in the neutral capacity? Senator Briese. Just for the record, we have letters of support: Nebraska Taxpayers for Freedom. Opposition: Home Builders Association of Lincoln, Metro Omaha Home Builders Association. And opposition: Nebraska Regional Officials Council; opposition, Lincoln Chamber of Commerce, Greater Omaha Chamber of Commerce, and Nebraska State Chamber. Opposition: United Cities of Sarpy. Opposition: Thomas Huston, Cline Williams Law Firm. Senator Briese, you may close. [LB846]

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SENATOR BRIESE: Thank you, Chairman Wayne. And thank you, again, members of the Urban Affairs Committee. Listening to the testimony, several things occurred to me. I want to make it fairly brief so you folks can keep moving on, but a few things. Perhaps clear and convincing is a better standard in the initial findings than in the subsequent action, based on what Mr. Levy had pointed out earlier. And I think it is a better standard early on. And clear and convincing can be an appropriate standard. To me, clear and convincing, we're not making a prediction here as to what's going to happen. The question is, based on what we know today, would this project occur without TIF, is this project feasible without TIF based on what we know today? So I think clear and convincing could still be an appropriate standard. Some suggested a subjective standard is okay. To me, subjective suggests a guess. An objective standard where we use affidavits and those affidavits set forth the rationale and the reasoning upon which the conclusion is based I believe is a much better standard. There is some concern expressed over uncertainty going forward, and that's exactly what this bill can help us to eliminate. It can help us to diffuse the concerns of many people that lead to this uncertainty. And some have suggested they simply oppose any restriction, and that's what got us here today, with the perception that TIF is not being used appropriately. And some also suggested TIF is the only way that growth happens. And I don't think that adhering to a causation requirement detracts from that. And to the extent the causation requirements are not adhered to, the taxpayer loses. Then it is siphoning off property tax dollars. To the extent the causation requirements are adhered to, in other words if this project would not occur without TIF, then the property taxpayers and the taxpayers in general were being held harmless in the diversion of these instrumental tax dollars. And in fact, such a scenario is a win for local taxpayers as the tax base expands due to the project, and the property comes into the tax base eventually. LB846 will help to ensure that we adhere to the intent of our community development law, and in doing so it will help to diffuse concerns that TIF is not being used appropriately. Again, I'll entertain any suggestions as to how to make this law...or how to make this bill better. And I think we've heard a lot of great ideas and suggestions and concerns expressed today. Going back to what I said earlier, I'm fond of the original language, but I'd certainly be willing to take a look at how we can make this better and make it more palatable to everyone involved. And I would ask for your support in moving this bill to General File. Thank you. [LB846]

SENATOR WAYNE: Thank you. Any questions for Senator Briese? Thank you. And thank you for being willing to work on amendments. And I'm sure we'll be in contact and we'll figure out how to get this the way you want it. [LB846]

SENATOR BRIESE: Thank you, Chairman. [LB846]

SENATOR WAYNE: Thank you. This closes the hearing on LB846. Next, we'll turn to the Urban Affairs Committee LB874, in which legal counsel will introduce, primarily because

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there's a lot of deadlines and dates that we need to make sure we have in the record as we move this forward. [LB874]

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 LB874 on behalf of the committee. LB874 is the product of the Urban Affairs Committee's LR60 interim study, which examined issues related to the use of tax increment financing, or TIF, that were raised in the December 2016 report that was issued by the Auditor of Public Accounts. That report was issued following the Auditor's review of 22 projects by Nebraska municipalities that utilized tax increment financing. At the interim study hearings on LR60, the issues identified in the Auditor's report were broken down into six main categories: one, recordkeeping; two, the annual TIF report from the Nebraska Department of Revenue; three, cost reimbursement; four, substandard and blighted designations; five, cost-benefit analyses; and six, other, which covers issues that were identified for only a single TIF project or a small number of projects. In addition to a section by section summary, included in your materials is a bullet point summary of the bill, which groups the changes in the bill based off those six main categories. The primary issue identified by the Auditor's report, as committee members no doubt know, 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. As was discussed during the interim hearings, there are not specific recordkeeping requirements currently located in the Community Development Law. The Records Management Act governs general records retention requirements by local governments. Prior to 2009, the applicable records retention schedules for various records 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 may technically not have been legally required to be maintained for the length of the TIF project. 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 are divided. So in that case, if it's a 15-year TIF project, it has to be kept for the 15 years, plus an additional 3 years. As a result of that change in 2009, any such records created after 2009, as well as any prior records still existing at the time the records retention schedule was amended, were legally required to be maintained by municipalities. Language in the current records retention schedules focuses primarily on receipts and payments, so it could be unclear whether certain TIF-related documents, such as redevelopment plans, substandard and blighted studies, and cost-benefit analyses technically fall under current retention requirements. LB874 is designed to ensure that all TIF documents are legally required to be maintained going forward, and specifically requires that each municipality which utilizes TIF, retain copies of all redevelopment plans, substandard and blighted studies and analyses, cost-benefit analyses, and supporting documents associated

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with either the redevelopment plan or any related substandard and blighted declaration. These documents, under LB874, must be retained for a period of three years after the property taxes are no longer divided for TIF purposes or the for the period of time required under any applicable records retention schedule under the Records Management Act, whichever is longer. In some cases, supporting documents may be created by the developer and not the city, so LB874 would also require that redevelopment contracts for TIF projects include a provision requiring the developers retain copies of all supporting documents associated with the redevelopment plan and provide copies of such documents to the municipality as needed to comply with the municipality's retention requirements. 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 for the project. The Auditor's report found that the Department of Revenue has taken the position that the annual report is not required and that only amendments to the original TIF redevelopment plan not previously filed need be submitted after the initial report is filed. LB874 would clarify that this annual report on TIF project is actually required annually. The third main issue identified by the Auditor's report deals with cost reimbursements for TIF projects. In 6 of the 22 projects reviewed by the Auditor's Office, some issue related to cost reimbursement was identified, including several cases where the developer incurred expenses prior to the approval of the redevelopment plan. Depending on the nature of those expenses, reimbursement of them could call into question whether the project meets the so-called "but for" test. And I will not reiterate what the "but for" test is, since we just discussed it. LB874 would prohibit the reimbursement of costs incurred prior to the approval of the redevelopment plan, except for the following: one, the preparation of materials and applications related to the redevelopment project that are required by the city. So basically anything that's on a TIF application that the city develops. Two, the preparation of the required cost-benefit analysis; three, the preparation of redevelopment contracts; four, the preparation of bond and other financing instruments; five, land acquisition and related due diligence activities, including, but not limited to, surveys and environmental studies. And six, site demolition. The fourth main issue identified by the Auditor's report was the designation of areas as substandard and blighted. The Auditor's report identified issues with substandard and blighted designations in 16 of the 22 projects that were reviewed. However, in most of those cases, the municipality was unable to provide documentation of the substandard and blighted designation to the Auditor's Office due to poor recordkeeping. So recordkeeping seems to be the genesis of many of those issues. While it is commonplace for municipalities to conduct what is known as a substandard and blighted study for each TIF project, it is currently not a statutory requirement that they do so. LB874 would require that municipalities conduct a study or analysis on whether a redevelopment project meets the definition of substandard and blighted, effectively codifying what is common practice. The bill would also require that the studies or analyses be included in public notices for substandard and blighted designation hearings and that copies of the studies or analyses be made available on

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the municipality's Web site or made available for public inspection at the 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 whose redevelopment plan includes the use of TIF. Cost-benefit analysis issues were identified in 8 of the 22 projects reviewed by the Auditor's Office. And as with substandard and blighted designations, 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 conducted. LB874 would require that cost-benefit analysis information be included in public notices for redevelopment plan hearings and that copies of the cost-benefit analyses be posted on the municipality's Web site or made available for public inspection at a designated location. Lastly, 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, as I noted, were unique to a single TIF project. The changes in LB874 designed to address these issues are grouped into the "other" category on your bullet point memo. First of these changes, the bill redefines the term "redevelopment project." The current definition of redevelopment project includes a laundry list of eligible items that can be included in a TIF project. In addition to those items specifically listed, the definition also includes a catch-all provision to authorize other items that may not be specifically listed in statute. As part of the 18th and Q redevelopment project that was examined as part of the Auditor's report, the city of Lincoln included facade enhancements and energy efficiency improvements, which, while not specifically listed under the definition of redevelopment project, clearly fit within the catch-all definition. The Auditor's report was concerned with the broad language in the catch-all provision, that it could virtually allow any project cost to be included as part of the TIF project, while the committee also heard testimony from the city of Lincoln over the interim that the improvements included in that TIF project were legitimate uses of TIF that should remain eligible under the definition of redevelopment project. To address this issue, LB874 would both strike the catch-all provision while also adding additional language to the list of eligible expenses to allow "enhancements to structures in the redevelopment project area which exceed minimum building and design standards in the community and prevent recurrence of substandard and blighted conditions." The second of the other changes the bill addresses the creation of a TIF-related revolving loan fund by the city of North Platte. While the Community Development Law authorizes municipalities to establish revolving loan funds, the Auditor's report called into question the use of a revolving loan fund by North Platte to fund smaller, non-TIF projects using loan proceeds that were loaned to developers for TIF projects. As the committee heard at the interim hearing in North Platte, Section 18-2147 restricts the use of TIF revenues to payment of redevelopment costs. While the loan proceeds would likely no longer be considered TIF revenues once repaid to the city, the structure used gives the appearance of using TIF funds for non-TIF purposes. To address this issue, LB874 would require that proceeds from the repayment of loans made for TIF projects be deposited in the municipality's general fund and prohibit those proceeds from being used to establish a revolving loan fund. The third other issue, the bill

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addresses unique issues with the Trotter project in the city of Broken Bow, which involved the city using several pieces of unrelated property to fund infrastructure costs at the Trotter project location. Under Section 18-2147, municipalities that use TIF are authorized to divide the property taxes on all property located within a redevelopment project or on 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 the property taxes on either the entire business district, just a portion of that business district, or just the single building. In the case of Broken Bow, the city effectively chose to divide the taxes on five properties seemingly cherry-picked around the city to fund the Trotter TIF project. So basically, properties on one side of town were TIFed to pay for improvements on the other side of town. LB874 would address this issue by requiring that if a development project divides the tax on only a portion of the real property included in the project, such property shall be clearly related to the redevelopment project. Finally, the Auditor's report found that several TIF projects examined in the audit had later outstanding property tax payments on properties in the redevelopment project. LB874 would address this issue by providing that redevelopment contracts may include a provision that requires all property taxes levied on a redevelopment project to be paid before such taxes become delinquent in order for the project to be eligible to receive TIF funds. LB874 also includes several provisions that fall outside the scope of the Auditor's report, but that would provide additional transparency to the TIF process. These provisions are laid out in the second page of committee members' bullet point summary. Changes include reiterating the authority of the State Auditor to audit community redevelopment authorities, or CRAs; requiring that notices of public hearings to political subdivisions be sent by certified mail, return receipt requested; changing the Planning Commission hearing on the redevelopment plan from an optional hearing to a mandatory hearing; alphabetizing terms in the Community Development Law. So there's about seven pages of alphabetizing terms in the bill. And specifically requiring the cost-benefit analyses consider the impact of a TIF project on school district student population. The bill would also add two additional procedures for ongoing local oversight of TIF projects. First, the bill would require that each municipality which utilizes TIF establish a local auditing plan to provide regular review of redevelopment projects that use TIF. Once conducted, each audit would be submitted to the governing body of the municipality and posted on the municipality's web site or made available for public inspection at a designated location. A list of TIF projects that have been audited in the last year, as well as those projects to be audited in the coming year, would also be filed with the Department of Revenue as part of the Department of Revenue's annual TIF report. Second, the bill requires that the Planning Commission, planning board, or another designated division of each municipality which utilizes TIF compile an annual report on TIF projects to be submitted to its governing body. This requirement mirrors the resolution that was passed by the city of Omaha this past fall, requiring an annual TIF report to the city council. So LB874 would simply apply that requirement to all municipalities that use TIF. Next, LB874 would require that each county and school district in a municipality be given the opportunity to appoint a nonvoting member to that municipality's

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community redevelopment authority, or CRA, if the municipality has not already appointed a representative of such county or school districts as a voting member of the CRA. Under the bill, the county or school district could decline to appoint a nonvoting member, and the terms of the nonvoting member would be set by either the county or the school district. Finally, LB874 requires that property tax statements issued by the County Treasurer include a designation if taxes on the property have been divided as part of a TIF project. This change is designed to address a situation that was highlighted this fall in the Lincoln Journal Star where property owners in the Northbank Preserve neighborhood in Lincoln were unaware that their properties were located in a TIF district. Based off of information from the Nebraska Association of County Officials, most counties are already making some kind of distinction on their property tax statements, so this provision would only change things in a handful of counties that are not currently including...indicating that properties are included in a TIF project. Committee members should have received a copy of AM1641, which I apologize for it being a white copy amendment. The amendment only makes two small changes to the green copy of the bill. First, it clarifies that audits of CRAs by the State Auditor would be conducted at the expense of the CRA. Currently, Section 84-302, which governs the State Auditor's Office, provides that audits of political subdivisions are conducted at the expense of the political subdivision. Second, the amendment clarifies that all municipalities must give counties and school districts within their boundaries the opportunity to appoint a nonvoting member to their CRA, regardless of whether the municipality appoints their CRA or designates either their governing body or a municipal division or department as their CRA. Under the Community Development Law, municipalities may designate their governing body or municipal division or department as their community development agency, which serves as its community redevelopment authority. So because the language in Section 1 only mentions community redevelopment authorities, it could technically not apply in all cases without that amendatory language. Thank you, and I would be happy to try and answer any technical questions you may have at this time. [LB874]

SENATOR WAYNE: Any questions from the committee? Seeing none. [LB874]

TREVOR FITZGERALD: Nothing. [LB874]

SENATOR WAYNE: Seeing none. All right. We'll start with proponents of LB874. Welcome. [LB874]

RUSS KARPISEK: Thank you, Senator Wayne and members of the Urban Affairs Committee. I'm fighting a cough, so if I cough, shut off my time. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I am the legislative liaison for the Auditor of Public Accounts, Auditor Charlie Janssen. As you heard legal counsel go over, a lot of this did come out of the Auditor's report on TIF. And I do want to right away say that Auditor Janssen is not opposed to

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TIF. He's very neutral, and probably even more proponent to TIF, because being a business person. When we were asked to do the audit, we just wanted to make sure that if we thought things were going according to statute. I know that there is probably some argument that will come up about what is and what isn't what we reported. I think that my opinion is a lot of these things were pretty gray, and so we brought them up. Is this how the Legislature wants TIF to work? And we are in favor of the parts of this bill that give us...make sure that we can audit TIF, make sure that we have recordkeeping done so everyone can go back and look at it and it's transparent. All the rest of how it works, we are really neutral on. And I struggled if I was going to be proponent or neutral, but I didn't think I could sit through the opponent testimony again. Sorry. But that really is up to the Legislature. And almost everything that the Auditor's Office does is we look at statute and make sure that it's being followed. A lot of times it might not be set in stone like we think it is when we pass a bill, and so there is a little interpretation. And that's what we want to bring up, to make sure everything that we do we just want to make sure that it's transparent and it's working the way that it's intended to work. I think that TIF definitely is a valuable tool. And again, some of the things that legal counsel brought up in some of the towns, I don't know, was it intended to be that way or was it not? I know that none of it was out of statute, because I would argue that you really can't be out of statute, because it even says in the bill: to be considered liberally. And that's fine. And again, this is a local control issue, but it's a city council that determines things for a school board and county board. And I have to be careful because I could slip on my county commissioner hat and come back around, but I'm not going to do that. We just want to make sure, I think, that the Legislature knows how this works, that the people who are doing it understand how it works, and the people who are helping people do it understand how it works. I know we have had a lot of Lincoln and Omaha testimony here. And as they said, they have people that do this every day. The smaller towns don't. I know Friend was brought up, it's in my county. I understand that they don't have someone on staff, but we need to make sure that it's done correctly, again, for the taxpayers. Just to make it fair and make sure that everybody understands. So again, we're very in favor of the recordkeeping and that we can go back and look at it. The things...however you want TIF to run, we don't want to mess with that. [LB874]

SENATOR WAYNE: Thank you. [LB874]

RUSS KARPISEK: Thank you. [LB874]

SENATOR WAYNE: Any questions? Seeing none, have a good day. [LB874]

RUSS KARPISEK: Thank you very much. [LB874]

SENATOR WAYNE: Next proponent. Welcome. [LB874]

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RENEE FRY: Thank you. Good afternoon, Chairman Wayne and members of the Urban Affairs Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. I will keep my comments brief today. We're here in support of LB874 as we believe it goes a long way to improve transparency, evaluation and inclusion of other local governments in the TIF process. We particularly like the improved public access to the cost-benefit analysis in that it must consider the impact of a project on the school district population. We're pleased that each county and school board...school district would be given the opportunity to appoint a nonvoting member to the authority. We would encourage you to consider giving a certain number of local governments a voting seat on the redevelopment committee, like Colorado does, which ensures that 3 of 13 seats are guaranteed to local governments other than cities. But I understand that this can get complicated, after speaking with legal counsel, when multiple school districts are involved, but do believe that this could be worked out. So all in all, we support LB874. And with that, I would be happy to answer any questions. [LB874]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. [LB874]

RENEE FRY: Thank you. [LB874]

SENATOR WAYNE: Any other proponents? Proponents? Still proponents. Moving to opponents. [LB874]

DAVID LANDIS: David Landis, Urban Development Department director, D-a-v-i-d L-a-n-d-i-s. This bill holds the prospect of being a peace treaty, and for that reason I think it involves...it should take all of our focus. I appear as a representative of the city of Lincoln to make a couple of elements where I think the bill could be improved. By the end of the testimony of those of us who align ourselves as opponents at the moment, I think you'll find that we would like to offer ideas, including some variations, that build essentially on this framework, but adjust places where we have a difficulty. And let me give you a couple of examples. I am one of those situations covered by an amendment that Trevor just indicated, which is that not only the CRAs, the authorities, but also where it's been given to a department, has the responsibility. We meet with developers for three months, five months, six months. Those are usually weekly meetings, but we also have business that we do by a phone call. We do business where the developer has late-breaking news and wants to meet in an hour. Do I call the city's school board and county board member and say, wait a second, the developer would like to talk to us, they need to do some business, can you come down in the next hour? We can do that because we're on staff all the time. We have 12 projects, perhaps, working as many as...over that time line. All I can say is, it would be problematic in our situation where we don't have a formal authority doing that kind of work in a setting. But we're doing it day by day with our work to harmonize even a nonvoting

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member to the way that we do business. Do we have to answer to the county? Yes, we do. But we answer to everybody when we take it to a public hearing and show our work product and allow the public to do its work. We have a relationship with our school board. In fact, our school board about 12 years ago said, we care about where you build new subdivisions and there are new, fresh kids. We done a project about 12, 13 years ago, they said, you know, we didn't like that. And we said, we won't do it again. And we haven't. Every now and then we call them up and say, we have got our projects. They say, that's fine, it's okay with us. You know our boundary and we observe it. Our relationship isn't required by state law, it's because we're neighbors and we care about the same kids and the same community. Second thing, you've got something here that undoes revolving funds. And we're not sure whether something that we do is or is not inside your statute. We created about 12 years ago the small TIF fund, it was city money. Money that we could use for the purpose of assisting projects. So we're the bank in these. We lend the money to the small developer and then they pay us back through their taxes. Here's why we did it. We had projects that were very small, small businesses, oftentimes immigrant communities that were starting up businesses. The issuance for a public bond can be \$60,000 or \$70,000. But if a small business is saying, look, the chance for us to do this project is if we can get \$150,000, spending \$60,000 of it to do a formal bond issuance makes that not work. Let me tell you the one case where we're using it right now, at least we're talking about it. Vietnamese grocery store, across the street in a new location we discovered a big tube running under the building. Because of the big tunnel under the building, the building that they bought was unusable. They had a plan to do it, but all of a sudden they have a \$150,000 cost they can't afford. They have asked us for help with a small TIF, we have agreed to do so. We want to put this Vietnamese immigrant family back in the ability to redevelop this building and make it work, rather than having it be unusable. It's \$150,000. We would like to do that, and then when they repay, we would like to put it back into the fund and do it again. But what we're doing, we're not spending it any place else. We're lending the money to the small businessperson, they pay us back in taxes, we put it back into that fund, and then we make another loan when we have the means available. We can't tell whether that's a revolving fund outlawed by the statute or not, but if it is, it does kill our chance to help small businesses, many of whom are first generation immigrants, in doing small business projects that we would like to help. Thank you. [LB874]

SENATOR WAYNE: Any questions from the committee? Thank you for coming today. [LB874]

DAVID LANDIS: You bet, sir. [LB874]

MIKE JACOBSON: Let's try it again. [LB874]

SENATOR WAYNE: Welcome. [LB874]

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MIKE JACOBSON: Hey, well, thank you, Senator Wayne and members of the Urban Affairs Committee. Again, my name is Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n, and I am chairman of the North Platte Redevelopment Authority. I am here on behalf of the authority, the North Platte Chamber of Commerce, and the League of Municipalities. As I'm here to testify in opposition to LB874, although I first would be remiss if I didn't acknowledge the work that's been done, the very good work that's been done on really trying to address the issues that were raised by the State Auditor. I mean, clearly there was need to become more clear on what the rules are and to try to get some consistency, and I think the bill attempts to do that. And there are many sections of the bill that I think are very positive. However, there are sections that I specifically take some concern with. And as you might be surprised, I am very concerned about Section 18-2107, as it relates to the redevelopment fund. And as their legal counsel mentioned, our fund, I think very clearly, is in the scope of being eliminated. And I would like to just give you again a little bit more background on why we think that was important and why we did it. And many of you who went on the tour in North Platte saw some of the work that was done in the downtown area with our redevelopment fund. As I testified earlier, there are cases where you do TIF projects where the if not "but for" test is not because the developer can't afford to do the project, it's that they're not going to do it if they don't get TIF and build in that area. We created our redevelopment fund when we knew that Cabela's was going to come in and build their project, with the understanding they would build in North Platte if they could get TIF. If they couldn't get TIF, they were going either outside North Platte or outside the state in building their project. So I believe that no one lost any tax revenue because the project clearly wasn't going to be built in North Platte or potentially in Nebraska if it hadn't been built. But I also felt like that there should be a way that we can direct some dollars into the smaller...or into the downtown area in areas smaller projects that otherwise can't meet the cost requirements for TIF. And again, I get back to my death by a thousand cuts, as if the bill would pass today in its current form, then we've eliminated most of the TIF project applications that would come from our downtown area and smaller projects. They're just simply not going to be able to afford to do it, nor are they going to want to take the liability to do it, nor does it make economic sense for them. So the only way they can really get assistance is from our redevelopment fund. So if we can take 25 percent of the funds that go to the project and loan it to the developer, rather than grant it to the developer, all of the funds go...all of the funds from the bond go for the redevelopment project. Then we create soft repayment terms to allow that developer who benefited from TIF at a later time to pay back 25 percent of that, that goes into our redevelopment fund, that is then used for the redevelopment projects that are smaller, generally under \$350,000 in movement of the increment...or in size of the project, rather, because they can't move the increment if they aren't at least that size to make sense out of the cost under the current situation. So, and then all those projects, of course, have to be approved by the city council. The CRA is simply in an advisory role. So again, I would like to see that section stay. In fact, I would really like to see it as kind of a standard moving forward. I would welcome guidelines as to how those can be used. I think transparency and clear guidelines are very helpful. But I think eliminating that section is going to be a negative to TIF

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going forward, certainly in smaller communities. And with that, I will stop for questions, since I've still got yellow and I got another bill to talk about yet. [LB874]

SENATOR WAYNE: Any questions from the committee? Senator Riepe. [LB874]

SENATOR RIEPE: Senator Wayne, thank you. Let me question, maybe you can educate me a little bit here. You talked about like some \$25,000. Is there any default on any of these, or is this...this is not a block grant. (Inaudible) just a deferred payment of taxes, right? [LB874]

MIKE JACOBSON: Actually, what we're doing as a general rule, what we outlined, was that when the TIF bond is funded that 75 percent of the TIF proceeds from that bond would be distributed to the developer as a grant and to be used for qualified TIF expenditures. [LB874]

SENATOR RIEPE: Okay. [LB874]

MIKE JACOBSON: The other 25 percent of the TIF bond proceeds would go to the developer for TIF-related expenses but in the form of a loan. [LB874]

SENATOR RIEPE: Okay. [LB874]

MIKE JACOBSON: And then the CRA would negotiate with that developer repayment terms, because the whole concept of TIF is they need the money today upfront to fund their project. But over time, when the project is built and they're generating profits and so on, then we believe they should pay back 25 percent of those proceeds that they received, use that as a funding mechanism to go into this redevelopment fund that we could then use for areas of the community for projects that would be a project of \$350,000 or less. Because if you look at \$350,000, run the net present value of the tax increment, and see what that number is. It's such a small bond that by the time you pay for the cost of the application fee, that redevelopment plan, the cost-benefit analysis, plus whatever other expenses that get added on through new legislation, those costs get prohibitive. So if we want to run some dollars into areas, much like Senator Landis had spoken about earlier, in areas that some people in their minds say, this is blighted, we have a mechanism to either grant dollars to them or loan dollars to them out of this redevelopment fund. And the dollars that are loaned out of that redevelopment fund, of course, would come back to the redevelopment fund, plus any new dollars from larger TIF projects that would be done elsewhere within the city limits. [LB874]

SENATOR RIEPE: I think my question is...I understand the grant. It was the loan piece that I was curious about, if there was ever defaults on those loans. [LB874]

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MIKE JACOBSON: We did have one default early on, which was a TIF project that failed. So I think we proved that it wouldn't work without TIF, because it failed with TIF. So I'm on record for one that didn't work. But what we have done since that time is we have required a secured position for that loan, so we're in the second position on the loan so that we're behind the original. And actually, I think, we're requiring security up-front. I think we're ahead of even the lender, so that we're making certain that those dollars do ultimately come back to us. [LB874]

SENATOR RIEPE: So you have got a secured position on the 25 percent? [LB874]

MIKE JACOBSON: I've been a banker too many years to lose on a deal twice. [LB874]

SENATOR RIEPE: I know some bankers... [LB874]

MIKE JACOBSON: Yes? [LB874]

SENATOR WAYNE: So the provision regarding the revolving fund, essentially this bill does not--I guess I'm asking for you to comment--this bill does not prohibit the revolving fund. It just prohibits any dollars tied to TIF. And since North Platte is a LB840...they have LB840 funds, could you just simply use that for your fund in your designated areas that you consider blighted and substandard? Why not use those dollars and get away from the entire TIF argument? [LB874]

MIKE JACOBSON: Well, I think twofold. The LB840 dollars are being utilized in a lot of other ways, currently. In fact, we're looking at...we now got new air service coming to North Platte. But we also know that we may be able to expand that air service, which we think is critical to the growth of the community. And that may require some kind of support there. And then we also look at the other projects that LB840 is being used for, and so we think that LB840 is already being tapped pretty hard. And in some cases, it's being used in addition to some of these other funding mechanisms simply because of the need for the subsidy to get them done. If this were done and the dollars go into the general fund effectively, we would probably just continue the practice. And we have never used our taxing authority as a CRA. As long as I'm chairman, I don't think we would ever want to impose the taxing authority as a CRA. We think it should be a self-funding program, and that's why we have done it the way we have done it, so that we don't actually assess taxes, which of course, are authorized in the statutes today. [LB874]

SENATOR WAYNE: Okay, thank you. Any other questions? [LB874]

MIKE JACOBSON: Thank you. [LB874]

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SENATOR WAYNE: Thank you. Welcome back. [LB874]

JENNIFER TAYLOR: Thank you. Make sure I'm handing over the right blue sheet. Okay. [LB874]

SENATOR WAYNE: Go ahead, sorry. [LB874]

JENNIFER TAYLOR: Thank you, again. And my name is Jennifer Taylor, J-e-n-n-i-f-e-r T-a-y-l-o-r, and as noted earlier, I'm an assistant city attorney for the city of Omaha. First, I wanted to actually make sure that I stated my appreciation to both Senator Wayne, Trevor, Mr. Fitzgerald, and the committee for all the work that they did last year in kind of a similar bill, also through the interim hearings that we've had, and all of the meetings and conversations that have been had over the last couple of years trying to make sure that we get to a point where we address the Auditor's concerns, but do so in a way that doesn't damage our ability to utilize TIF, or the cities...that the manner and method in which we use TIF doesn't become prohibitive to us. So I appreciate all those efforts very much, and I want to thank the committee for that. That being said, I think there's a large part of the bill as proposed that addressed the Auditor's concerns that I think are good amendments and are good practices and processes to put in place. There are a few areas where I have some concerns about maybe the particular drafting may have a negative impact on how we do things, and I would like to address those here. The first is with regard to recordkeeping. We had talked a lot about recordkeeping, and actually in response to that, because that was one of the issues that the Auditor addressed with the city of Omaha. The city of Omaha sent a letter to all our developers at the beginning of this year, and that letter said that, in response to the Auditor's report and those concerns, we were going to start requiring a certificate of occupancy that developers that utilize tax increment financing provide us with documentation that evidences the amount of money they spend on TIF-eligible expenses. To that end, I have revised our standard agreement that supports redevelopment plans to include a provision that says, "a copy of the final AA application and certificate for payment or an AA document for progress payments, or such equivalent documentation satisfactory to the city, which establishes and verifies the actual amounts expended for all TIF-eligible costs identified in the agreement has to be submitted at the time of CO." So what we're doing in that respect is we're telling the developer that when we enter into the redevelopment agreement pursuant to the plan, we will identify which expenses that you have put forth in your application we consider to be eligible for tax increment financing. Of those expenses, when you are done with your project, you need to give us documentation signed by your architect that says here is how much you spent on those specific expenses. So we have a document at the beginning and at the end that will tie together and give us our verification of what the developer spent, and how they spent the money we loaned them. Our concern with the bill as drafted is that it states that we need to retain any invoice, receipt, claim, or contract received or generated by the city that provides support for receipts or payments associated with the redevelopment plan or redevelopment project. Our

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concern there is that it requires us to get from the developer all of their contracts and claims and invoices, somehow get it to us, we review it, and do that in order to comply with the bill. And I think that's not what the intent is. We would like to see the bill revised in a way that allows us to continue doing what we have already put in place. In the interest of time, I'm going to move forward from that. The second piece that we have is that in 18-2107.01 (sic--18-2117.01)(5) and (6), as Mr. Fitzgerald mentioned, those are two pieces that discuss an auditing plan and the resolution that was put forth by the city of Omaha. And I think actually, subsection (5), the audit plan, was some language that we suggested last year to attempt to give a report to the governing body. Subsection (6) reflects the resolution the city of Omaha actually passed, and subsection (6) in that resolution was our attempt to accomplish the language that is in subsection (5). So I think to some extent there might be some either redundancy or confusion as to whether or not what's required in subsection (6) would satisfy what is outlined in subsection (5). We would recommend deleting subsection (5) and leaving the specific language that reflects what the city of Omaha passed, so that therefor the cities have some specificity as to what that audit plan would include. And finally, I think I would just like to express a little bit of concern about putting a nonvoting member on our city council. I think there's probably some concerns about legitimately how we would possibly affect that. And so again, it's more of a concern...I understand the purpose, but the concern is how we would realistically accomplish what would be required by state law if this were to be passed in its current form. And on that, I'm out of time. I would be happy to answer any questions. [LB874]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you. Did you forget to say something? [LB874]

JENNIFER TAYLOR: I did. If you don't mind. There was one other piece, and that was with regard to the revolving fund and the general fund. So very briefly, our concern there is that requiring the city to put its excess ad valorem taxes that we receive from the treasurer into the general fund then puts those moneys into the general fund, which is to be used for the daily operations of the city. And at that point, pulling them back out to make payments to the lenders, because we don't make bond payments, we make payments to lenders pursuant to financing arrangements and notes, could be realistically hard to do. And for example, like in a month like April, where the city receives somewhere in the neighborhood of \$14 million from the treasurer pursuant to all the various tax increment financing projects they have, that's a lot of money to put in the general fund and then make individual payments back out to those necessary lenders. It's a complicated process for the city and I think could be problematic when you're putting that kind of funding into the general fund. And also, I would note that 18-2147 requires, and still requires even in the amendment, for us to put those moneys into a special fund. That language I put into all of my agreements, and so I promise the developers I will take their excess ad valorem taxes, I will put it into a special fund that it is then dedicated for your project so that way the accounting for your money is clear. If we put it in the general fund, I think maybe the city has the

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wherewithal to manage that kind of financing, but I'm not sure every municipality would, and I think that lends itself to probably more problems than solved. Sorry. Thank you, Mr. Wayne. [LB874]

SENATOR WAYNE: I'm glad you brought that up because we were talking about that. So yeah, we're in agreement on that one. Senator. [LB874]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you for that follow up. Could I just have you...at the very beginning, when you were talking about the challenges of the analysis required, just to pull back to what section of the bill that was? [LB874]

JENNIFER TAYLOR: With regard to recordkeeping or with general fund? [LB874]

SENATOR CRAWFORD: I believe it was recordkeeping. [LB874]

JENNIFER TAYLOR: Recordkeeping is 18-2117.01(4), is what my notes have. And there was an amendment to that section that would require...and to be clear, the majority of that amendment we are perfectly fine with. We keep copies of our blight studies, we keep copies of our plans, we keep copies of all of the documents, the application, everything that comes into the city that supports our process. So the application materials, the plan, and everything else, we keep copies of that, and we are more than happy to do that for the required 15 years plus 3. Our concern is our ability to get those specific invoices and receipts from the developer, who may not have them, based on the types of contracts that they enter into, whether or not they even have access to that information to give it to us and then to have to try and assess. You know, I have done redevelopment projects when I was in the private practice where, in order to analyze or audit a fixed-cost contract, we had binders upon binders of invoices that then to tie to every pay application that then supported the entire cost of the project. So what we did at the city was say, what we would like to do is make the architect and the contractor say, here's what was spent on that, and attest to that through an AIA document that we can then take...okay, here's what was spent, put that in the file, keep that for 15 years plus 3. And we're fine with doing that, as opposed to trying to get every single receipt, invoice claim from a contractor that goes to a developer that then comes to the city. [LB874]

SENATOR CRAWFORD: Thank you. [LB874]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for coming today. [LB874]

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JENNIFER TAYLOR: Thank you very much for your time. [LB874]

SENATOR WAYNE: Any other opponents? Good afternoon. [LB874]

JAMIE BERGLUND: Good afternoon, Chairman Wayne and members of the committee. Thank you so much for the opportunity to come and speak with you today. My name is Jamie Berglund, J-a-m-i-e B-e-r-g-l-u-n-d. I'm the executive director of Omaha By Design, a nonprofit organization founded in 2001. We work to convene, engage, educate, and advocate for excellence in urban design and policy in the Omaha area. Supporting infill and redevelopment are central elements to our day to day work. Redevelopment maximizes existing infrastructure and municipal services, enhances the tax base, lowers transportation costs for families and businesses, creates stronger neighborhoods, attracts and retains professionals, and creates jobs and investment in the areas that need it most. I spent the last 11 years of my career in community development, including more than 10 years working for the Greater Omaha Chamber, where I led a number of initiatives focused on revitalizing midtown, north Omaha, and south Omaha. This work included extensive and collaborative master planning, feasibility, market analyses, community engagement efforts, communications and marketing strategies, developing and implementing projects to drive investment in housing and businesses, the creation of our land bank that we have in the Omaha community, and the creation of community development intermediary. While this work, and the work of Omaha By Design and several other nonprofit and for-profit efforts has resulted in progress, the scale and complexity of our redevelopment needs, particularly in the eastern part of our community, continues to pose critical challenges. Aging infrastructure, disinvestment, and abandonment, dilapidated housing in commercial districts, and obsolete lock configurations are just a few of the hurdles we need to overcome. Tax increment financing has been the primary redevelopment tool used to revitalize our neighborhoods, and we strongly support its usage. And while we support improvements to TIF that offer procedural clarity, we also firmly believe the process must be streamlined and predictable for it to be deployed effectively. Over the years that I had been in my role and I've done this work, I have received frequent feedback from the development community, many of whom are small-scale urban infill developers, that there are many challenges with redevelopment. And in particular, complicated and burdensome processes are surefire ways to ensure that projects don't move forward. So while there are many elements of this bill, or this statute, that would be beneficial, we are not in support of it at this point, but we do look forward to seeing future changes that might make it more amenable. Thank you. [LB874]

SENATOR WAYNE: Thank you. Any questions from the committee? Seeing none, thank you for coming today. Any other opponents? [LB874]

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JULIE STAVNEAK: Good afternoon. My name is Julie Stavneak, J-u-l-i-e S-t-a-v-n-e-a-k. Thank you for allowing me to speak today, and also thank you for serving our state. I really appreciate your time and dedication. I co-own a real estate development firm in Omaha, Nebraska, we do development in Nebraska and Iowa. Just want you to know, in addition to that, we do urban infill and historic preservation renovations. And we have assisted many nonprofits over the years do affordable housing. So oftentimes, I look at myself as a community developer because I believe most businesses and projects that use tax increment financing the "but for" test happens quite easily, and oftentimes more money is spent on those items than even requested, which has been my past experiences. I think it's an invaluable tool, a much needed tool, and oftentimes we've looked at projects in Plattsmouth, Geneva, Nebraska City, Fremont, other places other than the urban environments, and the challenge that we run into is TIF isn't enough. There needs to be other incentives to get projects redeveloped. But what I have found is, I have been doing this...my business has been around for 14 years, but prior to that I worked for a developer in Omaha for 9 years. I have been doing TIF applications for nearly 23 years. And this is an example of a project that we're doing in Omaha right now, and this is my TIF application. And it's probably increased in size from when I was working for a previous developer, probably double, with more information, which is great. I'm not opposed to giving and doing the cost analysis and the tests. But the process has changed from probably a three- to six-month process for a development to six- to nine-month process, which is really difficult when these projects are already costly in themselves. So my fear is there are...we are trying to add additional time and money spent so that we can't operate efficiently and effectively to get these projects done. In particular, with this specific bill, is the recordkeeping item that Jen Taylor had mentioned earlier that is a concern. Oftentimes, when we do a project, we approach a general contractor and we get a bid from them, so that we have all the accurate costs for our analysis, financial analysis. And when we get that bid from them, we usually guarantee it, because it fits into our budget. So they give us a contract that's a guaranteed maximum price contract. And so they'll give me the line item of all the infrastructure cost associated with our project, but I never see their actual bill from their subcontractor, and I just know what they had projected to spend. So I find it nearly impossible in a guaranteed maximum contract situation to actually get that recordkeeping...that level of recordkeeping, and that does concern me from multiple levels there. So I just want to thank you for your time. And if you have any additional questions, please let me know. [LB874]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you for coming today. [LB874]

JULIE STAVNEAK: Thank you. I'm glad everybody else wore you out. [LB874]

SENATOR WAYNE: Welcome back to your Urban Affairs Committee. [LB874]

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WALT RADCLIFFE: Thank you. Mr. Chairman, my name is Walt Radcliffe, R-a-d-c-l-i-f-f-e, and I'm appearing on behalf of the Nebraska Realtors Association in opposition to LB874 as it is presently written. To be very honest, there's a lot in it that we would have no objection to. The primary concern relates to the revolving funds. And Senator Landis did an excellent job explaining that, and that would form the basis of our opposition. And we would not support the bill...we would not like the bill or support the bill as it is with that language in it, so that's why I find myself on the opposing side. The rest of the bill, we're not objecting to. [LB874]

SENATOR WAYNE: Okay. Any other questions? Senator Crawford. [LB874]

SENATOR CRAWFORD: Thank you, Chairman Wayne. And thank you, Mr. Radcliffe, for being here. Can you just explain... [LB874]

WALT RADCLIFFE: Probably not. But I'll try, Senator. [LB874]

SENATOR CRAWFORD: Just trying to...how the realtors are using that revolving fund or why they aren't. [LB874]

WALT RADCLIFFE: They aren't, but it's a tool for the political subdivision to be able to use, so. [LB874]

SENATOR CRAWFORD: Oh, okay. [LB874]

WALT RADCLIFFE: And like I say, Senator Landis did a very good job. You just can't go out on a small project and spend the money to do the bonds. [LB874]

SENATOR CRAWFORD: Thank you. [LB874]

SENATOR WAYNE: And again, at least the thought of it is we're not opposed to those kind of revolving funds. We just don't think we want to commingle any TIF dollars with non-TIF use. [LB874]

WALT RADCLIFFE: I understand the commingling issue. And I can't help but think there's a way to solve that. If everybody says, no...or if everybody says, yes, we're willing to address the commingling issue, then let's address that, and maybe not use the prohibition on revolving funds as the methodology. [LB874]

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SENATOR WAYNE: But in your case, I don't think, and now that Senator Landis is here, I don't think what Lincoln is doing would fall underneath that category, and there's some clarifying language. We just probably need to sit down and clarify that. [LB874]

WALT RADCLIFFE: And that would be fine. I'm...this is not something, as you can tell from my testimony, that is...well, I suppose it's a deal killer as far as the bill goes, but we don't want it to be. And it's something that could be worked out. [LB874]

SENATOR WAYNE: Right, understood. Thank you. [LB874]

WALT RADCLIFFE: Thank you. [LB874]

SENATOR WAYNE: Welcome back. [LB874]

JEAN PETSCH: Repeat. Jean Petsch, J-e-a-n P-e-t-s-c-h, executive director Associated General Contractors Nebraska Building Chapter. After due consideration, and I do appreciate the time that Trevor Fitzgerald spent with me one morning helping me wade through this bill, that was very helpful and appreciated, our legislative committee did decide to oppose this bill. But as several other folks mentioned, there's a lot of good things in the bill. There's just a few things in the bill that cause us to be opposed to it. Again, we're involved with TIF projects further downstream, to actually get the projects built. But one of the things that Judy (sic--Julie), and I didn't catch her last name, two times ago, brought up, and I think this is the essence of a lot of our concerns, you reach a point where every additional report that's required you're adding more and more dollars and more and more time to the projects. And on a lot of the projects, you get to the point where you've just made them, you know, the developer decides to go elsewhere or the cost to get the project up and going isn't worth the cost of the project. So for the reason of, kind of back to our basic philosophy of we are against any TIF bills that restrict the use of TIF or we're against bills that make it more difficult, we are against the idea of adding more public hearings. Even though a lot of the municipalities and the governing boards do have additional hearings, that's their choice, where they see that they need them. Also, the additional reports and cost analysis that are called for, oftentimes each one...one of our contractors mentioned that a project recently required two additional reports, and each of them was an additional \$25,000 to another consultant. Just, I mean, that might have been a real rare instance, but each additional report adds more time and more cost to those projects. So that's our reason. Thank you. [LB874]

SENATOR WAYNE: Thank you. Any questions? Hearing none, thank you. Welcome back. [LB874]

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DAVID LEVY: Thank you very much. Chairman Wayne, members of the committee, David Levy, D-a-v-i-d L-e-v-y, Baird Holm law firm, on behalf of Turner Park North and the Nebraska Association of Commercial Property Owners and the American Institute of Architects Nebraska Chapter. I also want to thank Chairman Wayne and the committee and the committee legal counsel, Mr. Fitzgerald, for your work on this. It's a lot to wade through. And I know that your intentions in this are good. And I am here in opposition to LB874 as drafted, and I'm going to have some specific thoughts for you. And refer to AM1651, actually with some suggestions for some things that I think if were done a little bit differently in the bill might actually improve the statute, make it easier to use, thereby reducing the chance of incorrect usage. And hopefully things that we can work on going forward. So I've got four items, well, really three. The first is on about pages 22 through pages 25, there is a lot of language about the public notice associated with TIF. And if you look at the current statute, the notice requirements are set forth in three or four different places. And in each place, they're just a little bit different. When you're giving a notice for the planning commission hearing on the blighted and substandard stage, it's a little bit different than the notice for the city council hearing on the redevelopment plan, for example. And so the suggestion there and the request is to actually combine all of the notice provisions in the statute into one notice provision in one place that applies every time you have to give a public notice. In that, one of the things that is in the bill that is proposed as a new thing is a notice to neighborhood associations that's by the method of their choosing, I believe it's the neighborhood associations. [LB874]

TREVOR FITZGERALD: Existing statute. [LB874]

DAVID LEVY: Okay. I think it may be new. But in any case, the thinking is every notice to every group should be done in the same way. If it's certified mail to the school districts, it's certified mail to the people within 300 feet, it should be certified mail to a neighborhood association. One of the other things that LB874 and AM1651 do is clarify that a notice is required for a planning commission hearing on a blight and substandard and that a planning commission actual public hearing is required at the blight and substandard stage of the process. I've always...the statute is not clear on that. I have always advised clients that it is, because I don't know how the planning commission considers the item other than at a public hearing. I think that's a positive thing of the proposal and I support clarifying that. Again, the notice for that should be the same as the notice for each of the other hearings at the various stages of the process. So moving on from notice, one of the other things is analyzing the impact of schools from a tax increment finance project. I would suggest that maybe you limit that requirement to projects that involve new housing, just to minimize the burden, if that's what you're trying to get at. If it's new housing that impacts the schools, then only make those projects do that additional requirement. Not a huge deal, but I thought if that gets you there and minimizes burden to the process, developers, the cities, that's something you can do. The last thing I wanted...and that's by the way on page 26 of AM1651. The last point is on page 38, and this is the connection, I think it was Ms. Taylor who talked

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about this a little bit, where you're dividing taxes on a portion. Right now it says on line 27, "to the extent a redevelopment project divides the ad valorem taxes levied upon only a portion of the real property." I understand wanting in statute, and I agree with wanting in statute, to require a relationship between the divided taxes, between the increment generated, the funds generated, and where that money is spent. But there are times, for example Aksarben Village in Omaha, where you might generate increment at one end of the project and it might fund public improvements a mile down the street within the same redevelopment plan area and addressing the same blighted and substandard conditions, addressing the same purposes of tax increment financing as the project that is generating the increment. So again, not opposing the concept there, but we would ask or suggest some work on that concept so as to retain some flexibility to do a really a comprehensive approach with the TIF project. Especially a big one or a phased one, where you might use some increment generated here for the next phase or two phases later, and tying that together. And frankly, last point on this, the way it's drafted currently, where it says it applies to a project that divides the taxes on only part of the real property, depending on how you interpret that, that could really be a narrow requirement. You might...you probably would divide the taxes on all of one real parcel, one parcel of real property. And so really I think this concept should be looked at more at the redevelopment plan kind of level, or some sort of slightly more comprehensive level. Again, don't object to the concept, I'm aware of the situation. I think it was in Broken Bow where increment was generated all around and used somewhere else. That's not what we're advocating, but a little more flexibility than as currently drafted in the statute. I'm out of time, so I would be happy to answer any questions. [LB874]

SENATOR WAYNE: Any questions? I did have one, but I forgot to write it down. Does anybody else have a question while I think of a question? Oh, impact on schools. [LB874]

DAVID LEVY: Yeah. [LB874]

SENATOR WAYNE: So if you look at Omaha, and we look at ConAgra facing actually any direction, but particularly northeast. Although there's recently been residential development or maybe it was for businesses, but all of that still has an impact on schools. Particularly in OPS it's about a couple billion of impact, which eventually affects TEEOSA and everything else. So I'm hesitant of limiting to just residential. I get it because theoretically they're off of tax rolls for schools and there's kids going to the schools, how are they going to pay for it. But I think, as a former school board member, we don't deal with TIF every day. And when I was on the school board, most of my members, if there was some kind of analysis that, you know, \$10 million are going to be taken off your tax rolls, that would make me at least think to ask our financial person how does this affect our funding with TEEOSA. And so that's kind of the thought process beyond residential. I just wanted to get your comments on that. [LB874]

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DAVID LEVY: It's absolutely a fair point, Mr. Chairman. And, you know, you're right, commercial development affects schools. Hopefully, too, because it draws more residents and so forth. The challenge, though, from the applicant standpoint and from the city standpoint is it's a lot easier to look and say, okay, I'm going to build 100 units of housing and that's going to generate 1.3 kids per unit. And so I know what that is. It's pretty easy to do. I'm going to do 50,000 square feet of office space, I mean, it can be done, certainly. And there are cities I've worked in where they charge a development fee, a school fee, based on the square footage. So you would have to find some metrics and some ways to do that. It's a multi-step...it's a harder analysis and it requires some assumptions. [LB874]

SENATOR WAYNE: Okay. [LB874]

DAVID LEVY: You know, if those assumptions were subject to a clear and convincing evidence kind of review, I would be a lot more concerned. In all seriousness, that's really the concern there. But your point is a fair one. [LB874]

SENATOR WAYNE: Any other questions? Seeing none, thank you for coming today. [LB874]

DAVID LEVY: Yes. Again, thank you all for your work on this. I appreciate it. [LB874]

SENATOR WAYNE: Welcome to your Urban Affairs Committee. [LB874]

CHRISTY ABRAHAM: (Exhibit 1) Thank you. I'm so glad to be back. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities. And I just want to first of all join the chorus of other testifiers to say thank you so much for this committee and your excellent legal counsel, for wading through all these TIF issues. I know we took TIF on the road last year and you hung with us in all of those hearings. We had, I think, two days of TIF hearings last year, and we just want to express how gratified and thankful we are to you that so many of our suggestions were incorporated into LB874. We appreciate that you're listening to us and trying to accommodate us. This morning, I sent a draft copy of our proposed amendment on LB874 to your legal counsel. We look forward to working with you to find agreement, and we do feel that we're very, very close to having an agreement. I think you just had distributed to you a list of all the items of which we are in agreement with you. I'm sorry that it turned out to be 13, but there are 13 things of which we are okay with, with the bill. And some of them I want to highlight for you are: increasing the number of required hearings to include two public hearings for the substandard and blighted, and two public hearings for approving the redevelopment plan. We are okay with the extra items that are going to be required in the public notice, including maps, cost-benefit analyses. We like the list of items that you have listed that can be reimbursed prior to the approval of the redevelopment

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project, we do have one minor change in that. We're very supportive of the provisions regarding recordkeeping and also the provision about reporting to the governing body on the approval and progress of TIF projects. I want to add just a couple of things to your attention. One of the things we added to this bill is that in addition to having a report made to the governing body, we also added a provision that that report be sent to all affected taxing jurisdictions. We think it's important that the political subdivisions that are affected by TIF they're going to get four notices on the front end at the four public hearings and in the back end they're going to get a copy of our report, saying this is how the TIF projects are progressing. Unfortunately, there are a couple of things we would like to continue working with you on, and I think you've heard those concerns raised. One is the adding a school board or county board member to the CRA and CDA, and also our concerns about the revolving fund. Again, we're happy to work with you on our language. Just one other thing I want to mention, I'm going to go back to Senator Briese's bill, which I know may seem like days ago. We added a provision in this amendment that said we do agree that there should be some written documentation on what we're calling the "but for" test. And so we have added a provision that says, yes, there should be written documents by the governing body to support that test. I can see that I'm almost out of time, so again, I just want to thank this committee for all of their work on TIF. And we look forward to working with you in the future to come to an agreement. And I'm happy to answer any questions. [LB874]

SENATOR WAYNE: Any questions from the committee? Thank you. [LB874]

CHRISTY ABRAHAM: Thank you. [LB874]

DON WESELY: Mr. Chairman, members of the Urban Affairs Committee, for the record, my name is Don Wesely, D-o-n W-e-s-e-l-y. I'm here representing Kearney, Hastings, and Lexington. There are some other cities as well that have discussed this issue. Rather than go through the stuff we agree with, and that's no fun, let's talk about where we might disagree. And it will be very brief, very brief. We agree with others who testified. We don't like the idea of the nonvoting county board or school board member. Our guys are saying, well, then why don't we be nonvoting members of the school board or the county board? So, you know, if we start getting into that, it's just a disruptive change where communication is usually working anyway without having to take that step. So that's number one, oppose that. Number two, the planning commission doing the report doesn't make a lot of sense to us at all. It's the city that should be...if you want a report, that's where it should be, not the planning commission. That's the wrong entity to be doing that. And that's it, we don't like those two. There's some we have questions about and concerns about, but you've been here long enough. Thank you. [LB874]

SENATOR WAYNE: (Exhibits 2, 3, 4) Thank you. Any questions? Thank you. Any other opposition? Anybody testifying in the neutral capacity? All right. With that, we have letters of

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support: Nebraska State Education Association. I had to pause, I had to read that again.

Opposition: Lincoln Chamber of Commerce, Greater Omaha Chamber of Commerce, Nebraska State Chamber. In opposition: United Cities of Sarpy County. And with that, Trevor, you can go ahead and close. [LB874]

TREVOR FITZGERALD: I'll waive. [LB874]

SENATOR WAYNE: And with that, that will close the hearing on LB874, sorry. With that, we will open up the hearing on LB967. Senator Groene, welcome to your Urban Affairs Committee. [LB874]

SENATOR GROENE: Thank you, Senator Wayne, Chairman Wayne, and the committee. I dropped this bill at the last minute, I didn't want to disappoint those in the development community that really wouldn't be with it at least four years in a row. We're making progress. [LB967]

SENATOR WAYNE: I do apologize we did not have a Groene day here in Urban Affairs. [LB967]

SENATOR GROENE: Will in time, it about killed me last year. But I'd like to make a few points, as I always do. Do you know why we're here and why this is such a big issue? Property taxes are so burdensome in the state of Nebraska, so burdensome that a developer, free market does not work if we ask them to pay their property taxes. They will tell us that they can't build the bank, the business, the community, the homes unless they can be abated of their property tax for 15 years. So what does that tell you on the burden on all property taxpayers in the state of Nebraska. That is the deciding issue to build, you can't afford your property taxes. So it's very lucrative to avoid taxes. I talked to some folks that handle litigation on TIF that actually represent the taxpayers who are protesting those community given TIF. And I said, what would you do? They said, I would strike Nebraska Statute 18-2123. It was created in 1951 for redevelopment law, where if you had an area you wanted to redevelop, blighted or substandard, original redevelopment blighted or substandard, that you had to add a little bit outside the community to create the entire project. You could annex it in and you could add it to the redevelopment project. And come 1978 came along and TIF came into being, blighted and substandard. And communities started saying, well, we want to build a chicken factory, we want to do something else. We need area outside the community, it has nothing to do with being blighted or substandard, it has to do with economic development. And they used this statute to annex...to add to the redevelopment project. It needs to disappear, it's not needed anymore. If it disappeared, it won't fix the problem, but it would help. Because since the Fitzke case in 1998 in Hastings, where the Supreme Court said you could not do this if it was not already in the

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blighted and substandard, now what communities are doing is annexing the ground in and then blighting and substandarding it. So they've gotten around the court case by doing that. It's just frustrating. It's really frustrating as somebody who represents citizens and taxpayers that we have gone back to medieval times when we have these powerful city-states who confiscate the property tax base of our schools, our counties, and everybody else outside their little community for their purposes. Lancaster County has bridges that they can't fix. Lincoln TIFed and are building bike trails with county money and arts in the park. It is totally being abused, totally being abused. If we could limit back to it has to be an urban area, and take away the excuses outside the community to TIF, maybe TIF would be used for the proper purpose of urban renewal in fixing blighted and, and substandard areas. This is not economic development. It was never meant to be that big a hit on our property tax base to start TIFing everything in sight. I heard you say OPS, it was 9 percent of their total area two years ago was TIFed. I think it's down to 8 percent. It puts quite a burden on the taxpayers of Nebraska, it's \$4, \$5, \$6 million. It's more than that, it's up to 10 million or so money that you lose in property taxes. That's made up by the state but it's only made up for \$1. The school district loses that extra nickel. If they have a bond on new construction, they lose all of that tax base to pay for their bond. It's a big hit. Cities are just part of the community. City councilman represent citizens, they do not represent cities. They ought to be taking into consideration the school, the county, the NRD. It's all about economic development. That's what TIF has become. And quite frankly, I have more faith in the free market system than what some of our city employees do. They believe nobody will build unless they have a steak dinner with them and offer them TIF. That has to stop, we have to limit it in some way or manner. We have a whole new generation of city administrators coming into play that don't know the history of TIF, and they have been taught that TIF is economic development tool for the cities. It is not. It is urban renewal to be put specific areas where blighted and substandard areas need to be updated. It's the either or is, are you going to build it outside the city limits on the edge of the city, the either or is, we would prefer you build it here in the blighted area. Not that you're going to build it in Grand Island or Kearney, it's you're going to build it on the outskirts or you're going to build it inside. So I thought I would bring LB967. Like I said, it's not used much anymore. It's obsolete language because of the Fitzke case. They all take their lawyers' advice now and basically annex open ground outside the city and then blight it and substandard it. That's how they get around it. And they just completely ignore the definition of blighted where open land is supposed to be in the city limits for 40 years, and a few other definitions of blighted. It's the blighted is the big catch. Substandard is easy to rectify by saying there's no sewer, there's no water, it's substandard. But the blighted definition is the big obstacle that is completely being ignored. There isn't a town in the city of Nebraska that can claim it's unemployment area, the whole state's under 2.5 percent unemployment. And that's one they could claim but they can't do that. It's a huge hit on our property tax base. If we want as a state legislature to fix the problems, let's lower property taxes for everyone. It's not an easy task but we can't keep punching holes in the lifeboat and letting some people in it and other people out. So anyway, that is my opening statement, and I appreciate it...listening. [LB967]

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SENATOR WAYNE: Any questions for Senator Groene. Any questions? Thank you. I know you have a committee hearing going on. [LB967]

SENATOR GROENE: Yes, it's free speech, which is more interesting right now. But I will try to be back to close at the University of Nebraska. [LB967]

SENATOR WAYNE: Any proponents? [LB967]

LARRY DIX: Good afternoon, Senator Wayne. For the record, my name is Larry Dix, appearing today in support of this bill. As I had said before on a previous bill, NACO has become interested in this from a property tax base point of view. And so while Senator Groene's bill opened the door and looked at some language that had been on the books for a number of years we thought, once again, that this would give us an opportunity really to start talking about that property tax base. And the NACO board has really quite honestly from the county board perspective they've been pretty beat up at the protest hearings and things like that about taxes and about property tax base. And we have had some county boards, when they start to talk about properties that are built beyond the edges of the city, that we have taxpayers coming in and protesting to the county boards because they believe that's where they need to interject that. And of course, by the time they get to that level, these projects are up and running and so on and so forth. Secondly, I would tell you its been a very interesting day in front of the committee. It's the first time I've really had the opportunity to sit here for most of the day, and a great learning experience. And certainly on the previous bill I think we are moving in the right direction. I think there are a number of things that are being done that I think are going to help the situation. And so I appreciate that, and hopefully we will continue to work together. Because one thing I don't want people to lose sight of, and I have a feeling that some people have based on what I've already heard today, counties are interested in economic development, counties are interested in growing the tax base. We know that the times are changing and we're going to grow that tax base in some areas in many parts of the state that are certainly outside, and a great distance outside of the city limits. And just like we have testified in other bills, we probably...it's probably time where we need to look at some tools for county government to help economic development projects along. And while this is not the committee for that, I would tell you that toolbox is virtually empty. And so if we're really looking and want to look at the benefit of the state of Nebraska, this is a project that has to be taken on and has to be looked at in a number of bills introduced. And we'll probably continue to go down that path. So with that, I would be happy to address any questions that you may have. [LB967]

SENATOR WAYNE: Any questions from the committee? Thank you for being here. [LB967]

LARRY DIX: Thank you. [LB967]

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SENATOR WAYNE: Any other proponents? Moving on to opponents. Good afternoon and welcome. [LB967]

ERVIN PORTIS: (Exhibit 1) Why is it I always here late and at the end of the day? [LB967]

SENATOR WAYNE: We try to save Groene for the end. [LB967]

ERVIN PORTIS: I don't know, is that good or bad? Good afternoon and thank you for your time. I'm Ervin, E-r-v-i-n, last name is Portis, P-o-r-t-i-s, city administrator, city of Plattsmouth. What I've handed out to you is a map of the corporate boundaries of the city of Plattsmouth overlaid with the areas that we have designated blighted and substandard. The areas we've designated as blighted and substandard represent 18 percent of the city. As you know, cities can designate up to 35 percent. We're at 18 percent and we're pretty comfortable with that. We're very comfortable that these are the appropriate areas designated blighted and substandard. And we'll tell you, we do not have a TIF project in all of those areas, a TIF project in some of those areas. The key thing that I wanted to point out to you is that the city of Plattsmouth is like a lot of cities in the state of Nebraska. First of all, we're small, we're 3.1 square miles. So the distance from the city center to the edge of the community is a nice walk. It's a nice walk or it's a very short drive. So in terms of, you know, to use the word that I just heard, urban renewal, it could fit in the city center, it could fit on the edge of the community. Particularly where a community...in a community that has not experienced substantial growth for a number of years. The other thing I would point out to you is I would encourage you to look carefully at this diagram or this map. The dark black line on the outside edges, probably should have made it darker, represents the city's corporate limits. I would ask you to look at, along the corporate limits or around that corporate limits, you'll see developed areas, undeveloped areas, occupied land and vacant land. So the point is that vacant and or outside of the city is a standard that can't be a one-size-fits-all. Cities don't grow in regular geometric shapes, straight lines. They just don't. They grow where we can extend infrastructure, where land is available, where the cost, the return on investment to extend that infrastructure and to grow. Again, it comes back to that return on investment. Now a couple of examples from this diagram. The left side of that diagram in the long area is the Highway 75 corridor. We've got waterways, water and storm water systems, all in need of improvement to serve existing, let alone new, development. Loop water systems are absolutely necessary to provide flowing water and pressure. Waste water systems were installed 50 or 60 years ago based on what the city could afford at the time, without any consideration to future growth. In order to grow, in order to improve those systems inside the city, we may have to do a project on the edge of the city and use what that growth on the edge of the city to pay for improvements into the center of the city. A good example is, you again, if you look at this, the Highway 75 corridor. On the left-hand side, if we were to do something at the top of that blighted and substandard area we would have to approve about a mile of wastewater into the city center simply to accommodate new growth. A mile of wastewater in the city of Plattsmouth, where we're going to improve a

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mile of waterline, and wastewater is more expensive than a mile of waterline here in the next year at \$900,000. That's a lot of money for a small city. At the lower right-hand side, or the southeast corner of that diagram, we have very challenging topography. Well, Plattsmouth is all challenging topography. Out of loop water systems, housing, average well in age...age well in excess of 50 years old, abandoned railroad properties, the potential challenging environmental problems. Again, on the edge of the community right next to vacant land that may be necessary for us to put together land sufficient for economic development or redevelopment, either one, project. Then on the right-hand side of that diagram, the east side, adjacent to the Missouri River, this is land that's been platted with development initiated in 2007. All of it was destroyed in 2011 with the Missouri River flood. All of it was outside the city until the city annexed it in 2016 for a riverfront commercial campground development project with TIF proceeds or TIF assessments. Some of that land was undeveloped but it was absolutely necessary to put together parcels large enough for the commercial endeavor. The projects that are vitally important to the economy of the city of Plattsmouth. My point is this: you have to consider the local circumstances, or I would encourage you to consider the local circumstances. Look at each city on a case-by-case basis to determine whether or not the project is beneficial to the community, the project would not have happened in the community without TIF, and whether or not vacant or undeveloped land outside the city was essential for a successful project. And frankly, that's the constitutional authorized role of elected mayors and city council members. And I would respond to any questions you might have. [LB967]

SENATOR WAYNE: Any questions from the committee? Thank you for the map. That's helpful. [LB967]

ERVIN PORTIS: Thank you. [LB967]

SENATOR WAYNE: Any other opponents? [LB967]

MIKE JACOBSON: Well, Chairman Wayne and members of the Urban Affairs Committee, I think this will be my last bill for today. But again, my name is Mike Jacobson, M-i-k-e J-a-c-o-b-s-o-n, and I'm here representing the North Platte Redevelopment Authority and the North Platte Chamber of Commerce. And I'm here to speak in opposition to LB967. Unfortunately, Senator Groene left the room, but I wanted to share with him that if he ever wants to disappoint me by not bringing a TIF bill, that would be fine with me. I'm ready for the disappointment. But since he did bring a bill, I would like to speak to that. And I think, when you look at raw land and you consider smaller communities and communities that are not MSAs, North Platte is 100 miles from Kearney and we're halfway between Denver and Omaha. I would tell you that we were successful in getting the Walmart Food Distribution Center there. The only way they could have built...the only place they could have built that was outside the city limits, so we annexed it in, in

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raw land, farmland, that had a set of buildings on a farmstead on it. We ended up blighting that, and the reason we did, it was the only way we could come up with the funding to build an industrial park out there next to where Walmart, and including the property where Walmart, built. Walmart was not going to build anywhere else in Nebraska. They were going to build in Colorado if we didn't build that project. That project was TIFed, the TIF bonds have been paid in full. They currently are paying over \$400,000 a year in property taxes. So if we talk about confiscating taxes, what's being confiscated? There's \$400,000 of new property tax revenues coming in every year that would not be there had we not blighted that area, had we not TIFed the project, and had Walmart built there. \$400,000. Menards on over next door, Menards' bonds are fully repaid as well, another \$300,000 in property taxes. Not to mention the jobs, sales tax, and the other economic benefits to North Platte in personal property taxes. Currently, when we look in that redevelopment park or the development park that's out there next to Walmart, the properties that have been built there with TIF, that are currently on the tax rolls, and the properties and the businesses that did not use TIF, are paying now over \$1 million in property taxes annually, \$1 million. That's going to the school districts, the counties, the city of North Platte. All the taxing authorities are splitting up that \$1 million a year in new property tax revenue, along with the benefit of jobs. When I start looking at cost benefit, and I start looking at the ability to build housing, you're going to have to build it in bulk. And the only way you can build it in bulk is you've got to get into an area outside the city limits that's annexed in with raw land in order to build an area that's big enough that's outside the flood plain. And if you're going to do that, you're going to need to put in streets, sewer, water, and infrastructure. The very definition of blight and substandard includes inadequate street layout, and clearly raw land has that. The point is, is that if you annex in raw land, even if you do and you have a developer look at it, they're not going to touch it, to go out there and have to put in all the sewer, all the streets, all the water, all the lights, and then hope that they can get enough builders to build houses and build it out. That's why you're either going to have to get the city involved in doing it on their budget and taxing everyone or looking at TIF. And we think that TIF is a better option because the developer is going to pay those taxes. So at the end of the day, if you want to stop development...I talked about death by 1,000 cuts. You pass this bill, there's one big cut to a city like North Platte. And it's right there across the jugular, okay? TIF's over. It's going to be very, very difficult to do projects and benefit the entire community if we can't continue to do those kinds of projects. I think it's vital to our development, it's vital to the growth, and when I look at cost-benefit if we can't build the housing structure in what we need in North Platte, Walmart Food Distribution Center is needing more employees. So is UP, our two anchor employers in North Platte. But they aren't getting the employment base because there's not adequate housing there to house everyone. Where's it going to be built and who's going to build it and how can we get it done? If we have a better tool than TIF, we would like to hear it. But right now, TIF's our best opportunity. But if they don't locate in North Platte, two things are going to happen. Potentially, Walmart gets closed down, their facility there, and move it elsewhere, and we would lose that tax base and that employment base. But also I would say the lot of people that would

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move to North Platte off the ranches and farms in the next few years, if they can't locate in North Platte they're probably going to go to Lincoln and Omaha. And the younger couples, people who have families, if they can't find housing in North Platte and they move to Lincoln and Omaha, get ready to pass your bond issues to build new schools. Because right now, North Platte has excess capacity in schools and have been for some time. We bring more students to North Platte, we got plenty of room. We don't have to build new schools to put them there. I don't think that's the case in Lincoln and Omaha. So we got a different set of problems out there than what you have in the bigger cities. So again, I would tell you this is a major cut. If this bill would be passed, it would create significant problems for communities throughout the western part of the state who are not going to be doing SIDs, and it's our only real way to be able to go outside the city limits and create a big enough land base to do development. So with that, I'll stop, since I did use all my time. But I tried to save up some from the other two testifying. So I'll stop and ask for questions. [LB967]

SENATOR WAYNE: Any questions from the committee? So why not use SIDs? [LB967]

MIKE JACOBSON: Well, I would tell you that even Grand Island, I visited with the developers there, the problem with an SID is it's really...as a banker, I would tell you it's a spec development loan, okay, and it has tremendous risk because you're now going to finance with business being accrued through bonds. Okay, who's going to buy those bonds? Because I can tell you as a banker I wouldn't touch it. I don't buy SID bonds in Lincoln or Omaha, I'm sure not going to buy one in Grand Island or North Platte or Kearney. Because the ability for that project to be successful...recently there was an SID in Omaha that filed bankruptcy, okay? In Omaha. So if some of them are touch-and-go in Omaha, I can guarantee you they're not going to work out in the third district. And that's the challenge, is that you're going to have to service the debt on those bonds. And you're bringing in an area, and you're taking the risk that it's going to develop out. Even with TIF right now we're having difficulty finding somebody that wants to stick their neck out and develop property that's raw land outside the city that we could use to build new housing. And quite frankly, as the lender, I'm a little reluctant to provide the financing for it without some other incentives to get there. So it's an incredible challenge. And frankly, with TIF included, I'm not sure we can get there. But without it, our ability to build housing stock is very, very difficult, going to be very difficult. [LB967]

SENATOR WAYNE: Any other questions from the committee? Seeing none, thank you for coming today. [LB967]

MIKE JACOBSON: Thank you very much. [LB967]

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SENATOR WAYNE: Mr. Radcliffe, welcome back. I'm hoping you're staying for the next bill too. Figured you could stay here all day with us. [LB967]

WALT RADCLIFFE: Well, I spent most of it here. Mr. Chairman, Walt Radcliffe, R-a-d-c-l-i-f-f-e, appearing before you as the lobbyist for the Nebraska Realtors in opposition to LB967. Again, it fits the template of the reason why the Realtors oppose these types of bills. It just further restricts the opportunities that cities have. I would disagree with Senator Groene from a standpoint of characterizing TIF as an urban development tool. I mean that could be one aspect of it but it's certainly more than that. It is truly a development tool, and it's the only...Nebraska is the only state in the union that gives no state aid to cities. Nothing, nada. This is at least...in this instance you've got a tool. There are people who don't like TIF, and when they are elected to the Legislature they're going to continue to introduce bills to try to change it and make it more difficult. And you're going to have people like me sitting here opposing them on behalf of the clients that I represent. So I won't belabor it, I think you understand what the basis of the opposition is. And if you do have any questions, I would try to answer them, Senator. [LB967]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you. [LB967]

WALT RADCLIFFE: Thank you. [LB967]

SENATOR WAYNE: I'm looking for a proponent testimony in the next one from you. [LB967]

WALT RADCLIFFE: I will fill out one of your pink sheets for that, Senator. [LB967]

SENATOR WAYNE: Have a good day. Welcome back. [LB967]

DAVID LEVY: Thank you, Chairman Wayne, members of the committee. David Levy, D-a-v-i-d L-e-v-y, Baird Holm Law Firm, in opposition to LB967 on behalf of the Nebraska Association of Commercial Property Owners, Turner Park North, and the American Institute of Architects Nebraska Chapter. That all may have taken longer than what I have to say to you. I will be brief. As we're sitting here today talking about limiting tax increment financing, I want to make a couple of points in that respect. Nebraska went over 1 million in population in 1890. We haven't quite yet made it to 2 million. We're not a fast-growing state. It's things like tax increment financing, historic tax credits, Advantage Act that help us do that. We compete against our neighbors for development, for investment. I have Nebraska-based, lifelong Nebraskans who are real estate developers who invest their money in other states because it's more attractive to do so. When I have testified before this committee in prior years, I have brought to you the table of contents from a book called something like "Economic Development Incentives: City of Kansas

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City, Missouri." It has 20 or 25 things in it. We have tax increment financing; we have historic tax credits, which by the way have worked very well, I must say, given the opportunity; Advantage Act. We don't have nearly those incentives that other places have. Right, wrong, indifferent, we are competing against these other states for development, for investment, for growth. Philosophically speaking, personally speaking, the only true form of property tax relief, the hardest thing maybe that you'll wrestle with this year, property tax relief, the only true form of property tax relief is growing the base. TIF grows the base. It absolutely grows the base. It's an investment in our state, the returns are demonstrated to be positive and valuable. And I would just encourage you to please keep those concepts in mind, those things in mind, as you consider all of these bills today. Thank you. Any questions, I'm happy to answer them. [LB967]

SENATOR WAYNE: Any questions from the committee? Seeing none, thank you. [LB967]

DAVID LEVY: Thank you. [LB967]

SENATOR WAYNE: Any more opposition? [LB967]

CHRISTY ABRAHAM: Thank you, Senator Wayne and members of the Urban Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, here representing the League of Nebraska Municipalities. You've heard it today, TIF is an important tool. The League likes TIF, cities like TIF. It's different for different communities, they use it in different ways. Not every municipality is going to use the provision that Senator Groene is attempting to eliminate today but some are going to use that, and for that reason the League needs to be here to oppose this bill. I'm happy to answer any questions you might have. [LB967]

SENATOR WAYNE: Any questions? Seeing none, thank you. [LB967]

CHRISTY ABRAHAM: Thank you. [LB967]

SENATOR WAYNE: (Exhibits 2, 3, 4, 5) Any other opposition? Any other opposition? Anybody in the neutral testimony? Is Senator Groene coming back for...? As he sprints down the hallway, I will read letters of opposition into the record. Letters of opposition: Mayor Rod Koch, city of South Sioux City. Opposition: Home Builders Association of Lincoln, Metro Home Builders Association. Opposition: Lincoln Chamber of Commerce, Greater Omaha Chamber of Commerce, Nebraska State Chamber. Opposition: Tom Hudson, Cline Williams. Oh, Senator Groene has waived closing. Okay, that concludes the hearing on LB967. All right, this is going to be really short. I will turn it over to Senator Hansen. [LB967]

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SENATOR HANSEN: Thank you, Senator Wayne. We will move to Senator Wayne's bill, which is LB1085. [LB1085]

SENATOR WAYNE: Thank you, Vice Chairman Hansen. And also I want to thank Precious. Today is her daughter's birthday and she is not taking her out tonight for a happy birthday because she is here spending the day with us. So thank you. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13 in north Omaha and northeast Douglas County. This is an interesting bill because on its face it's unconstitutional. So please do not advance this out of committee. But the reason it's important is because you'll recall last year we had an LR16CA, proposed constitutional amendment, that dealt with Article VIII, Section 12 of the Nebraska Constitution. It's still on General File. We did not debate it yet this year. We still have an opportunity to. But many of the questions arose around the length of time from moving it from 15 years to 20 years in what we considered in the language as extreme blighted. And this was particularly a way for us to deal with urban core and figure out ways to help development around that area. So again, this is unconstitutional right now because we have to change the constitution for this statute to apply. But what I wanted to do was give at least this committee and other people an idea of how we can craft an extreme blighted, just in case we started having that debate this year. That question would be on the floor, I can reference them to a bill in which they can read it. So first, the area would have to be designated or certified by the neighborhood revitalization strategy areas by the city and the U.S. Department of Housing and Urban Development. Second, the average unemployment rate in the area during the period covered by the most recent census would be at least 200 percent of the average unemployment rate in the state during the same period. Or third, the average property rate in the area exceeds...property rate exceeds 20 percent of the total federal census tracts or tracts of the federal census block group or block groups in the area. The memo indicates that this was drafted, and again, I want to reemphasize for the record, this is currently unconstitutional. So I know you want to "exec" on this right afterwards and put it out on the floor, but please don't. [LB1085]

SENATOR HANSEN: All right, thank you, Senator Wayne. I'm assuming there weren't questions for Senator Wayne, so we'll move to our first proponent. [LB1085]

DAVID LANDIS: David Landis, L-a-n-d-i-s, Urban Development Department for the city of Lincoln. This bill understands what makes TIF work. And then I think sensibly and realistically says for it to work well in highly-blighted areas you need to redouble the efforts. TIF works, good or bad, on the theory that the market goes where it wants to go when it knows it can make money. But to get it to go into blighted and substandard areas, an incentive makes them want to do that. Here's one of the reasons. If you're building at the edge of town, you can buy the land from a farmer. One buyer, one seller. Easy. You build in a downtown block, there will be 8 owners or 12 owners. The first couple might work just great, but when the sixth, seventh, and eighth owner comes and sees you coming, the price goes up. One of the projects that we're very

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proud of is the Assurity Insurance Company down on Antelope Valley. We bought 16 pieces of property. Worked great for a while, but the 16th piece of property was valued by the assessor at \$60,000 and they paid \$400,000 for that one city lot. Why? Because they had invested in the first 15 and you had to have that piece of property. That's why building in a blighted area is hard because the land has been broken up. You do that in areas of extreme poverty, and though it would be smaller and smaller groups of land. So the incentive really needs probably to be greater than otherwise. This is limited to NRSAs, which are HUD-derived areas of poverty, which means it's not going to be a tool that will be easily used. It will be in areas of significant need. And then this bill says something I think makes perfect sense: when you give one of those kinds of areas the incentive to bring in a developer who can choose to build anywhere they want to build in that area, it needs to be even greater than it does in the other definitions and the other areas that are available under state law. If you were to apply the standards of this bill in my city, perhaps one-twelfth of the area or one-fifteenth of the area in which we can use TIF would meet the standards of this bill. And I will tell you now, they are the areas in which the extreme poverty exists in Lincoln, Nebraska. And if you took the overlay of what our Prosper Lincoln analysis of poverty in Lincoln is and you laid it down, you'd find that this matches not all six of those areas but only one of those areas. That's how tightly drawn in a sense this bill is. It makes good sense, it's realistic, and I support it. And when the other bill puts this on the ballot, I'm going to vote yes for the constitutional amendment. And I'm going to come down here and speak again on this bill because it makes sense for those of us who want to reconfigure cities, particularly the parts that have fallen behind and aren't going to get back up on their knees without help. [LB1085]

SENATOR HANSEN: Great, thank you. Are there questions? Senator Riepe. [LB1085]

SENATOR RIEPE: Senator Landis, thank you. Is this one extension from 15 to 20 years, is that only one sufficient to provide the necessary incentive? [LB1085]

DAVID LANDIS: I don't know where the standard is. And I would say this: 20 is not extreme, Senator. In fact, at 15, I think there are only two states left that use 15. So we are the most restricted TIF limit in the country. [LB1085]

SENATOR RIEPE: I think it's still conservative. [LB1085]

DAVID LANDIS: I know. You might like that but if you were to take a look at the marketplace of other states and where you can go, the standard goes from 20 to, in some cases, unlimited. But of the numbers, 20 is the most common, 25 is the second most common, 15 is the least common of any number that is applied in any state. I'm just saying it makes it more attractive, I'm not sure where the line is. [LB1085]

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SENATOR RIEPE: So if we weren't doing this, we would need to do more in eminent domain? [LB1085]

DAVID LANDIS: No. How to answer it. And here's why: this state has already adopted a rule that says cities should not condemn land for another private use for development. I think it offends the sensibilities of the state to take land from one private owner, not for the purpose of...if it was to build a library or fire station, fine. But if you take it and then give it to another private sector for another development, I think that offends Nebraskans' sensibilities. [LB1085]

SENATOR RIEPE: They might declare us a government. Thank you. [LB1085]

DAVID LANDIS: Thank you, sir. [LB1085]

SENATOR HANSEN: Thank you, Senator Riepe. And thank you, Senator Landis. All right, we'll take our next proponent. [LB1085]

LYNN REX: Senator Hansen, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appreciate Senator Wayne introducing LB1085 so that the committee, and also other colleagues when LR16CA is being discussed, can look to this bill and say, okay, how would that bill be implemented. In fact, that same kind of model was what was done when LR11CA was placed on the ballot, which was the foundational constitutional amendment for LB840 plans. LB840, or a bill very similar to that, was before the Legislature so that people can look at that and say, okay, this is how it could be implemented. So with that, we strongly support this. And I think Senator Landis has outlined exactly why this kind of proposal is necessary. And as he has said, I just want to underscore this point, Nebraska has absolutely the most conservative TIF laws of almost any other state. It's extremely limited. And so going from 15 to 20 is something that's extremely important when you're looking at this kind of a proposal, where you're really trying to create an incentive. Especially when you're dealing with areas of poverty because other states do 20, 20 years is just...I think Iowa is 25, isn't it, Trevor? I'm pretty sure it is. [LB1085]

TREVOR FITZGERALD: I think so. [LB1085]

LYNN REX: Pardon me. So in any event, all I'm suggesting is that we think this bill is important. We hope that LR16CA is discussed this year and is placed on the ballot. And we hope to help work advancement of that measure in the event that it is placed on the ballot. With that, I'm happy to answer any questions that you might have. [LB1085]

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SENATOR HANSEN: Thank you. Are there questions? Seeing none... [LB1085]

LYNN REX: Thank you very much. Appreciate it. [LB1085]

SENATOR HANSEN: Thanks for your testimony. Next proponent. [LB1085]

JAMIE BERGLUND: Good afternoon, everyone. Again, my name is Jamie Berglund, J-a-m-i-e B-e-r-g-l-u-n-d, and as I shared earlier, I'm the executive director of Omaha By Design. So in a region known for its thriving business climate and high quality of life, many neighborhoods throughout greater Omaha and the state still suffer from extreme levels of physical deterioration. Abandoned commercial districts, rundown housing, and poor infrastructure litter many nodes and corridors of our community. Large swathes, and in some cases, entire square miles of our region, are marginally functional due to few or no quality services in place to satisfy local residents, personal, family, and community needs. The more troubling aspect of this is that the impact of blight in disinvestment goes beyond the built environment. They are correlated with poor physical and emotional health; decrease collective efficacy; increase rates of crime; burdensome economic impacts on residents, businesses, and municipalities; inadequate child development; and low educational attainment. In areas experiencing extreme blight we must implement redevelopment strategies and tools to reverse the tide of disinvestment. Redevelopment is about stimulating economic development; building the tax base in areas already served by infrastructure; and conserving land, energy, and other resources. But more importantly, it's about addressing the ills that I just discussed so that our children are raised with a sense of pride and security and hope in these communities. Tax increment financing is one of the only redevelopment tools available for our community. Not only must we preserve this valuable resource but we must also look to use our ingenuity and creativity and determination to enhance it and create other redevelopment tools. Our limited toolbox is leaving us crippled with the blight that we're experiencing. One step in this direction, or in the right direction, would be to increase the term five years and try to really work to address these challenges. I know this bill doesn't have a chance to get out of committee but I think it's a really important opportunity to start this conversation and to really look at not only this, but other tools that we should be creating and inviting into our state to address the challenges that we experience. Thank you. [LB1085]

SENATOR HANSEN: Thank you. Are there questions from the committee? Seeing none, thank you. All right, are there any more proponents? [LB1085]

JENNIFER TAYLOR: In case you were lonely without me. Jennifer Taylor, assistant city attorney, city of Omaha, J-e-n-n-i-f-e-r T-a-y-l-o-r. And I just wanted to briefly support Senator Wayne in his efforts and with this bill. Again, acknowledging that it's got some constitutional

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issues, but I think it does raise a very significant conversation we need to have. As we've had these conversations about how TIF is used in the various different places in our state, how it's used properly or possibly improperly. We have kind of overlooked the idea of where TIF, even where it's available, isn't enough to actually accomplish what its intent is. So in areas that we are discussing here, you know, not only do we have areas of disinvestment as Ms. Berglund mentioned, but we also oftentimes have areas where the public infrastructure and the public support of the surrounding areas is not sufficient to actually support the development that's willing to be done. You have dilapidated streets, sidewalks. You have areas where the streets need to be re-done. For example, some recent north Omaha projects, we took advantage of the developer in order to widen 30th Street in order to make that more passable and a better lane towards downtown. We look at places where your sewer, your sewer system is dilapidated or is 100 years old and needs to be redone. Somebody coming in to do new construction or even rehab has to then address that problem. That's not a cost you can pass along to the person who then you sell a house to. That's something that just is built into the development costs alone. Those get to be significantly challenging when your environmental, your topographical, your infrastructure needs are such that you can't build those costs into a particular kind of development. Or if you do, the cost of the resulting development becomes such that you have gentrified the area and it becomes impossible for people who live there to continue to live there. So that being said, that's kind of a general comment. I think we would like to see, again, as we've had conversations today about TIF and how it benefits communities, and I try...I won't take a whole lot more time, but I would like to point out something that in our analysis of our programs going forward to prepare our auto reports and our plans. Two projects that came onto the tax rolls in 2017, i.e., were done, completed in 2016, were projects that when they started had a value of \$1.2 million. Just two parcels, two projects. And we're paying \$25,000 a year annually in taxes. This year, in 2017, those two parcels will represent \$31 million in assessed value and will contribute \$675,000 to the tax rolls. So that's the benefit, you know, those projects that would not have happened 15 years ago have happened and are now contributing \$675,000 to the tax rolls two projects. That kind of investment we need to see in areas of extreme blight. If we can get that, then we can see some of the development in those areas that we see in places like downtown. I'm happy to answer any questions. [LB1085]

SENATOR HANSEN: Great. Are there questions from the committee? Seeing none, thank you for coming down. [LB1085]

JENNIFER TAYLOR: Thank you. [LB1085]

SENATOR HANSEN: All right, are there any more proponents? Seeing none, does anybody wish to testify in opposition to LB1085? Seeing none, does anybody wish to testify in a neutral capacity in LB1085? Seeing none, Senator Wayne, would you like to close? [LB1085]

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SENATOR WAYNE: Yes, just briefly, only because I think we will debate the constitutional amendment this year, and so I want to make sure this record is clear. We are one of the most restrictive states in the country. And in fact, the other state that has it allows for certain votes to override and create a TIF package to extend it. So basically it's the city council can continue to extend it beyond the original 15 years. So in essence, none of them are 15 years because they can always go back to the city council. So we are one of the most restrictive. But one of the most interesting numbers that was thrown out today is we reached a million people in 1890. I didn't believe Mr. Levy, and I apologize for not believing him, so I asked Trevor to Google it. And it is correct. That says a lot about our economic development and where we are as a state. And so I think this is an important bill, especially the constitutional amendment. And the constitutional amendment most likely will be...well, it will be heard this year, is kind of where I'm leaning toward. So with that, I would answer any questions. [LB1085]

SENATOR HANSEN: Great. Senator Riepe for a question. [LB1085]

SENATOR RIEPE: Thank you, Chairman Hansen. I assume you're not looking for cosponsors. [LB1085]

SENATOR WAYNE: You already cosponsored it last year. No, I'm joking. (Laughter) [LB1085]

SENATOR RIEPE: I like to be ahead of my time. [LB1085]

SENATOR WAYNE: No, it's already on General File. And actually it was in working sheet order. As Chairman, just to be full disclosure, I wrote the Speaker to tell him to pass over it because I wanted to have this hearing on our TIF bill and see where everybody is at. And so we can figure out the workings of our current TIF before we put it on a constitutional ballot to do anything else with TIF. So that was the call that I made, and I'm standing by that. But it still will be debated this year. [LB1085]

SENATOR RIEPE: Okay. [LB1085]

SENATOR HANSEN: (Exhibit 1) Great, thank you. Thank you, Senator Wayne. And I will read into the record a letter of support from the Home Builders Association of Lincoln and the Metro Omaha Home Builders Association. That should close our hearing on LB1085 and our hearings for the day. Thank you. [LB1085]