

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Appropriations Committee February 17, 2021  
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**WAYNE:** Good afternoon and welcome to the Urban Affairs hearing. My name is Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County. Unfortunately, our Senator Wayne is not-- OK, that's your part. I lost my scripts so I have to use Senator Hunt's. [LAUGHTER] I am here, so we'll skip the rest of that. We'll start off by having members of the committee and committee staff do self-introduction, starting with my right, Senator Blood.

**BLOOD:** Good afternoon, I'm Senator Carol Blood and I represent District 3, which is western Bellevue and southeastern Papillion, Nebraska.

**BRIESE:** Tom Briese, District 41.

**HUNT:** I'm Megan Hunt and I represent District 8 in midtown Omaha.

**TREVOR FITZGERALD:** Trevor Fitzgerald, committee legal counsel

**ARCH:** John Arch, District 14, Papillion, LaVista and Sarpy County.

**LOWE:** John Lowe, District 37, the southeast half of Buffalo County

**ANGENITA PIERRE-LOUIS:** Angenita Pierre-Louis, committee clerk.

**WAYNE:** And I'm sure Senator Hansen will be joining us as he has some bills on the agenda. Also assisting us are our committee pages, Noah Boger from Omaha, who is a political science major, and Samuel Sweeney from Omaha, who is a political science major at UNL, both of them at UNL. Due to ongoing COVID pandemic, the Legislature has adopted safety protocols to apply to all committee hearings, which are posted outside the door. Due to social distancing requirements, seating in a hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill in progress. So I know Senator DeBoer's bill is up first. How many people are testifying on that bill? OK, I just want to make sure that they have room to seat. So if people are coming in who are planning on testifying on that first bill, I will ask some of you who are on the second two bills to wait outside. I don't think it'll be an issue, but I want to give you a heads-up in case that happens. The bills will be taken up in the order they are received. I mean, are posted outside the committee hearing room. We requested everyone use the identified entrances, exits and

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doors that are posted on the hearing room. In addition, we are asking you to wear a face mask covering you. Testifiers may remove their mask during testimony to assist the committee members and transcriber's in hearing clearly the testimony. Pages will sanitize the front chair and table between testifiers. In the event that the room does reach capacity, or a couple more people are here to testify on behalf of Senator DeBoer's bill, we will ask a couple of you to leave and come back in during that bill time. We also ask that you limit your handouts. If you do have handouts, please send them to-- please give them to Angenita. We will make copies, if need so. I would prefer that you email them so we don't have the interaction and just do the COVID stuff. This afternoon we'll be hearing three bills. The bills will be taken up on the order outside of the room. On the table near the entrance, you will find a blue testifier sheet. If you are planning on testifying today, please fill out one and hand it to Angenita when you come up. This will help us keep accurate records. Please note if you wish to have your position listed on the committee statement for a particular bill, you must testify during that position of the bill hearing. If you do not wish to testify, but you would like your-- like to record your position on the bill, please fill out the gold sheet near the entrance. I would also like to note that it's Legislature policy that all records-- all letters for the record, must be received by the committee-- committee by noon the day prior to the hearing. Any handouts submitted by testifiers will also be included in the record as exhibits. If we need additional copies, again the pages will help with that, or you can email the committee or email me directly and I'll make sure any of those exhibits are included in the record. Testimony for each bill will begin with introducers opening statement. After the opening statement, you will hear from supporters of the bill. Then after that you'll hear from opposition. Lastly will be Speaker-- or followed by neutral capacity, people speaking in neutral capacity. Lastly, followed by the introducer of the bill to give a closing statement if they wish to do so. We ask that you begin your testimony by stating and spelling your first and last name for the record. We are also using the four minute light system. When your testimony begins the table-- the light on the table will be green. It'll turn yellow at the one minute warning, and it'll be red, we ask you to wrap it up because I will cut you off. I remind everyone, including senators, to please turn off your cell phones and put them

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on vibrate. With that, we will begin today's hearing with LB96, Senator DeBoer. Welcome to your Urban Affairs Committee.

**DeBOER:** Thank you, Senator Wayne. I am very excited to be here. This is my first time actually in front of this committee. Good afternoon, Chairperson Wayne, and members of the Urban Affairs Committee. My name is Wendy DeBoer, W-e-n-d-y D-e-B-o-e-r, and I represent Legislative District 10, which includes Bennington and parts of northwest Omaha. Today, I'm introducing LB96 which would require Sanitary and Improvement Districts to provide a notice of any hearing for resolution directly to all resident property owners of the SID. As you will hear more about in various bills today, Sanitary and Improvement Districts are created when a developer buys land for a housing develop-- development. The SID has the authority to levy taxes to install streets, sewers, and power lines and for other development purposes. A large portion of my district consists of SIDs. A consist-- constituent who lives in one of these SIDs brought this-- the issue this bill seeks to address to my attention. And you will hear more from him-- from him today. We wanted to see if we couldn't start a conversation about getting a little bit more notice and transparency in the process. Currently, whenever the board of trustees-- trustees or administrator of an SID deems it necessary to conduct various development projects within the district, such as a sewer system or water system, they must declare the proposal in a resolution. The resolution contains the plans and specifications of the development, the price of the purchase, and how the cost will be paid. They then provide notice of a hearing at which they will consider the resolution, but that notice is provided in a newspaper of general circulation published in the county where the district is located. At the hearing, owners of property in the district may appear and may object to resolution-- the resolution, and then the resolution may be amended or adopted. This process may sound familiar as it is similar in many ways to our process here in which we file bills or resolutions, provide notice of hearings to the public where they may appear and make comments, and then amend or adopt our proposals. However, sometimes districts publish these newspapers-- these notices in newspapers like The Daily Record, which require a paid subscription to receive. LB96 would require that property owners in the SIDs receive notice of these hearings directly, either through mail or electronic means, so that they do not have the additional burden of

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paying a subscription to be aware of these hearings. We simply don't use newspapers the same way that we did when this law was initially created and it's time to talk about modernizing our notice requirements. Thank you for your consideration of this bill and I'm happy to answer any questions you may have.

**WAYNE:** Any questions from the committee members? No questions. Are you going to stay for closing?

**DeBOER:** Yes, I think so.

**WAYNE:** Thank you. Next we'll start off with proponents, proponents. Anybody testifying in the proponent position, please come on up, state your name and spell your name for the record. Go ahead and do it, and then at the end, just make sure Angenita gets the blue sheet, so we won't slow down for that. We'll keep it moving. Welcome to your Urban Affairs Committee.

**MATTHEW RASMUSSEN:** Thank you. My name is Matthew Rasmussen, M-a-t-t-h-e-w R-a-s-m-u-s-s-e-n. Good afternoon, Chairperson Wayne and members of the Urban Affairs Committee. I am here in support of LB96. My experience the last two years of owning a new house in a new development has led me to believe that there is a conflict of interest between SIDs and developers that this bill seems to address. Early on in my experience in the SIDs, the developer controls the SID as they own most of the lots. This arrangement makes sense because the developer has more experience running an SID but it also assumes that, A, that a developer acts in the best interest of the SID and maintains the infrastructure properly and also acts transparently in decision making to ensure that the cost paid by the SID are actually the responsibility of the SID. I do not believe that in my case the developer is doing this, and I believe one of the solutions to this is to enforce more transparency in how they have their meetings, and when they pass resolutions. So starting in 2019, in my area of the neighborhood, we experienced significant flooding during the streets after heavy rains, which is not normal. Part of this was due to insufficient maintenance by the S-- of the SID infrastructure by the developer and insufficient maintenance installation of erosion control devices on the individual lots which they're required by law to have. Getting the city of Omaha involved, which was the first step, improved the condition somewhat, but the developer still was not doing what

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they were required to do by law. This could possibly lead to fines in the future, and the situation that I encountered in the lack of communication with them has led me to believe that I might-- I can't be confident that they're going to spend the money, should they get fined, properly. For example, money spent to clear the streets of mud should have been charged to the developer directly because their intention of putting up the erosion control on the lots, as they're-- again as they are required to do, should have been charged directly to them since it was their irresponsibility in not following the rules to protect the environment. Without a requirement that the SID give free notification to residents as this bill seeks to do, it is hard to make sure in advance that the funds are spent properly and that the developer is accountable for their behavior. Further, insufficient maintenance of items like sediment basins, which help control sediment outflow into neighboring environments such as the park and a lake near my neighborhood. If these aren't maintained, it can lead to pollution of the environment which itself is important to not being negligent, but this can also lead to fines. So again, I'm not confident based upon their best-- past behavior, that they're going to pay the fines themselves, as they should since it's their fault, rather than pass it on to the SID should that happen. And my experience with this is not singular either. While the streets were flooding, a neighbor had their basement flooded and there was no contact with the developer to help resolve the situation, so they hired an expert. This expert determined that the cause was because during construction, the grading of the adjacent outlots was not followed properly, and that led to more drainage going on to their lot than should have-- should have happened and the developer did not respond readily to any inquiries to address this, so then lawyers ended up getting involved. So now already you have people spending more money than they should when it should have been a simple task with people talking. So if the developer had reason to believe that this was not their fault, they should have been able to prove it. And they've ended up passing-- or passing a resolution through the notification system now where no one was able to know in advance or didn't know what they were supposed to look into a publication that was behind a paywall to find out what they had proposed to do to fix the solution. And it turns out that this solution would have cost more money than what the expert that was hired by the homeowner would have wanted anyway to solve their problem. So this is an issue about saving money. If somebody opposes

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this bill, I don't know that that's a-- we should just stop it there. There needs to be another solution then to worry-- to work towards accountability and transparency with the SID and the developers. So basically, this bill simply requires SIDs provide free notice directly to residents of meetings and resolutions. And to help mitigate this cost I added in, or I wanted them to add in something that allows for email notification because that's obviously free. And again, I would be open to other options to ensure accountability. Thank you for your time and I would be happy to answer any questions you may have.

**WAYNE:** Any questions from the committee? Senator Blood.

**BLOOD:** Thank you, Chairman Wayne, and thank you for testifying today. So I'm a little confused about the last part of this, so maybe you can walk me through a couple of things.

**MATTHEW RASMUSSEN:** OK.

**BLOOD:** The first thing is that you support email notifications. How would this then have-- the developers have your email?

**MATTHEW RASMUSSEN:** Say it again.

**BLOOD:** You said you supported email notification.

**MATTHEW RASMUSSEN:** Um-hum.

**BLOOD:** How would they have your email?

**MATTHEW RASMUSSEN:** Well, they can send out something in advance to ask for it for everybody to sign up. So if we wanted to say modify the bill so that they did that once a year and only had to send out something to the residents once a year on the SID, and you could sign up for it, then they would have everyone's email notification. So when they make last minute changes to when the meeting is heard-- when the meeting is held, or when they have to pass resolution weeks in advance, that people need to object to it before it gets passed, we can object at the meeting. Everyone would have that notification when the meeting occurs in advance. So right now, they didn't tell people that-- that you had to subscribe to the newspaper. No one knew in the neighborhood. I mean, it's kind of-- for us, it's kind of obscure when you're first buying a new house and you didn't know about this.

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**BLOOD:** Do you have an HOA in your area?

**MATTHEW RASMUSSEN:** Yeah, but it's-- that's actually run by the developer as well, which is another conflict of interest. This doesn't necessarily address that, but yes, we do.

**BLOOD:** OK, I'm comparing it to my experience. Like my house is no longer in SID, but originally is SID. And in it we had a homeowners association--

**MATTHEW RASMUSSEN:** Um-hum.

**BLOOD:** --and if there was anything going on like that, we'd get a letter in our door from whoever the president of our HOA was. So does your president take any responsibility for communicating between the developer and the residents?

**MATTHEW RASMUSSEN:** The developer is-- controls the HOA, and I said you, because they own most of the lots right now. So they're responsible for everything we can try. And we've tried to contact them and get them to address some of these issues, but they do not respond at all.

**BLOOD:** So you guys don't have anybody within the neighborhood that--

**MATTHEW RASMUSSEN:** We have one representative, yes, and they--

**BLOOD:** And so you do.

**MATTHEW RASMUSSEN:** Yeah.

**BLOOD:** OK.

**MATTHEW RASMUSSEN:** On the SID and one on the HOA, but they are minority represented-- representations and they are not able to-- at least they weren't successful in getting responses to help solve the problem either. And which is why I went towards contacting the City of Omaha Storm Water Department as well. And I got them to add erosion control to some of the lots, but it didn't solve all the problems. Like they haven't done maintenance to the sediment basin, which basically means the neighboring lake, Lake Flanagan, gets

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significantly more sedimentation than it should, which pollutes the wetlands.

**BLOOD:** All right, thank you.

**MATTHEW RASMUSSEN:** I talk fast, so I apologize.

**BLOOD:** No, that's all right, I talk fast too.

**WAYNE:** Questions. So you're on the north side of Lake Flanagan?

**MATTHEW RASMUSSEN:** Northeast.

**WAYNE:** OK. I'm just thinking, because I've been out there quite a bit. So right now, where are your notices published?

**MATTHEW RASMUSSEN:** In The Daily Record. And then this may have been an issue too, as well, given the changes to the roles that COVID brought on that they were able to have-- maybe they took advantage of them changing the way the meetings were done as well. So maybe some of this will go away with that. But right now, as far as we know, the only notices I've ever seen were published in The Daily Record, and none of us knew about that. I guess to answer your question directly.

**WAYNE:** Right, and Daily Record is-- their website isn't very robust, um-- so what do you care--- what do you-- what are your concerns about the cost of mailing?

**MATTHEW RASMUSSEN:** I didn't-- I didn't think that personally that there was a situation where the cost would be prohibitive to them, because, I mean, we're talking about, in my specific example, 30 percent of my property taxes go towards funding the SID improvements. So to me, this is a minor cost. So I wasn't really worried about the cost. I just figured if somebody was going to have an objection to this, it would be towards the cost. So that's why I wanted them to add in something where they could do-- do it through email. And I imagine that's-- if there's somebody objecting to this, that's what's going to be their-- their reason for objection would be the potential cost as well.

**WAYNE:** I know your issue. Actually it was your SID, I had to contact somebody to figure out, wouldn't connect me to anyone so I couldn't



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find it myself. So I am familiar with your issue. Any other questions? Seeing none, thank you for being here today.

**MATTHEW RASMUSSEN:** Thank you.

**WAYNE:** Next proponent. Next proponent. Seeing none, first opponent. Welcome to your Urban Affairs Committee.

**LARRY JOBEUN:** Thank you, Mr. Chairman, members of the committee, Larry Jobeun, J-o-b-e-u-n, a little more neutral, maybe, but also opposed in some respects. This is-- what happened to this gentleman is really a fairly narrow application. It probably comes into being-- it would be the first time I'd ever heard this happening and I've been doing this for 30 years. But most of the resolutions of necessity are driven by what we call a subdivision agreement that's governed by an agreement between the governing jurisdiction, mostly cities or counties, because-- because as I said these are outside of the corporate limits of the city and they're in the counties and most of the public improvements that we're required to install are pursuant to an agreement that we have with the city. So when we pass resolutions in necessity, what their real goal is, is to establish the budget authority for the particular improvement that we're talking about. We have multiple, multiple resolutions in necessity on SIDs because you're putting in paving, storm sewer, sanitary sewer, you're putting in utilities, power, electric, gas. There's multiple, multiple resolutions in necessity. Most of the time those resolutions of necessity are issued or published while the developer controls the development and there are no property owners even within the corporate limits of the district. So, again, very narrow application because most of the time the public infrastructure that's installed is done, so prior to the lots being sold and built upon and then eventually being lived in. So it's a very narrow application. When you do have resolution of necessity, you're establishing a budget authority for some improvement that's necessary or needed. It sounds like in this particular case, there were some flood control that was needed. I mean, these SIDs don't do this haphazardly. They do it because there's a real problem and there's a need to establish this resolution of necessity and establish the budget authority. We do publish. We do post. I think the electronic means would be overly burdensome and really, like I said, very narrowly applied in its application. We also then-- if for example and you notice that the LB96 says almost

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identical with the current law as of 31-745. There's only-- the only change really is this subsection (c) that requires this notice being electronic or mail. We then, you know, after the fact, if in fact there are residents within this district and there is a resolution in necessity and a portion that-- that is required to be specially assessed against those lots. Well, we do notify the property owner of the potential special assessment and-- by mail and they are allowed to come to the meeting and object and they can check the legal grounds as well, because they could say, for example, that the improvement that this resolution of necessity established was of general benefit to the subdivision as a whole and did not confer any special benefit on my lot, so why are you especially assessing me? So they still have those arguments. The resolution of necessity is really to establish the required public improvement and then how it's to be paid and established in the budget authority. The actual application of that cost, whether it be your obligation debt or specially assessed, is really at a later matter. And the property owner is still protected because they do receive a mailing of that particular hearing, because we-- because the SIDs then sit as a board of equalization to levy special assessments. So there is process in place to protect the property owner from having assessments assessed against their property based upon these resolutions in necessity. So that's all I have. I'm happy to answer any questions,

**WAYNE:** Any questions from the committee? I was actually on two of the meeting phone calls that we had with him. That's when we were doing work out there.

**LARRY JOBEUN:** Right.

**WAYNE:** But it is difficult to find notices. And so, I mean, rather than-- I hate passing the statute, just to pass statues. Is there a way generally, and I know you represent a lot of other SIDs, to just have a website to put stuff on?

**LARRY JOBEUN:** Well, currently, the law doesn't allow for that, so.

**WAYNE:** Well, that's what I'm saying. I mean, I understand we could update that but, I mean, it still would be a general-- now that isn't a legal notice. I'm talking about a community-friendly notice.

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**LARRY JOBEUN:** Right.

**WAYNE:** We'll call it that. We won't call it a legal requirement. You could still publish it in The Daily Record, but I think what we're talking about really is just being a good neighbor. In fact I had to email you to ask you when it was. I mean, and I looked at things and I looked at all of those things, but I couldn't find it. But that's neither here nor there. I'm just saying, how do we do that when we just say, I don't want to put it in the law, community notice, you know. I think we still got to have a legal notice. I do think The Daily Record does a good job with all the legal notices. But how do we do that somewhere, we just have it somewhere.

**LARRY JOBEUN:** Well, and again, I think what we're talking about here are the resolutions in necessity. You do get clear notice mailed to you when the SID sits as a board of equalization. So I mean they're-- when it actually gets, you know, pushed down on to the property owners, then there is direct mailing notice. But for now, I mean, it's like-- it's like any other, I mean, SIDs are quasi municipal corporations, but it's a-- it's any municipal corporation has to publish in the county in which the property is located. For example, that's one requirement when you run a resolution in necessity. And it has to be a paper of general circulation so it has to have 40,000 subscribers or more. So the cost of a-- I've never set up a website. That's not my-- I don't even know how, so I don't know what the cost of doing that is and there's multiple, multiple SIDs. You know, there's probably 150 or 160 SIDs in the Omaha metropolitan area. You would virtually have 160 or 170 of these websites, if you will. And I, you know, I don't know how do you do consistency and really everything else? I think it becomes very difficult. I think the processes are in place. And, you know, if there are property owners in the SID, like you said, that's a very rare occurrence when this would actually apply, I think subsection (c).

**WAYNE:** Right. I'm just-- I'm just saying that--that-- so we're-- I was on the school board and we had to pay Dr. McKeough a million dollars and the Legislature reacted and said, now we've got a superintendent transparency where you have to put their salary on their website. I mean, that's such a narrow bill, but it really comes back down to how do we-- we'll have this conversation on filing.

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**LARRY JOBEUN:** Yeah, and we can do that. The development community I'm certainly would be willing to discuss that. I just don't know, like I said, this narrow application--

**WAYNE:** Right.

**LARRY JOBEUN:** --I'm not sure it becomes a law right now without further--

**WAYNE:** I understand.

**LARRY JOBEUN:** --you know, investigation.

**WAYNE:** Thank you.

**LARRY JOBEUN:** Thank you,

**WAYNE:** Senator Briese.

**BRIESE:** Thank you, Chairman Wayne. Thanks for your testimony. You indicated that property owners are notified by mail when the SID sits as a Board of Equalization, correct?

**LARRY JOBEUN:** That's correct.

**BRIESE:** Is that burdensome to do that?

**LARRY JOBEUN:** No.

**BRIESE:** No.

**LARRY JOBEUN:** No, but that is directly impacting that neighbor. You want them to know that you're sitting as a Board of Equalization to levy that. Now, a lot of times the-- in reality there's not really a lot of residents at the time. You levy special assessments either because typically the developer when they sell the lot, they're-- they're selling the lot to a builder who's buying the lot as improved with all public improvements installed and paid for. So generally, the special assessment occurs prior to the builder even building the house and clearly paid before the resident moves in. So it, again, the way the real world works versus what this says, probably like you said,

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it's just an extremely narrow application. And I can't even imagine it happening very often.

**BRIESE:** But apparently it has happened, and according to some testimony here.

**LARRY JOBEUN:** Yes, it apparently happened once, yes.

**BRIESE:** Sure. And the homeowners, they do have an interest when you address a resolution of necessity that's going to impact them in the future, and they-- they would have an interest in what goes on there, correct?

**LARRY JOBEUN:** And currently what this talks about as if they may be specially assessed or sometimes these resolutions of necessity that are general obligation expenditures, so those are paid through the ad valorem real estate tax of the SID. And so by paying their tax levy, that's paid for, but they're not directly impacted by a special assessment.

**BRIESE:** Thank you.

**LARRY JOBEUN:** Thank you.

**WAYNE:** I'm sorry, did you spell your name?

**LARRY JOBEUN:** Yeah.

**WAYNE:** OK, I thought you did, but I wasn't--

**LARRY JOBEUN:** Jobeun, J-o-b-e-u-n.

**WAYNE:** Thank you.

**LARRY JOBEUN:** Thank you.

**WAYNE:** Next, opposition testimony. Welcome back to your Urban Affairs Committee.

**LYNN REX:** Thanks, Senator Wayne. Senator Wayne, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the Lincoln, Nebraska municipalities. We're here respectfully opposing this measure. It would seem that, frankly in terms of having to either

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send notice by email or even a website, Senator Wayne, mainly because we have so many areas in the state that don't have broadband. I realize that a lot of the SIDs, most of them are in Douglas, Sarpy Counties, but that being said, I would just recommend to you that when LB148 passed last year, that was a bill by Senator Groene, that bill amended Chapter 84-1411 of the Open Meetings Act. And second class cities and villages, which are, frankly most second class cities are probably larger than at least one or two of the SIDs of which I'm aware, and they're allowed to post. I mean, they can publish, they can post. I mean, they have options here. And so I would just reference you to that bill, because I think that post, it's one thing to say post in the same place three times and post in the same places. That way everybody knows. And these SIDs are small enough, most of them. I mean, I realize we have some big ones, too, but as long as the public gets used to that, that that-- that is something that they would know. And with respect to the website issue, I know that with the LB83, Senator Wayne, that issue is one that Senator Flood introduced this year. And one of the requirements that he wanted was to have the minutes and agendas of all school districts basically be on a website. And they all have the capacity to do that. NRDs also will be doing that. Cities of the first class, Omaha and Lincoln would be doing that if LB83 passes, but not second class cities and villages. Again, it's an issue of lack of broadband. So you can have a website without broadband, but with DSL is pretty slow, pretty-- pretty burdensome. And we have places where you cannot even do that. So, in addition, the counties with the population of over 25,000 will be required to do-- basically having a website and posting minutes and an agenda. So that being said, I'm just suggesting to you that it would seem to me it's really burdensome to do something by email. And frankly, I'm not sure if I lived in an SID, I'd want them to have my email or-- or the-- love the city, Lincoln, but I'm not sure I'd want the city of Lincoln to have my email either. So with that, I'm happy to answer any questions that you might have.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here today.

**LYNN REX:** Thank you very much. Really appreciate it. And always happy to work with Senator DeBoer in this committee. Thank you.

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**WAYNE:** Any other opponents? Seeing none, we'll transfer to neutral testimony. Anybody in the neutral testimony? Seeing none, Senator DeBoer, you're welcome to close. As she comes up, we have one written testimony in opposition from Justin Brady, Home Builders Association of Lincoln/Metro, Omaha Builders Association, and we have one letter of support from the Platte Institute.

**DeBOER:** Thank you, Senator Wayne. I just wanted to close out saying I appreciate-- appreciate the conversation today. We'll continue to work with the various stakeholders and see if we can figure something out here. Maybe this isn't the exact answer, but let's see if we can find something that will help out with the notification a little bit.

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here.

**DeBOER:** Thank you.

**WAYNE:** Get off of Transportation and come hang out with us. It's a great-- great committee. [LAUGHTER] Next we'll open-- that closes the hearing on LB96. Next we'll open the hearing on LB81. [INAUDIBLE] All right, then we're going to close that hearing, no, I'm joking. [LAUGHTER] You're entering our hearing room. Katie, go grab-- yeah, it's the right room. I know you never come here, but-- [LAUGHTER].

**HILKEMANN:** Well, this is my first time before the committee, I think.

**WAYNE:** Welcome to your Urban Affairs.

**HILKEMANN:** Thank you. Thank you. Good afternoon, Chairman Wayne, and members of the committee. I am Robert Hiilkemann, that's R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I represent District 4. This will be a brief opening, as I trust the committee is familiar with the construct of SIDs. LB81 would allow sanitary improvement districts to acquire, purchase, lease, own, erect, construct, equip, operate or maintain an off-street parking facility. Since some SIDs are used for commercial and nonresidential development, this bill will clarify that a SID may build a parking garage. That's it. That's the bill. I passed out two letters of support that I wanted to ensure made it as part of the permanent record. Each do a fine job of explaining how LB81 will be beneficial to developments that have public parking needs that are

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outside of the corporate limits of the city, but within the corporate limits of an SID. I'd also like to thank the City of Omaha for lending their support for this bill. It's nice to be in front of your committee, Senator Wayne, for what I believe is to bank, as I think is my first time. This subject matter is not my area of expertise, but I welcome any questions you may have and thank you for your time and attention.

**WAYNE:** Question? Senator Blood.

**BLOOD:** Thank you, Chairman Wayne. Thank you, Senator Hilkemann, that was nice and sweet. I like that. Um, so for clarification, a lot of the SIDs that are going up, especially in places like western Omaha are doing mixed use types of things. And because of that, they-- they basically have to provide parking but the way the state statute is written, they can't provide parking right now, right?

**HILKEMANN:** That's it.

**BLOOD:** All right. Thank you.

**HILKEMANN:** You bet.

**WAYNE:** Any other questions from the committee? Seeing none, thank you for being here.

**HILKEMANN:** OK.

**WAYNE:** First, we'll invite proponent testimony, proponent. Welcome to your Urban Affairs.

**JASON LANOHA:** Welcome. Thank you, Mr. Chairman, and members of the Urban Affairs Committee. My name is Jason Lanoha, J-a-s-o-n L-a-n-o-h-a. I'm with Lanoha Real Estate Company. And first, I would like to thank you for your time, your leadership and your civic contributions. And I'm very excited to be here as a proponent of LB81 and I thank Senator Hilkemann for his support as well. So really, LB81 is fairly straightforward. With its passage, it will allow SIDs to construct, own, and operate off-street public parking facilities within its boundaries. Procedurally, this is the same as what SIDs already do. We're just expanding the scope a little bit. So why is LB81 so important? So SIDs, as we all know, we're useful tools. Quite



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frankly, they're the only development tool that we have outside the city limits. But with the statutes govern-- the way these statutes are written, the SIDs nonetheless need adjustment. So the current statutes for all intents and purposes are really designed to build the neighborhood. They create beautiful suburbs but suburbs with significant infrastructure and low-density populations. So basically they're designed for a neighborhood. They're not designed for a commercial, dense- mixed use center. And as a matter of example, just think of all the great cities you choose to visit in your personal life, places you choose to vacation and more importantly, places we lose our home grown talent too. I doubt any of them are suburbia. In fact, our young talent leaves a state nearly exclusively to denser urban environments. So how do we take care of all this infrastructure, such low density? We can raise taxes, we can cut programs, we can do both, or we can be a little creative and build some economic development tools. Just a little minor language will make a big difference here, and that is to allow for parking facilities to be constructed in SIDs. We allow for dense development to occur for more tax revenue per lane mile, and we create places where our young and driven, talented, home grown folks want to work and live. We do this by passing LB81. I experience firsthand the challenges of our local economy. I see we are pushing uphill in many cases. My company spends quite a bit of time creating developments in other states that have many more development tools available. I see their growth, their infrastructure, and their lower tax burden on residents. So the question is, how do we compete with them, how do we bring that talent here? LB81 doesn't fix this imbalance by itself obviously. It's not the final step, but it's nonetheless a very important step. It's a step in our journey, a step that will pay dividends for the residents and taxpayers of this great state. So then it brings us to the question of why the urgency? Why is it important to do this now? And really, there's one project starting to push this, and I don't see this being the only one. We are engaged with Applied Underwriters and the redevelopment of West Farm, which is the former Boystown property on 144th and Dodge Streets in Omaha. And those folks are committed to creating the best place in the Midwest, a place where we want to live and work and be entertained, a place where young talent wants to be, a place where the tax benefits will eventually flow out to the various authorities supporting our public schools and infrastructure, but this vision is not possible without LB81. Our competitive deficiency will

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be maintained without it. As a way of an example at Heartwood alone with the ability to construct a denser development, we anticipate an increase in tax base by up to 250 percent, millions of dollars that will flow into our community and millions that will never be realized without this passage. So in wrapping up, I strongly urge you to consider this bill and to choose a more competitive future for our state. I thank you for your leadership in service and I'm happy to answer any questions.

**WAYNE:** Any questions from the committee? Senator Briese.

**BRIESE:** Thank you, Chairman Wayne. Thank you for your testimony here today. Without this bill, how are you going to fund these projects?

**JASON LANOHA:** It doesn't happen.

**BRIESE:** Pardon?

**JASON LANOHA:** The development-- the development can occur. It's going to be in a significantly less dense form. The only other option would be is if we find a bunch of end users, office users, retail users that are willing to pay way more than the market rate, which we all know it doesn't happen, so if we can't use this mechanism, we have no other tool available.

**BRIESE:** OK.

**JASON LANOHA:** If we're in the corporate limits of the city, we have other tools available such as tax increment, financing, or other arrangements. So to answer your question, it doesn't happen without this.

**BRIESE:** You're talking about the parking facilities.

**JASON LANOHA:** You got it.

**BRIESE:** Yes. And the only option really is private money being willing to do it.

**JASON LANOHA:** And in-- when you run those cash flows, it doesn't even come close, or once again, we need to generate more cash flows from the market, which market dynamics will win.

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**BRIESE:** And what is the only source of revenue that an SID has access to?

**JASON LANOHA:** Our SIDs generate from the tax revenue, from the real estate tax revenue.

**BRIESE:** Property tax.

**JASON LANOHA:** Property tax. And so with the garage, we're able to build a lot more density and therefore generate more revenue.

**BRIESE:** So you're talking about using property tax revenue to build these areas--

**JASON LANOHA:** Yes, sir.

**BRIESE:** --or build up the parking areas. OK, thank you.

**JASON LANOHA:** Thank you.

**WAYNE:** Any other questions? So I have a couple of questions. So inside the city limits, you could qualify for TIF, but outside the city limits you qualify for a general obligation bonds and a lot of other beneficial financing that wouldn't necessarily happen with TIF. Isn't that, general-- I mean, isn't that correct? I mean.

**JASON LANOHA:** Well, yes and no. The general-- a general occupation is a lot more suspect, at least on the front side. It's hard to calculate those flows and to generate another tax on top of--

**WAYNE:** But you can get a bond though. You can go out and get an obligation bond. I mean, it's a part of the issue is all the inner city has is to--

**JASON LANOHA:** Yeah.

**WAYNE:** --but SIDs have a lot more tools, which is why it's favorable.

**JASON LANOHA:** Well, Mr. Chairman, I actually-- I actually view being able to develop within the city is a great advantage over outside of the city unless we're doing single family neighborhoods.

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**WAYNE:** Correct. And you would say that there probably isn't going to be a development like this inside the city limits again. I mean, but there's no-- there's not another SID or area that you could incorporate as SID within the city limits except for this one.

**JASON LANOHA:** Yes. So this sits outside the city limits so that's why we're in this gray area, right? We can't utilize the tools of the city. And so all we have is the SID to utilize

**WAYNE:** But the SID is surrounded by city limits.

**JASON LANOHA:** Correct.

**WAYNE:** So it's the only one within--

**JASON LANOHA:** I see what you're saying

**WAYNE:** --within the city limits.

**JASON LANOHA:** You know, that is true. It is true. Today, that is true.

**WAYNE:** So my question is, this project started 7 years ago, not the actual breaking the ground, but the project, the capital, the capital stack was at least seven years ago. How come these numbers weren't ran back then?

**JASON LANOHA:** I wasn't involved back then. I don't know that answer.

**WAYNE:** Dang, I wish you would. See now you actually ran the numbers and you're like, this isn't working so we got to do something else. I'm not-- did you craft this bill because maybe I should ask whoever crafted it because I do have some questions about certain words.

**JASON LANOHA:** I did not craft the bill.

**WAYNE:** OK. Well then, I'm glad you're on board and are running numbers to see maybe we need to do something.

**JASON LANOHA:** Appreciate it.

**WAYNE:** Thank you for your time being here. Any other questions? And if those who don't know it's the development when you're going down Dodge Street, it's right to the left and it has a big J, done sign and other

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things, so I'm very familiar with it. I appreciate it. Thanks for the development in Omaha.

**JASON LANOHA:** Thank you.

**WAYNE:** Next proponent.

**LYNN REX:** Senator Wayne, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I'll make this very short. We're here in strong support of LB81. We think having the express authority in the statute is really important. And I have no inside information about the project at all, but we do think that it's important to provide this authority expressly. With that, I'm happy to respond to any questions that you might have.

**WAYNE:** Any questions? I got to just--

**LYNN REX:** OK.

**WAYNE:** -- you didn't write the bill, but your knowledge is-- years that I've seen you talk, this is probably your shortest testimony I've ever seen you give because you have a wealth of knowledge.

**LYNN REX:** You're welcome. [LAUGHTER]

**WAYNE:** So my concern is we can go line by line, but really the lines are repeated over and over. My concern really is the word acquiring, purchasing, leasing, owning. Those four words concern me regarding, is this confined to just the land inside the SID or could the SID acquire land for the purpose of constructing and maintaining off-street motor vehicle? To me, it's vague if this only applies inside the SID in which they already own. Do you have any-- am I reading this wrong when I see the word acquiring and purchasing?

**LYNN REX:** Let me start by saying, I don't know, but this would be my best guess. That acquiring it would mean that within the confines of the SID that they could acquire properties and it may be something that would be-- that then they could use for this express purpose.

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**WAYNE:** All right. I was just wondering if you had any, but I'll ask some other people who maybe helped write this, but I appreciate your testimony.

**LYNN REX:** Thank you very much. Thanks for your time today.

**WAYNE:** Yeah. Next, proponent. Welcome back to your Urban Affairs.

**LARRY JOBEUN:** Thank you, Mr. Chair, members of the committee, Larry Jova, 11440 West Center Road. I'm just appearing maybe to help answer some questions, Mr. Chair. I think the purpose of the modification to the statute is really to clearly provide that SIDs have the ability to acquire, own, and maintain public parking facilities. Right now, I mean, SIDs are creatures of statute, right? They can only do what they're empowered to do. There's another statute under the SID laws that will actually allows SIDs to acquire real, personal, and mixed property. I think-- so they do have the ability to purchase property, mixed, real and personal. I think the issue here is without the clear enabling legislation to allow them to acquire and develop and construct and maintain and operate public parking facilities, that's where the hole is in the state law. So I think what this does is fills that and says, yes. You know, so one or two things could happen, right? Either someone else could build it and the SID could buy it, or the SID could actually acquire the land and develop the public parking facility with its own financing. So I think that's probably what we're talking about here. And as far as the use of public parking facilities outside the corporate limits, there are areas in the city of Omaha, for example, that would support density. Although the city's not quite ready to annex either they're not contiguous or the debt structure is such that it doesn't make sense to annex the development, but it makes a whole lot of sense to provide it for a public parking facility that would create the density to-- to make a really great development at that location. So there's a lot of good reasons as to why this statute is being requested to be amended so with that I'm happy to answer questions. Hopefully I have clarified it. TIF-wise as far as insight in using TIF, if you want to, just for answers. The difficulty with TIF is, is our state law and the whole issue with blight and substandard as you know. I mean, it's very difficult to meet the requirements of the blight and substandard designation. So just because you're inside the corporate limits of the City of Omaha doesn't mean you meet the state law requirements for blight and

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substandard areas. So that's-- you can be inside the city and not be able to use TIF because you don't meet that state law standard of blight and substandard. So I just want to clarify that, too, if that was a question anyone had. So with that, happy to answer any questions.

**WAYNE:** Any questions from the committee? OK, I won't go down the rabbit hole of TIF in Omaha when--

**LARRY JOBEUN:** That's OK. [LAUGH]

**WAYNE:** --108th and Dodge, there's TIF, it's hard for me to see that as substandard and blighted. With that, I'm really-- my concern is the word acquiring and purchasing. I don't care if you own it. I don't care if you build it. I don't really care if you lease it, but the acquiring and purchasing doesn't seem to be limited to inside the SID. And I think that puts everybody else at an unfair advantage because typically you already own the property, right? You're developer of the property--

**LARRY JOBEUN:** Yeah.

**WAYNE:** --so you already own it. Why are you acquiring it?

**LARRY JOBEUN:** Here's what I-- well, no, I think we're talking about acquiring the underlying property in which the public parking facility sits. So I think we're talking about that. Or, or you could have a essentially a build to suit. Maybe you, for example, on a mixed use building, you might have office retail apartments in a wrap-- wrapping around a parking garage, right? Well, you can't-- you have to have one builder, right?

**WAYNE:** Right.

**LARRY JOBEUN:** And then-- then one sale of the parking facility that's wrapped inside of all of those different uses, so you really have to kind of minimize that particular development to provide the asset that you can actually convey away to the SID. So, I mean, I think this is getting way deep, right? But-- but when you have a high, dense use that requires a public parking facility, typically that's wrapped into a number of other uses. And so you have to have the ability for the

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SID to in order for it to be public to acquire that public parking facility. So I think the acquire language is really important.

**WAYNE:** I mean, I'm open to the-- we can sit down and talk.

**LARRY JOBEUN:** Sure.

**WAYNE:** Not this week. I got a hearing that I'm-- two big hearings on Thursday, but I just think this is broad because it doesn't-- it doesn't limit to-- doesn't limit the majority owners having an interest in real property to only doing this within the SID and I think we create an unfair advantage if you can purchase property outside for the purpose of-- of--

**LARRY JOBEUN:** Well, that's-- and that's talking about the original formation of the SID. So the articles of association do include all of the owners of the property who agree to-- agree to the SID formation from the beginning, and they agree to subject themselves to the taxation of the SID as well as special assessment. So that relates to, you know, way back here.

**WAYNE:** Yeah, it's the same language repeated multiple times in different sections. But we'll-- we'll-- I have no problems in not working with it.

**LARRY JOBEUN:** Sure. No, absolutely. But I think it's an important addition to the SID laws.

**WAYNE:** Any other questions, concerns? Senator Briese.

**BRIESE:** Thank you, Chairman Wayne. Thank you again for your testimony.

**LARRY JOBEUN:** Sure.

**BRIESE:** Do you have any insight into the economics of construction of oper-- and operation of private for profit parking facilities?

**LARRY JOBEUN:** Generally, and I know there's some people from the City of Omaha, they generally don't pencil out very well. They really do need a public component or a public private partnership. I do a lot of infill development downtown as well. We're doing the Conagra RiverFront in which we've got a similar type arrangement where they're



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building a apartment complex with retail wrapped around the parking garage. The City of Omaha has agreed to purchase it when it's done. So that's exactly the structure I'm talking about, is exactly what's happening on the Conagra RiverFront right now. So the developer can't make those numbers work because typically the developer can't finance at the same level that a city can finance. Their cost of debt is a lot lower than a developer's cost of debt, for example. So it makes a whole lot of sense for the cities and the SIDs, for that matter, because they have tax exempt bonds that they can issue. It makes a lot more sense because they can do it more economically than a private person can do, because they're going out on the private side and obtaining loans and such that have higher interest rates and-- and things like that so. And also when a SID or a city owns it, it is truly a public parking facility that it's for the public. And that's a good thing, too, because it's open for the public so they can have easy access to whatever uses are there, you know, whether it be a movie theater or apartments or office or-- or retail.

**BRIESE:** OK, thank you.

**LARRY JOBEUN:** Thank you.

**WAYNE:** Any other questions? Seeing none, thank you for being here.

**LARRY JOBEUN:** Thank you.

**WAYNE:** Next proponent. Next proponent. Seeing none, we'll move to opponents. Next, opponents. Seeing none, anybody testifying in a neutral capacity. Neutral testifiers. Seeing none, Senator, you are welcome to close. .

**HILKEMANN:** Thank you very much, Senator Wayne, and the committee, for hearing LB81. Senator Wayne, I want to just point out on page 2, on line 10, it specifically says located in the district and that occurs 10 times in this bill at different points. So maybe that helps you a little bit with this, with the limitations on that. Any other questions that I could answer at this point?

**WAYNE:** Seeing any questions? Seeing none, thank you for being here today.

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**HILKEMANN:** And I would just say if we end up needing to do some amendment to it, I would certainly be willing to do that.

**WAYNE:** Thank you.

**HILKEMANN:** Good enough. Thank you.

**WAYNE:** We have letters of support from the City of Omaha, Panson, Hogan, Ernst and Backman, LLP, John Yeul and there's no submitted written testimony besides that. With that, that will close the hearing on LB81. Next, we'll open the hearing on the great LB168. I assume that's why everybody is here. Welcome, Senator Hansen.

**M. HANSEN:** Thank you. All right. Good afternoon, Chairman Wayne, and fellow members of the Urban Affairs Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26 in northeast Lincoln. I'm here today to introduce LB168, a bill that would end the authority to create new Sanitary and Improvement Districts, otherwise known as SIDs, beginning on July 1, 2021. As a quick overview, first created under Nebraska law in 1947, SIDs are primarily a type of limited purpose political subdivision, which is unique to Nebraska. Primarily utilized in urban areas to facilitate growth outside of municipal limits, SIDs are used-- SIDs are used to fund the cost of contract-- construct streets, sewers, and other infrastructure with the expectation that the SIDs will eventually be annexed by a nearby municipality. When the SID is formed as part of a development, infrastructure costs are eventually transferred from the developers to the purchaser of the property in the development. So, in other words, SIDs give private developers access to municipal bond financing to help pay for infrastructure for areas outside of a city, much of which will eventually be annexed. Douglas and Sarpy County by far have the highest number of SIDs, representing about 90 percent of all SIDs in the state. LB168 follows discussion work I did on missing middle housing in LB866 last year, which tried to address the lack of affordable housing in our state. Through that process, some cities reported that they did not feel obligated to really care about housing issues or pointed fingers and said that they were largely incapable of working on housing policy because the development was happening in SIDs outside of city limits. This response was frustrating to me and led me to wonder who is actually shaping housing policy in the state. Pairing these discussions with concerns that SIDs are contributing to

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the affordable housing problem by focusing too much on certain types of housing at the exclusion of others, I decided it was time to examine and reflect on the role of SIDs going forward. This is all what led me to introduce LB168. While I acknowledge that this is a useful tool for developers, it's become obvious to me that SIDs fail to provide for the comprehensive view needed to provide housing for all residents of a surrounding area, especially in the Omaha area. Simply put, I believe SIDs just incentivize any sort of coordinating housing effort at the local level and lead to nearly sole focus on suburban single family homes. Upon annexation, if the SID is in fact annexed by the city along with all the cities-- excuse me, upon annexation the city, along with all the cities taxpayer, assumes the debt incurred by the developer, long since passed along to the SID property owners. This essentially allows for debt generated by businesses to be made a public taxpayer funded-- funded obligation. The system continues the history of divis-- disinvestment in older neighborhoods and saddles those living in those older neighborhoods with the debt of the newer suburban developments. I will note that even supporters of the SID will sometimes concede many of these points. For example, included in the material submitted to the committee by Sarpy County was a PowerPoint, which included a slide of the pros and cons list for SIDs. On that slide, the disadvantages are listed. I'm quoting here, quote, may create expensive, substandard development within the zoning jurisdiction that can never be annexed. End quote. While I respect the different policy makers can look at these pros and cons of SIDs and come to different conclusions, a disadvantage on that level is something that deserves intense scrutiny at the state level, even if it doesn't come in the form of this bill. All of this does not even address the fact that some SIDs seem to intentionally build up debt to make themselves unattractive for annexation. Nor does this address the problem seem when an SID fails to live up to the developer's aspirations, leading to situations where you have owner-occupiers and the owners of the vacant lots feuding for control of the SID. The Nebraska SID statutes have no measures to ensure that development of a region includes housing for residents with low and moderate incomes. Nor does it seem to-- nor does it seem that any cities mandate low or moderate incomes or affordable housing in these developments. Therefore, extremely exclusionary decisions are ultimately made by SIDs that are not accountable to the broader public. The cities which are accountable to the public at large,

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ultimately avoid responsibility. And meanwhile, many Nebraskans looking for safe, quality, affordable housing are simply left out of the process altogether. I'll note that Creighton professor-- Creighton professor Palma Strand lays out this main problem in a 2017 law review article. I'll quote from that here. Part of maximizing profit is offering a product that is likely to sell and will sell for as high a price as possible. SID developers minimize the risk of unsold inventory by providing non-innovative housing likely to be broadly acceptable to suburban home buyers of means. Detached single-family homes near predictable commercial centers are the result of mixed-income and multifamily developments that would provide housing affordable by households of more modest means, as well as mixed-use development are perceived as riskier investments. Therefore, they're not constructed. End quote. I will note that Professor Strand has offered a letter to the committee with her thoughts on LB168. I would encourage you to read it if you have not yet. Based upon my conversations with many people, including a handful of senators following the introduction of this bill, I worry that we are losing sight that SIDs are public bodies with public responsibilities but have significantly less coordination, oversight, and transparency than our cities. To me it is clearly time to reexamine a policy that incentivizes housing that both encourages sprawl and limits the choice of our housing for constituents, while at the same time allows policy makers at the city and state level to kind of throw up their hands and say it's out of their control. To make matters worse, the use of SIDs for construction of most new housing projects in the Omaha area has exacerbated fair housing issues, including racial and socioeconomic segregation in Omaha. In addition, previous interim studies and multiple discussions in this committee have also pointed out there are other unique problems that result from SIDs, including SIDs in the middle of cities that never manage to get annexed, leaving residents without clear municipal services like trash or road repair, the inability for residents to vote city elections, the tendency in-- the tendency for homes in SIDs to have and pay higher property taxes, and the higher rate of Chapter 9 bankruptcies filed by SIDs, which as a result of these bankruptcies, Nebraska has the most Chapter 9 bankruptcies filed in the United States of any state since 1981. While this resulting patchwork and confusion does bother me, it's mostly the lack of decision-making power in new housing construction that is the most egregious outcome of the system and carries the most

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consequences. Considering all these problems, I'm genuinely surprised at the number of policy makers who seem to want this unique to Nebraska system to continue. I worry especially for the Omaha metro area in Douglas and Sarpy Counties. They are struggling to provide affordable housing to their residents, but they are outsourcing decision making on new housing to developers through the cover of SIDs. As a Senator from Lincoln, I worry that the seemingly dysfunctional system will continue to grow and disrupt the housing and planning of other communities as well. I will share that I've already had a good number of discussions with developers and others involved in SIDs and expect to keep working with all stakeholders as we look at how to move forward. I completely understand that those who benefit from the current status quo are going to be very protective of the current system. But that itself is part of the problem. We as policy makers must take back the reins and start proactively implementing housing policies to get to the root cause of why quality, affordable places to live are so far out of reach for so many of our constituents. Again, I'm happy to meet with all involved to see how we can work together to address this problem. And with that, I will close probably the longest committee opening of my life, so happy to take any questions,

**WAYNE:** Senator Blood.

**BLOOD:** Thank you, Chairman Wayne, and thank you for your introduction. And I'm not surprise attacking you here, you knew that I had a lot of concerns about this bill,

**M. HANSEN:** Sure.

**BLOOD:** So I'm going to-- I've been trying to write down questions while you were doing your opening, so I have quite a few questions of that, OK?

**M. HANSEN:** Sure.

**BLOOD:** And I've taken my mask off because people keep confusing me with Senator Hunt, so.

**M. HANSEN:** Sure.

**BLOOD:** So what would be your definition of affordable housing?

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**M. HANSEN:** For me affordable housing is that it is not rent burdened, which I believe is defined as 30 percent of your income being paid to housing.

**BLOOD:** So one of the things that I did was I looked at the median income in both Sarpy County, Nebraska, and Bellevue.

**M. HANSEN:** Um-hum.

**BLOOD:** So Bellevue would not be the third largest city in Nebraska without SIDs.

**M. HANSEN:** True.

**BLOOD:** It just wouldn't be. So I looked at what the median income was for Bellevue, which is \$65,308. Thirty percent of that is \$19,529, which would give me 16--1,627-- \$1,627 a month to pay my mortgage. So in my neighborhood, which was a SID--

**M. HANSEN:** Sure.

**BLOOD:** --the average mortgage is \$1,081. So that would fall under the description of 30 percent of your income, median income, more or less, yes?

**M. HANSEN:** For people with the median income, yes.

**BLOOD:** OK. Well, it gave me about a \$600 stretch of income, so I think if you go down the median income, you go even lower like for the state is \$64,390, that would give you \$1,610 to spend a month for a mortgage. So I just want to point out that in Bellevue-- and I have more questions.

**M. HANSEN:** Sure.

**BLOOD:** We didn't get Shadow Lake because we had so much affordable housing. Shadow Lake is the big mall in our area. I don't know if you're familiar with it. Papillion got it because they had upper end housing. It was about the house, the rooftops, not people in the houses. So one of the things she talked about was-- and I'm not sure I heard you right. So you're talking about how there wasn't as much control or oversight by municipalities. Did I hear you correctly?

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**M. HANSEN:** Yes.

**BLOOD:** OK, so it's in the communities that I know of in Sarpy County. Again, I can only talk about Sarpy County.

**M. HANSEN:** Sure.

**BLOOD:** I can't talk about Douglas. I don't know what effect goes on there. Those-- those are in the ETJ--

**M. HANSEN:** Uh-huh.

**BLOOD:** And so if it's in the ETJ, can you tell me, I know the answer but I won't get this on record, can you tell me who's responsible for the scope of what they do once they're in the ETJ?

**M. HANSEN:** The scope of who, what do?

**BLOOD:** Of what the developers will do?

**M. HANSEN:** Sure. The city has essentially veto power over developments in the ETJ.

**BLOOD:** So they also work with the planning department of that municipality?

**M. HANSEN:** Sure.

**BLOOD:** And ultimately, who do the plans go to?

**M. HANSEN:** Well, that would be the city council.

**BLOOD:** To the city council.

**M. HANSEN:** Uh-huh.

**BLOOD:** So do you not think that that's enough oversight?

**M. HANSEN:** I've had cities tell me that they don't like doing that and they don't make it a priority. I mean, this is just relaying experiences that I've had working on this committee.

**BLOOD:** Have you had any Sarpy County cities tell you that?

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**M. HANSEN:** No, I have not.

**BLOOD:** All right. And then can you give me some examples of the [INAUDIBLE] that can never be annexed? Do you have actual, like, areas of where those are at that you had talked about that in your opening?

**M. HANSEN:** Sure. I mean, I'd be happy to get you a map of Omaha and discuss some of them. You can see kind of the pockmarks, especially in now central and western Omaha, different SIDs and private developments that never been annexed.

**BLOOD:** So this is more of a Douglas County problem?

**M. HANSEN:** That's probably fair to say.

**BLOOD:** All right. And then I read the report from the professor.

**M. HANSEN:** Uh-huh.

**BLOOD:** Is she a doctor?

**M. HANSEN:** Yeah.

**BLOOD:** OK, from Creighton. Let's call people by their title. And my personal opinion and I want your-- I want-- I actually want to respond to this.

**M. HANSEN:** OK.

**BLOOD:** I found the data to be more historical and not really relevant anymore. What would be your opinion on that?

**M. HANSEN:** Um, I think just because it's historical doesn't mean it's irrelevant. Um, if you look at the racial dot maps of Omaha and I've seen some as recently as the mid-2010s, it's still one of the most kind of racially segregated cities in America by a lot of standards. And if-- so that data is relevant in my mind.

**BLOOD:** I don't know if I attribute all that to-- to SIDs.

**M. HANSEN:** Sure.



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**BLOOD:** I think that's something we'll want to talk about so we're not here to late at night tonight.

**M. HANSEN:** Sure.

**BLOOD:** So another thing that you said in your opening is you talked about assuming the debt, that municipalities take on the debt.

**M. HANSEN:** Yeah.

**BLOOD:** So-- so cities, true or false, cities only annex, at least-- again, I only know about Sarpy County, I don't know what Douglas County does, when it's financially advantageous for them to do so. So although they may go ahead and take on that debt, is it not true that they also take on that new tax base--

**M. HANSEN:** Uh-huh.

**BLOOD:** --which they balance out with the debt and they don't do it unless it's usually advantageous to their own coffers?

**M. HANSEN:** Yeah, no, I think that's fair. And that leads to my example of some SIDs kind of have debt problems and can't be annexed.

**BLOOD:** Yeah, but I'm not seeing that where I'm at, so--

**M. HANSEN:** Yep.

**BLOOD:** --I'd like I'd like to see that.

**M. HANSEN:** Sure.

**BLOOD:** And then you did talked a little bit about it. It's true that SIDs also contribute to the infrastructure around the SIDs--

**M. HANSEN:** Uh-huh.

**BLOOD:** --which ultimately saved the city money because the city doesn't have to do the arterial streets, the-- the traffic signals, the sewer-- the storm sewers, the things that-- that create better connectivity. In fact, I know having served on the city council that we sometimes go back and say, you know, you're not going to do this unless there's a sidewalk that connects to-- to the area that

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eventually will be your neighbor when we annex you, or we're not going to accept these plans unless you put a traffic light in because you're going to have 100 cars leaving between six and seven first. I don't wonder when people go to work, seven to eight every morning,--

**M. HANSEN:** Sure.

**BLOOD:** --let alone, you know, school buses and whatnot. So isn't that cost saving for a municipality since they don't have to do that and the debt is really being paid off by the people who live in the SID?

**M. HANSEN:** Is cost saving to the municipality to the extent that-- yes and no.

**BLOOD:** OK.

**M. HANSEN:** For example, the city of Lincoln's position is that it's not cost saving because-- and the reason Lincoln does not approve SIDs is because having a comprehensive citywide plan and having the city be in control of new development is actually more cost efficient. So that's something, I suppose we could get the data and pull and compare.

**BLOOD:** Say that last-- I'm having trouble hearing you. I'm sorry.

**M. HANSEN:** Sorry. We could get the data or try and compare and kind of see who's right on that, but that's the city of Lincoln's philosophy, annexation philosophy, for example.

**BLOOD:** So, but doesn't the city basically define the obligations that that SID has to that city?

**M. HANSEN:** When it's created, not necessarily past that point. I don't know how much the city has checks on it after it's created. So, for example, if a SID wants to create a expensive contract for snow removal and/or access to a very low levy or things of that nature, those-- those, the planning decision, certainly.

**BLOOD:** Right.

**M. HANSEN:** Not necessarily the operation and control after that fact.

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**BLOOD:** But aren't SIDs designed really-- the vast majority and obviously the same issues in Douglas County I don't know about--

**M. HANSEN:** Sure.

**BLOOD:** --but again, I look at like what we have.

**M. HANSEN:** Sure.

**BLOOD:** They're not going to create so much additional debt that it becomes a burden to them. Is that fair?

**M. HANSEN:** I mean, it's kind of up to them if they want to raise their own property taxes to pay for more things, they certainly can. And we see that across SIDs. I mean-- sorry, I guess--

**BLOOD:** No, and I'm--

**M. HANSEN:** I'm-- I'm--

**BLOOD:** --I'm just trying to make sure that I'm-- I'm hearing you correctly. So ultimately aren't SIDs just a financing mechanism? I mean, really, that-- that allows us to install, maintain infrastructure outside of the city limits--

**M. HANSEN:** Yeah.

**BLOOD:** --in our ETJ.

**M. HANSEN:** That they're a political subdivision created solely for kind of financing reasons, I think that's fair.

**BLOOD:** So they have limited statutory authority and anything beyond that just can't happen.

**M. HANSEN:** That's fair, yeah.

**BLOOD:** Thank you. So outside of TIF and SIDs and maybe LB840, I mean, what do we really have to offer developers to encourage them to build like they build in our area, middle class and affordable housing, if we take that away?

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**M. HANSEN:** I mean, that's kind of getting back to the state of Nebraska has probably too few, and I've always been supportive of others, such as some of the projects. I guess-- I guess the point of SIDs, to my mind, isn't necessarily to incentivize affordable housing, it's to offset the risks to the cities. It's not necessarily to-- if that-- if that makes sense. So I kind of disagree with the cost that SIDs by their nature are cheaper than, say, cities.

**BLOOD:** So-- so one last question--

**M. HANSEN:** Sure.

**BLOOD:** --and then really done asking questions, because that's all in my notes, I think. Um, so aren't the-- like the price point they do, the type of houses they build, isn't that determined by market demand, or do you think they just-- this is sincerely a question. Or do they just say, you know what, we're going to-- if we build it, they will come?

**M. HANSEN:** So this is where we get into exclusionary zoning and other requirements in the sense that, as we saw with the missing middle housing, we don't necessarily have a full range free market, build whatever housing people like, we have all these various systems and hoops to jump through. So, yes, developers want to build housing that they can sell and make a profit on. And yes, that is driven by the market. However, it is possible to either by force or by accident or by decision, ignore a section of the market where there is a demand for housing. And that's what we see with some of the-- what I would call affordable, or work force or whatever you want to say, housing.

**BLOOD:** So, and that's I have to say, that's what we see in Bellevue.

**M. HANSEN:** Yep.

**BLOOD:** There's a demand for starter homes and work force, affordable low-income housing, and that's what the vast majority of ours-- unfortunately for Bellevue, that's where the vast majority of our-- our SIDs are, but if you go further west to-- to Senator Arch's area, Senator Day's area, you'll see more upper end housing, because those are people that want to leave Omaha and move out to better schools, and no offense to Omaha--

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**M. HANSEN:** Sure.

**BLOOD:** --but they're coming to Sarpy County.

**M. HANSEN:** Sure.

**BLOOD:** So those houses, of course, are less affordable. So I'm going to keep listening. I'm a big proponent of having affordable housing, but I'm-- I'm not sure this is what we're making this out to be. So we'll have more time and discussion outside of this as well, so thank you.

**M. HANSEN:** Thank you.

**WAYNE:** Senator Hunt.

**HUNT:** Thank you, Chairman Wayne. Thank you, Senator Hansen. When a city annexes an SID, is the city then responsible for bringing the SID up to code? So, for example, roads, infrastructure.

**M. HANSEN:** Um, so-- so yes and no. So-- so when a city annexes an SID it just becomes a part of the city and then it becomes the city's obligation. This leads you to some of the street issues in Omaha, that a lot of the worst crumbling streets in Omaha, I understand, were decisions by SIDs originally. And now it is an obligation and burden on the City of Omaha to replace what probably were substandard or not cut off for the traffic level in some of the neighborhoods. And that's why you have the asphalt roads turning into gravel roads and chunks in Omaha.

**HUNT:** Yeah. So that's not-- that might not even be by the letter of the law or something, but that's just how it turns out when they-- when they annex these-- these SIDs.

**M. HANSEN:** Yeah. So in terms of bringing up an SID to code, I'm trying to apply your question. So-- so it would certainly be within the housing, you know, sorry-- certainly be within the city limits and have to do with the city obligations that they have to all their constituents. So in that sense, obviously a city can make their own political subdivision. They can make a lot of decisions if streets don't get plowed, if streets don't get plowed fast enough, streets

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don't get paved fast enough. You know, that's a decision that rests the mayor and city council.

**HUNT:** I would also comment that, of course, markets exist--

**M. HANSEN:** Uh-huh.

**HUNT:** --and of course, developers and business owners, which many of us are, you know, we're all interested in the markets working, but when it's policies over decades, whether it's, you know, from a historical perspective, as this professor testified in her letter, or-- or what's the lived experience today, when we see that creating housing inequality has been done intentionally, I think it's incumbent upon people in power who have been a part of the structures that put that intentional inequality in place to be a part of intentionally dismantling it. And we've done some good things in the Legislature in the past three years that I've been here to address some of these intentional, you know, walking back some of the discrimination and some of the inequality that-- that happens in our state because of past policy. And anything incremental that we can do that affects that is something worth a good look. Because when it's intentionally done, it has to be intentionally undone and markets don't really have anything to do with that. Thanks.

**M. HANSEN:** Thank you.

**WAYNE:** Any other questions from the committee? So, I ask one. There were multiple villages and cities going bankrupt, do you think the Legislature would have took a hard look at whether they should exist in their current form?

**M. HANSEN:** Yes.

**WAYNE:** And so it's not unheard of. In 2012, we were all over the national media for the most political subdivisions or municipalities because most other states don't have this that file in Chapter 9 bankruptcies. And it was mainly due to-- what to the SIDs.

**M. HANSEN:** Yeah.

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**WAYNE:** I think it's a long, long overdue look. I do have one more question about the developers you have met with. Have they provided any solutions to infill housing or any other concerns that you raised?

**M. HANSEN:** Yeah, I've had some good, productive discussions. We didn't necessarily get to policy solutions. One of the things and I think you'll appreciate it, under the discussions we had was density solves all problems was-- was something I heard from a developer. And so I think to the extent that they were allowed or enabled or there was some sort of clear policy that allowed for more density and more housing would help alleviate these concerns and make them, you know, affordable and marketable.

**WAYNE:** Thank you. Seeing no other questions, will you stay around for closing?

**M. HANSEN:** Of course.

**WAYNE:** First, we have proponents, any proponents? Seeing none, do we have any opponents. first opponent testifier?

**DENNY VAN MOORLEGHEM:** Well, good afternoon. My name is Denny Van Moorleghem, D-e-n-n-y V-a-n M-o-o-r-l-e-g-h-e-m. I'm with Regency Homes in Omaha and I'm here on behalf of MOBA and Build Omaha, Omaha's two home building firms. My talk right now is basically from a builder's perspective. SIDs are really the cornerstone for new housing in Douglas and Sarpy County where there's the first-time homeowners or move-up homeowners or empty nesters that are moving down from the bigger houses. The bottom line is the SID system provides less expensive lots. The bottom line, which means less expensive housing, which means more people can afford the houses that they want to live in. We estimate, and I ran numbers a couple of years ago and talked to some of the fiscal agents in this last week, that a lot is typically \$10,000 to \$15,000 less than a lot that's privately developed and there's reasons for that, of course. Our new-- so we build about 75 houses a year, so I ran some numbers this afternoon-- or this morning. New construction costs, that's sticks and bricks cost. In 2020 it went up \$90 a day, about \$34,000. That's in the houses we built. OK. The ratio of lot cost to total sale price dropped 1 percent. That's the SIDs holding our own. That's the city subdivision agreements controlling how the-- what's built and how for the benefit of the city

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so it can be annexed. The National Association of Home Builders recommends, and their guidelines, and I've been doing this for a long time, say that the lot price should be 20 to 25 percent of the sale price of the houses that we are building as a-- as a builder. And when I ran the numbers this morning, it was 15 percent. That's-- when I ran the numbers for last year and the year before they were about 16 or 16 and a half. So the SIDs are bucking the trend of cost increases and they're providing affordability. In my mind, they're the answer to affordability. If we could build a house for \$250,000, well, I mean, we couldn't build them. We just can't do it. Our bottom line, when we take a-- well, when we try to value a house, try to bring it in to meet affordability standards we're lucky to hit three and a quarter, that happens to get Bellevue. OK. So we would love to build affordable housing. We'd love to build more houses and more lots, but the market construction costs just don't allow it. When you look at the SID bidding, and I'm on several other SID boards, when you look at the bidding process and how it's controlled and how it's recommended, all by professionals until the homeowners are in there, the focus is on cost and it's on-- it's on the things that-- that and it's all about affordability. SIDs because there's-- make-- make-- make subdivisions, we have the ability in SIDs to make subdivision bigger. Somebody mentioned Bellevue. I mean, somebody mentioned Lincoln and Lincoln, it's my impression that they build subdivisions a street or two at a time. In Omaha, we have the ability to build 200 or 300 lots at a time with similar private capital and equity just because of the SID system. It makes-- it makes more new neighbors. Well, as we get bigger subdivisions, there's more competition from the builders. Believe me, builders between ourselves because we compete for that buyer every day and that's holding the price down when we can. OK. SIDs do fun stuff. They do parts, they do trails, they do other things that may or may not happen without them, but my guess is they wouldn't be planned as well and they wouldn't come to fruition sooner. The SIDs are all about affordability, and I know that's what the big issue is on this when we talk about this-- this issue. So I'd hate to see SIDs be impacted. It's a good system. It's been around for, I believe, since 1947, somebody said, and that's really the-- it's what makes Omaha hum in terms of new housing.

**WAYNE:** Thank you. Senator Blood.

**BLOOD:** Thank you, Chairman Wayne. Denny, it's nice to see you again.



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**DENNY VAN MOORLEGHEM:** OK.

**BLOOD:** I have two questions for you. I create this terminology, so if I offend anybody with my language, I apologize in advance. But can you tell me what a crap plot is?

**DENNY VAN MOORLEGHEM:** A crap plot?

**BLOOD:** Yeah.

**DENNY VAN MOORLEGHEM:** That's a lot that nobody wants. That's-- that's a lot that falls off to the back where they have-- or the lot that they have to spend \$30,000 on a retaining wall to put a house on it. So a lot that's backing up to railroad tracks or a busy intersection.

**BLOOD:** So the benefit of crap lots to municipality when we annex you is that we can sell them to people and put it on a tax roll because it can extend their property, correct? So, for instance, I'm looking at a-- when I came on to the council, we had a whole book of crap lots. I hate that expression, crap lots. And so they-- they weren't big enough to build houses on, or they had weird architecture so you couldn't build a house on them, so they sat there and they weren't on the tax rolls, but because we had annexed you, or annexed the SID, we could say, hey, would you like to have this extra property? We'll sell to you for a heck of a price. It would give that homeowner the benefit of having a bigger yard and it would give us the benefit of collecting taxes. That's something that happens quite a bit, isn't it?

**DENNY VAN MOORLEGHEM:** I know what the area you're talking about and it happened a lot.

**BLOOD:** A lot, yeah.

**DENNY VAN MOORLEGHEM:** And those-- those homeowners who bought the lots next door made up with some tree, wooded, beautiful lots that were usable to them and their kids, not to put a house on.

**BLOOD:** They made out like bandits when they got those properties.

**DENNY VAN MOORLEGHEM:** Um-hum.

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**BLOOD:** And then-- and maybe this is just Bellevue, but when SIDs are built in municipalities like Bellevue, the council works really closely with the developers once it gets to that level. And sometimes probably too much and, um, and you guys work with us until we get it right, don't you?

**DENNY VAN MOORLEGHEM:** Between us and the SID attorneys and engineers, and yeah, it all has to-- it has to work for everybody. And what we're finding about the building jurisdictions is that they think long term.

**BLOOD:** Right.

**DENNY VAN MOORLEGHEM:** Longer term than sometimes we like. But by the same token, they're doing what's best for their community 10 years from now or 5 years from now. But it all works out in the end, because if it doesn't, it doesn't work at all.

**BLOOD:** And by working with everybody that's in this level, including the planning department, we are looking to the future of that area. The traffic patterns, the walkability factor, especially-- Bellevue's had that issue for a long time and so hopefully they're still working on that. But, so when you hear that there's all these issues when a city goes to annex it, does it make sense that a city would annex an area with that much debt without having the foresight and the communication prior to that?

**DENNY VAN MOORLEGHEM:** So in the past, and I'm talking 10, 15 years ago, on some of the older SID boards I was on, they would try to ramp up, spend money to prevent annexation because they thought the SID would do a better job maintaining their streets and they had direct control over it, although it was-- anyway it was done. This was in the City of Omaha and I don't know what the date was, but after-- after I got on the board that was stopped. The City of Omaha recognized the problem and they stopped that so that-- so that it could be annexed. As a matter of fact, it was annexed two or three years later.

**BLOOD:** And that's from the historical data that I was referring to, so. I appreciate-- sorry I harassed you so much when I was on the council--

**DENNY VAN MOORLEGHEM:** No, you did fine.

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**BLOOD:** --but you were always really fair about it.

**DENNY VAN MOORLEGHEM:** Especially when we were talking about the deers running through people's back yards.

**BLOOD:** Oh, my gosh. I don't ever want to go back to that. Thank you.

**DENNY VAN MOORLEGHEM:** Thank you so much.

**WAYNE:** Any other questions from the committee? I have a couple if nobody else does. So it seems like there's a disconnect from when SIDs was originally started, even to the late 80's, 90's, when there was over by Lake Cunningham in my district, SID building what I would deem affordable housing, \$125,000 to \$175,000 range, people call them starter homes. What I just heard you say was to build a house at \$250,000, you could build them all day if you could do it. What does that go for the market for or what do you sell a \$250,000 cost house on the market?

**DENNY VAN MOORLEGHEM:** Say that again, the last part.

**WAYNE:** What do you sell the house that you built for \$250,000, what do you sell that on the market?

**DENNY VAN MOORLEGHEM:** If we could build one, if we could get that low, it would be under \$300,000.

**WAYNE:** And the reason you don't build it that low is because profit margins aren't there for anything lower than that, is that correct?

**DENNY VAN MOORLEGHEM:** The profit margins and all the costs associated, with the real fees and that you can't make enough money to make it work. And we have to operate it at a profit too. To give-- to give you an idea, as I said, we can bring in 1,600 square-foot ranch on a flat lot for about three and a quarter, OK.

**WAYNE:** For three and a quarter, but is part of that reason that cost is so high is because there's so many people involved in SIDs?

**DENNY VAN MOORLEGHEM:** Well no, the SID side of it is-- is-- it's holding its own in cost increases and cost control. This is sticks and

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bricks. It's the framing carpenter's lumber doubled last year, as an example.

**WAYNE:** I'm familiar with that.

**DENNY VAN MOORLEGHEM:** Yeah, because you're in that business somewhat. You know what concrete is doing? OK.

**WAYNE:** I do.

**DENNY VAN MOORLEGHEM:** And so look what that's doing to-- even the-- so, on the SID streets, I mean, we hit-- the last time we bid one we were \$5 more a yard on the SID side of the paving. OK. And yet to the total, the total SID percent of total sale has dropped or stayed the same.

**WAYNE:** I think that's the issue is that if you're-- if you're starting out \$287,000 on a-- on a market rate house, many people I know wouldn't call that affordable housing.

**DENNY VAN MOORLEGHEM:** Yeah, that's right. You're absolutely right.

**WAYNE:** So-- so I think we should probably just be honest about what SIDs are. They're not-- they're not here to build affordable housing. They're building-- they're here to build housing or commercial. I mean, let's just call it what it is. And I'm OK with that. We just need to figure out a different solution for affordable housing.

**DENNY VAN MOORLEGHEM:** Yeah, affordable housing is going to need some outside help because we can't as a builder, we can't control those costs. We can talk a subcontractor into working for \$500 less-- less to put a furnace in, but we can't control Ready Mix, as an example, and we can't control the lumber mills in Canada. And so affordable housing, unfortunately, it's going to go to the existing housing market unless you can do raw houses or unless you can do something like that. And that's about our product not necessarily about land and SIDs.

**WAYNE:** But I'm just like, you know, there are-- there are affordable housing in Lincoln or at least housing being built in Lincoln. There is housing being built in other areas of the state that just don't have SIDs, so it can be done, I mean.

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**DENNY VAN MOORLEGHEM:** Oh, I'm sure. So the production builders and we're not one necessarily, but they're-- I mean, they used to be \$180,000 and-- and today, if you just even look in the paper in Omaha, they start about \$300,000 and they go up to four and a quarter. And that's the production builders, and that's because they can't control their cost either, you know.

**WAYNE:** Yeah, but a lot of the production builders now also part of SID and I just, I'm--

**DENNY VAN MOORLEGHEM:** They probably all are.

**WAYNE:** Would they-- or they are. And I just keep thinking that you got general obligation bonds of which 10 percent will go to your local attorney and-- and circulator. You got multiple lawyers in the room. You got bank financing charges. I mean, to me, there's just a lot of-- and on top of that, you know where I get most of my complaints for property taxes in my district are my SIDs. They're generally 30 percent to 80 percent higher.

**DENNY VAN MOORLEGHEM:** So most of the SID, the total mill levies in the SIDs are around 2.6 to 2.8 percent. I just did it, marketing things. So, let's say, 2.8. Typically when an SI-- when a city, and I'm talking about City of Omaha annexed, and this was like two or three years ago, annexed-- this might work for or against me, but it's what happened, so when they annexed them, their property taxes went down about a \$1,000 because their mill levy went down that much. On those houses in those days were about two and a quarter, I suppose.

**WAYNE:** Right.

**DENNY VAN MOORLEGHEM:** OK, because that--if that extra property tax is paying for the-- for the GO cost of the subdivision, general obligation cost, that goes away upon annexation. And as a property and as the rooftops increased, then that-- that tax rate can be reduced by the SIDs and it usually is. By that time there's homeowners on the board and they're anxious to lower those taxes if they can.

**WAYNE:** Right, right, right, I understand. I appreciate it. Thank you. Any other questions from the committee? Seeing none, thank you for being here today.

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**JERRY STANDERFORD:** Well, good afternoon, Chairman Wayne, members of the Urban Affairs Committee. My name is Jerry Standerford, J-e-r-r-y S-t-a-n-d-e-r-f-o-r-d, 14711 Industrial Road, 68144. I manage Sherwood Homes and Lane Building Corporation. And as a land developer and a home builder, I have been involved in SIDs in Douglas and Sarpy Counties for nearly 40 years. Having built several thousand single family homes over the years, I wanted to share the following from the developer/builder perspective. The SID may be the most important tool our community has to see the land is developed into cost-effective, single, multifamily residential building sites as well as commercial and industrial subdivisions. SIDs are used by builder/developers to provide cost-effective lots for their own use, as well as by developers who sell these lots to others who may not have the desire or the capability to develop those lots themselves. SIDs provide for a high-quality infrastructure at a reasonable cost that is built to strict standards that make SIDs attractive not only to home buyers but to the adjoining cities that someday annex them. These districts provide a tremendous tax base with minimal debt to these cities with no negative effect on those city's credit rating. SIDs don't ask for or use TIF funding or other government funding. The homes, apartments, buildings built in SIDs pay many fees in the way of park fees, trail fees, arterial street improvement fees, and the approving cities usually require other improvements nearby, by the way of the subdivision agreement. Many of the SIDs we have building contain entry level homes, move up homes, luxury homes as well as apartments, duplexes, commercial buildings, churches and daycares. And I left out schools. The sewers, streets, water, power in front of the lots are paid for by the developer, or builder, at least by the time of the start of construction of the homes or buildings, and often by the time those lots are ready for sale. The infrastructure installed in subdivision-- in the subdivision, sewer, streets, water is required to be put out for bid and must be awarded to the low bidder. The SID funds are not used to purchase ground for the development or pay for the grading costs, which prepare the subdivision for its infrastructure. The developer/investors bear the purchase and the grading cost. The warrants and bonds that are sold to pay for the public infrastructure improvements are obligations of the SID, not the city, the county, or the state. The City of Omaha's Master Plan, which called for the quarter mile gaps, made it easier to provide for multifamily housing, which is more affordable, whether at market rate

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or supported by subsidy. There are no new SIDs-- if there are no new SIDs, there will be fewer new developments regarding-- resulting in less market rate housing. This decrease housing supply will drive up the price of houses in the existing parts of town. SIDs have provided thousands of good paying jobs industry-related in addition to the amenities and been-- benefit-- the amenities that benefit the entire communities. If SIDs are eliminated, the only people able to develop new lots will be those with deep pockets, and we will eliminate the little guy. And I'm talking about the builders who buy up one, two, three, ten lots at a time to build the houses, the homeowners who build their own house, and there's-- there's a lot of those out there. The cost of building sites will increase and this will have a ripple effect that will cause increased land and house prices in the existing parts of town. I do thank you for your time and consideration of this important matter. And I will be happy to any questions-- answer any questions you may have.

**WAYNE:** Any questions from the committee? Senator Arch.

**ARCH:** Thank you. I-- I just want to make sure I have the math straight in my head.

**JERRY STANDERFORD:** OK.

**ARCH:** Without SIDs you just build into the cost of the home, right? I mean the cost of the home-- you're spreading out costs for development of an area, that-- that makes the-- the costs as far as the initial upfront costs of the home less. Am I understanding the math?

**JERRY STANDERFORD:** Initially upfront cost of the lot is-- is less. That's spread out over the tax return to pay off the general obligation bonds for the infrastructure, that isn't attributed directly in front of the house, yes.

**ARCH:** Otherwise you just build it in-- you just--

**JERRY STANDERFORD:** It's right up front.

**ARCH:** Right up front. Pay it all.

**JERRY STANDERFORD:** Yes.

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**ARCH:** So as far as affordable goes, that would make it unaffordable for many more people, right?

**JERRY STANDERFORD:** Yes, that's what-- that's what I'm trying to say.

**ARCH:** Yeah. OK, all right. Thank you.

**WAYNE:** Any other questions? So, I hear the argument of doom and gloom, but Lincoln's doing it without, across the river, Council Bluffs is doing it without. I'm just trying to put together the doom and gloom of there will be no more building when there's building going on without SIDs.

**JERRY STANDERFORD:** You know, I don't build in Lincoln and I don't build across the river. I only know of Douglas and Sarpy County. And I know-- I know the builders and the developers in Douglas and Sarpy County. I know the amount of houses that our companies would build if there were no SIDs available to purchase lots. And, you know, I don't develop all the lots we build and I buy way more lots than I develop. But I just know what's going to happen-- what will happen as far as we're concerned, as far as my employees, my subcontractors, is that my pockets aren't deep enough to carry all that cost to do the volume.

**WAYNE:** But if I'm hearing you correctly, combining not your testimony but combining the previous testimony, if you're building a home for a hundred, \$250,000 and we're talking the difference of two \$10,000 and \$15,000 for the upfront costs with over the life of a 30-year property tax of a \$1,000, I'm still losing if the property tax are \$115,000.

**JERRY STANDERFORD:** I'm sorry I didn't stay with you there.

**WAYNE:** So, the previous testifier says \$250,000 to build the home, cost about \$280,000, \$290,000 to sell on the market. He said that when SIDs recently were annexed in Omaha, it saved them a \$1,000 a year. Life of a mortgage is 30 years, so I'm still losing \$15,000 under SID if I stay there for 30 years.

**JERRY STANDERFORD:** But those taxes and those SIDs historically don't remain at that level. Every district that I have and-- every district that I have active right now that hasn't been annexed, the taxes are coming down and some-- and some are even-- are coming down to be the same as the city taxes.



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**WAYNE:** So, we're-- we're taking a community, we're sharing the costs for the individual homeowner to lower the upfront cost. Is that-- I mean, that's basically what an SID is doing.

**JERRY STANDERFORD:** That's correct.

**WAYNE:** So that's not--

**JERRY STANDERFORD:** So you can stick it on the front and pay for it over 30 years with your mortgage or you can do it with the bonds and bring it down so they can buy more house to get in-- to get into in the first place.

**WAYNE:** So that's-- I mean, this is truly against the open market system, in my opinion.

**JERRY STANDERFORD:** But-- but when-- I heard-- I heard Denny talk about the cost of the house. The-- the problem-- the problem here, I think when we're talking about affordable housing, you know, we can talk about affordable entry level marketplace where, how's-- if he take that \$350,000 house and take that \$50,000 lot away, it's still \$300,000. That's a problem. If he can give me the lot and I think you heard from somebody later, if you give me the lot, I still can't build you an affordable house with the-- with the costs that we have today, the rules we have today, everything that we have to put into that house. It's still \$300,000. If you just-- if you give me the lot, I can't come to you and build the house.

**WAYNE:** You can't build that type of house.

**JERRY STANDERFORD:** That's correct.

**WAYNE:** Well, there's a difference between a \$125,000 home and a \$325,000 home.

**JERRY STANDERFORD:** But that \$125,000-- there is not a \$125,000 home out there anymore.

**WAYNE:** New home, you're correct. It's about \$150,000, \$175,000.

**JERRY STANDERFORD:** New home. But those houses, I'm telling you that the cost, you know your concrete cost.

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**WAYNE:** Right.

**JERRY STANDERFORD:** I mean, I've got 200 yards of concrete in every house and it went up \$10-- gone up \$10 a yard this winter.

**WAYNE:** I know that.

**JERRY STANDERFORD:** So that's, you know, I don't disagree. But I can tell you, too, that I haven't-- I'm in a district right now that has houses in it. It's in Sarpy County, has new houses in it. It also has apartment ground in it that's under contract for both-- for veterans, for both market rate veterans, as well as subsidized veterans. In a new SID, there's houses around it. I have other-- I have another subdivision that has more ground that's available for that type of product. It's just that it's tough to make the numbers work.

**WAYNE:** So, so the problem is-- just going to have to be blunt here a little bit, but two years ago, I did a resolution. We had a hearing, met with-- a couple of times with developers, and I think you were in the room a couple of times. And I said the issue is infill housing and we are creating an uneven playing field with SIDs. And everybody in the room acknowledged that. And everybody two years ago was telling me they were going to give me an answer or some solutions, and that's never happened. So it's hard for me to allow SIDs to continue when I know it's an uneven playing field to do in that housing-- infill housing. And you may say, well, that doesn't really matter, but it does because we're not-- we're not being equal and we're not treating equal, and it's just exacerbating what we have done in the past for the last 100 years by not allowing equality or equity when it comes to infill housing. And so, I mean, this is for everybody in the room. At the end of the day, I've never got any proposed solutions when it comes to infill housing, but I continue to see half a million, a million dollar homes being built in SIDs. It's creating this unplay-- uneven playing field. And I haven't introduced this bill. It sat on my desk for two years and I'm glad Senator Hansen did. And to be blunt, if we don't figure out an answer for infill housing, I'm going to work this bill and I'm going to work you hard out of this committee because I'm tired of the uneven playing field. Affordable housing is not a quarter of a million at three hundred thousand anymore. We have to figure out how to do it. And I'm open to any suggestion, but without a suggestion, there's no equality and no equity here and we got to solve

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that problem. I don't know what the answer is, but again, this is my pitch, the same pitch I made two years ago on this issue. But there is a bill now on this floor or in this committee that I will work if we have to, and I'm-- you guys may defeat it all. But at the end of the day, we can't say this is equitably OK for what's happening in our racially segregated Omaha. And I'm not chastising you, I'm just saying to everybody in the room, this issue is not new. It may work for Sarpy County, but it's not working for Omaha and there's a lot of bills we bring down here for our individual communities that we fight about, and that may be one of them. Senator Blood.

**BLOOD:** Thank you, Chairman Wayne. Usually I am in full agreement with Chairman Wayne, unfortunately, this isn't one time. So I agree with the Chairman that there are some major equity issues when it comes to housing. But at the same token, wouldn't you say also that as a business owner, because you're a business owner, that you build houses based on what the market demand is? Yes or no?

**JERRY STANDERFORD:** Correct.

**BLOOD:** So if the market demand is for half a million dollar houses, that's what you're going to build.

**JERRY STANDERFORD:** That's correct.

**BLOOD:** All right. Thank you.

**WAYNE:** This is not time for an executive debate, but you also build them because we gave you a-- you just said if we eliminate this, you can't build in the free market. So it's not the market demanding this.

**JERRY STANDERFORD:** The loss it would do will be much less.

**WAYNE:** But it's the handicap we put on like in golf to make sure you got an advantage.

**JERRY STANDERFORD:** But that-- but it won't-- still won't drive me. I still can't bring that house--

**WAYNE:** Correct.

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**JERRY STANDERFORD:** --to any infill housing, even if you give me the lot.

**WAYNE:** Correct. But we're making it easier for you to operate in the market that you're in now.

**JERRY STANDERFORD:** You're making-- you're making-- by having SIDS, it provides-- it provides an avenue for houses that a certain population wants.

**WAYNE:** Agreed. And I've done work for SIDs and-- and houses are popping up all over the place and they're being filled. They're not sitting vacant. So I know there's a market, but we're-- I think we're not solving what Senator Hansen discussed and what we've discussed two years ago about the unfair, unbalanced treatment. So, I do appreciate you listening to me rant for a second. At least it wasn't about public power. So it's a little better.

**JERRY STANDERFORD:** We could talk about that. [LAUGHTER]

**WAYNE:** Any other questions from the committee? Again, thank you for being here and I do appreciate it. I have to leave at 3:30, so in 5 minutes, I'm going to-- not leave, I have to go to a conference call on another bill. Welcome to your Urban Affairs Committee.

**DAN HOINS:** Thank you, Chairman Wayne. My name is Dan Hoins, D-a-n H-o-i-n-s, Sarpy County administrator. As I sit here this afternoon listening to the discussion, I'm going to go away a little bit from my prepared comments and make a couple of observations based on the testimony so far today. So it strikes me that you're talking about two public policy issues here, affordable housing and SIDs. My experience as a 30-year government official is SIDs in Sarpy County have been a very good thing. And here's why they have been a good thing. Whether I have been working in-- and I think you all got my letter. For 17 years, I was a city administrator for the City of Papillion. I should take this off, excuse me. For the last three and a half, Sarpy County administrator, so I hit from both sides of the plate, city and county government. Have a pretty solid understanding of-- of the impact of SIDs. But here's what I've understood on both sides of the plate, Senators, is if you want to address property tax issues, you get more pay into the system. And we've been able to do that in Sarpy County

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because of SIDs. I am not the subject matter expert on affordable housing. I will tell you that. I notice my-- my good friend and colleague from the City of Papillion, the planning director, is here today and I think intends on testifying. I know he and I spent countless hours in the City of Papillion working on that very issue, but I would defer to him because I've been gone to address that issue. But speaking strictly from an economic development perspective, and there's another really key issue here that hasn't been brought up. SIDs are good because of the transfer of risk from the property taxpayer, i.e. the cities to the private development, because there's-- there's very limited risk because the city can decide when that happens and it is of utmost importance. And Senator Hansen appropriately put the disadvantages in there. I did that out of-- I didn't want to appear disingenuous whatsoever. There can be disadvantage. I would point out, I said may create a disadvantage, requoted my submission on there. It doesn't have to be. If you catch that as a-- as a governing body, a city or a county on the front side and limit the amount of generally obligated debt that you will allow as a government entity, that will manage that expensive development. And in the City of Papillion, they had a 4 percent generally obligated debt to value that we analyze, or they-- not me anymore, --they analyzed themselves. We didn't take the word of the developer about my house is going to be worth this much. We went out and did our own due diligence to determine what that debt to value ratio would be, and we held them to that, and that generally obligated debt is what eventually the taxpayers in the city pick up and pay, that 4 percent of the general obligated debt. The other is paid by the developer and others. So I'm going to pause there because I see my light is yellow and I want to be respectful of your time, sir.

**WAYNE:** I appreciate that. Any questions from the committee? Senator Blood.

**BLOOD:** Thank you, Chairman Wayne. Nice to see you again.

**DAN HOINS:** See you, Senator.

**BLOOD:** And maybe this will be a question for Papillion, but I thought you might know the answer. Can you talk a little bit about what the missing middle is in Sarpy County? That seems to be an issue that so many of our municipalities and the county are already addressing.

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**DAN HOINS:** I would only be articulating what my friend, Mark Stursma, has told me over the years, so I will defer to him.

**BLOOD:** All right. I will wait for Papillion then. Thank you.

**WAYNE:** Any other questions from-- ? So I do want to gently push back because I do agree with you in some parts, but it doesn't shift the burden to the developer. It shifts the burden to the SID because typically there's a new division, a new political subdivision or, yeah, political subdivision, and if the subdivision goes bankrupt, it actually frees the developer not to be caught in any of that, because that's what happened in 2009 to 2012. The developers all were fine. They just restructured their debt under Chapter 9.

**DAN HOINS:** Absolutely. If I wasn't clear, Senator, my reference to the transfer risk is from the property taxpayers that live within the city limits when the SID is approved. That that risk then is held by the mayor and the council to analyze that debt and monitor, manage that debt. There is no risk for that debt until they choose to annex.

**WAYNE:** And this doesn't deserve a question, I just find it ironic that if we were to create a-- this type of system today as a new property tax authority, it would be dead on arrival in this Legislature. But we won't repeal it. That's going to be very interesting. I just-- don't even answer. You don't want to get into the conversation.

**DAN HOINS:** I'm not sure I understand. [LAUGHTER] I'm not sure I understood the question, so I don't-- don't know what the answer is.

**WAYNE:** Thank you for coming down. I really do appreciate your testimony. And I appreciate for all you've done over the years.

**DAN HOINS:** Did you have a question?

**WAYNE:** Do you have a question? Oh, OK. Thank you for being here. Welcome to your Urban Affairs.

**JASON THIELLEN:** Thank you. Mr. Chair, members of the Urban Affairs Committee, my name is Jason Thiellen. I'm the CEO of E & A Consulting Group. We are a civil engineering firm that specializes in SID engineering. Currently have 126 SIDs. I'm also going to adjust my testimony a little bit from what I had written down to answer some of

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the questions Senator Wayne had. Unfortunately, he's going to step out, so--

**WAYNE:** I'll be watching it.

**JASON THIELLEN:** OK. I did pass out a spreadsheet that has quite a bit of information on it. Certainly be happy to answer questions about it. This really illustrates-- this is a subdivision that was done from 2004 to 2019 called Glen-- Glenmoor Turnbridge. It's inside the 680 loop. It was done by-- at that time a couple of track builders that specialize in affordable homes. If you look down to the yellow section of this spreadsheet, there's a total cost to builder, and then there's a total cost to the lot owner. And simply put, without going through the numbers, not utilizing the financing mechanism of Sanitary Improvement Districts drastically increases the cost of the lot, which then proportionally increases the cost of the house. So when you talk about affordability, the direct costs related to it, regardless of how you finance them, has a massive effect on the cost of those-- those units. SIDs reduce that overall burden not only to the lot of developer, but as well as the home owner. It is one of the only tools we have that actually fight some of the rising costs you've heard about testifying today. But I wanted to talk about-- this is a-- this is a 200-acre project. It's got 896 lots on it. OK. So that's four and a half lots per acre. Some of the biggest things that the state of Nebraska and local municipalities need to look at, if you want to talk about areas of affordability, is how do we allow-- somebody mentioned the-- made the comment, density cures. And that's one of the things I say on a regular basis. I'm not an engineer. I'm a planner by trade. The reason why I got in this business because I've a passion for affordable homes. I've own property here in Lincoln, 41st and Baldwin, 49th and Walker, those are areas that would be in need of affordable units. So I understand and research this quite a bit. We focus in our organization on trying to help the private industry find affordability options within what we do really, really well, which is develop subdivisions. Regulations alone, just the environmental regulations alone over the last 10 years have dropped one lot per acre. OK, one lot per acre in a development. Not having regional detention, some-- some have been good. We've increased setbacks from-- setbacks from creeks and rivers. I think that's a good thing. But it does take usable property away from a development. If you-- just real quick. If you were to take 200 lots out of this subdivision in 2004, using the

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SID, that number \$16,000 is a total cost to developer; \$24,615, but four numbers up is \$16,088. That's the base cost without closing costs, without profit, without interest. If you take 200 lots out of that subdivision, that \$16,088 goes up to \$20,711. These homes in this subdivision were built at \$115,000 to \$125,000. That is affordable homes. There is not another way to get there unless we start looking at some of the costs associated with developing property both in Omaha and Sarpy County. That'll keep-- keep mentioning affordable homes in Lincoln, apples to apples comparison. I'm not aware of single family homes anywhere in Omaha and Lincoln that are being built for \$175,000 that aren't attached. That-- that is not a detached product. So I think you have to define a little bit about what are you looking for in terms of affordability? Is it detached single family homes? Is it an attached product? Is it a rental product? Maybe the missing middle is the solution. Mark Stursma will talk about it. There are options out there.

**HUNT:** Could you wrap up?

**JASON THIELLEN:** Yep, there's option out there. But how we develop lots, what it cost to do that, how we create lots and the density, needs to be looked at. That is a true solution that can help inside of Omaha, outside of Omaha, Sarpy and Lincoln. Thank you.

**HUNT:** Thank you. Could you spell your name for the record right away?

**JASON THIELLEN:** Oh, I'm sorry, yes. J-a-s-o-n T, as in Tom, h-i-e-l-l-e-n.

**HUNT:** Thank you so much. Any questions from the committee? Seeing none, thank you for your testimony today.

**JASON THIELLEN:** Thank you.

**HUNT:** Next opponent for LB168. Welcome.

**MARK STURSMAS:** Thank you. I had a written statement prepared but in interest of time, I'll try to paraphrase. My name is Mark Stursma. That's spelled M-a-r-k S-t-u-r-s-m-a. I'm currently the planning director of the City of Papillion, a position I've held for 16 years. And I've been working as a city planner for over 25 years. And I'm here today representing the United Cities of Sarpy, that is the city



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of Bellevue, Papillion, La Vista, Gretna, and Springfield. And we are respectfully in opposition to LB168. Again, I have handed out-- two handouts, actually. One of my written comments in my representation of United Cities of Sarpy. Invite you to read that at your leisure. I've also handed out the written testimony that I gave at the LR398 hearing a couple of years ago that Senator Wayne had mentioned. We use SIDs for-- for all kinds of development, residential, commercial and industrial. It's a very important tool. And other than the management of debt, the processing in rules for regulating SID development is exactly the same as development not funded by SID financing. The same comprehensive planning, platting, zoning, and building codes apply. So the consequences of eliminating SID financing as a development tool would include, economic development activity would significantly be hindered in Sarpy County. Only a few large, well-funded developers would be capable of financing new development projects. Private development would no longer be able to fully control its own construction schedules. And city services would need to be expanded to manage and possibly be responsible for construction of all public infrastructure. SID financing has been used to great effect by all the cities in Sarpy County. In addition to reducing the financial risk to cities, as Mr. Hoins had mentioned, SID financing also provides the following benefits. It opens the door to more development activity because less private capital is needed for development to be funded, which lowers the financial bar for entry as a developer. In so doing, a more diverse pool of developers are empowered to do development projects. It allows the SID to be lead agent on the construction of public improvements rather than the city. As such the SID is in control of the schedule of construction of both public and private improvements, which facilitates better coordination and efficiency. And by allowing each SID to be responsible for construction of its own public improvements, city staffing does not need to be increased to handle unpredictable-- unpredictable peaks in demand for services, reducing the need for expanding government services. In other words, cities review and regulate and the cities manage the construction of those improvements. For these reasons and more, we respectfully ask that you not advance LB168. And with that, I would be happy to answer any questions that you have.

**HUNT:** Thank you, Mr. Stursma. Senator Blood.

**BLOOD:** Thank you, Senator Hunt. How are you today, Mark?

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**MARK STURSMAS:** Good. Warm for now.

**BLOOD:** Yeah. Stay in this room and you'll stay warm. So did you hear my question earlier about the missing middle?

**MARK STURSMAS:** Yes, I did.

**BLOOD:** Can-- I'm going to take this off so you can hear. So can you address that a little bit? Because I actually forwarded my email from Mayor Black to Senator Wayne, who unfortunately is not here to hear this, on January 19th. Can you talk about that a little bit? Because I think that there-- there is a misunderstanding that municipalities, and again, I can only speak for Sarpy County, are acutely aware of middle-class and lower income housing. And isn't it correct that Papillion has a plan for middle-class housing and to address the affordability issue?

**MARK STURSMAS:** So, broadly, I would say we would welcome and criticism for maybe not providing incentives or not requiring affordable housing. If the finger is to be pointed at a city, that's fair. To-- to point the finger at SID financing, I think would be like saying that we're not getting the retail that we want in a TIF district, so we're going to take away TIF financing. It's-- it's a-- it's a financial tool. The regulation by cities remains the same, whether it's in an SID or not. Missing middle housing is-- has been a hot topic of discussion the last few years, in particular in response to the legislation that was passed last year, which I think is-- is good to put a spotlight on the need for multiple types of housing. We need more diversity. We need more affordability. And I think you'll-- you'll see that I know the cities in Sarpy County. I can definitely speak for Papillion. You know, we're-- we've grown to the point where we recognize that we need to diversify our housing. We need more affordability. We think SID financing is an important tool to help us accomplish that goal. If you take away that tool, we know development will be more difficult. We know that the city will have to ramp up its responsibility and its resources and its services to-- to-- to take up what was taken away from the private developer and from, you know, through the SIDs. One-- one caution with missing middle housing is that it's-- it's a term that gets used that has multiple definitions. As we look at it, it's not just the number of units or attached units. It's-- it's a concept of housing that achieves a desirable

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neighborhood. It's walkable, that is mixed in with other types of housing. It's not strictly duplexes or triplexes even though as an infill, those are an important part of missing middle housing. I don't know if that answers your question.

**BLOOD:** So for clarification, because I'm not sure I'm getting where I want to be here on this. You guys-- you guys have an understanding that you need to do better when it comes to affordable housing and you're working on a plan for that as part of your strategic planning and is that correct?

**MARK STURSMAS:** Correct. We-- we are in the process of updating our comprehensive plan. We have held some missing middle housing workshops with our planning commission and with our city council. We are actively working on updating our regulations to make missing middle housing easier. The bill that was approved last year requires us to allow missing middle housing in all of our zoning districts. We already do.

**BLOOD:** Right.

**MARK STURSMAS:** So I would say that the market has a strong impact on what gets built. So in terms of a city affecting development, we have to create incentives. We have to make sure we don't have a moving target on what we will improve as a city. We need to make sure developers know that we want that type of development. Those are the steps that we're taking as a city today. I just-- I will tell you my-- my experience, my opinion as a city planner, working with development inside and outside the city limits, I can't see how taking away the SID financing tool will help facilitate affordable housing. I think that actually will undermine our ability to achieve more affordability and more diversity in our housing.

**BLOOD:** And representing the cities of Sarpy County today, it's usually Joe Covought here, isn't it, that does that?

**MARK STURSMAS:** He said he was-- he was watching on the monitor.

**BLOOD:** All right. He probably didn't want to go out in the cold. So, sorry, just said that because I knew he was watching. So would it be your impression and again, I can only talk about Sarpy County, I don't

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know what the heck goes on in Douglas County, but other municipalities are also working on this already and acutely aware that this is an issue in Sarpy County.

**MARK STURMSMA:** Yeah, and again, I think that the bill that was approved last year is-- is putting a spotlight on missing middle housing and its role in creating more affordable options in housing. And, you know, I will tell you the conversations that I've had with my peers in other cities is, let's use that as an impetus for change, not just meeting the technical requirements, which, you know, we could argue the merits of that. We know we have to do reporting and we know we have to make sure that our regulations allow more diversity, the missing middle housing type, that doesn't necessarily cause it to be developed. Those are the things that we're working together on, as I mentioned, making sure it's clear in our plans what we want and what we will allow, making sure we don't have, you know, hurdles with our regulations for that type of housing. And actually, if it becomes necessary, creating incentives. You know, to take SID financing away as a tool, limits our ability to support missing middle housing. I'll give you an example. You know, we'll take retail development, for example. Everybody loves retail. We have now learned that retail is great but you need to have housing types for all people to have people who work in that industry. So-- so those are your lessons learned. With retail development, we have often had an annexation agreement. So the SID funding is for the infrastructure, that development up front. And then we set a target essentially where when you meet this target, the city annexes. And so if there's a-- and if we have a stated goal of more affordable housing, we can use SID financing as a tool to help the development community build that, we can agree to annex maybe before we would normally as-- as an incentive, as a way to help fund that project. But again, you're not putting the-- the risk of new development on the existing residents of the community. You're there-- as with anything, there are pros and cons and there are some inefficiencies in SID financing. I don't know that they would be any different if a city was managing that, the same construction of infrastructure. You know, we would probably not be perfectly efficient either, just being honest.

**BLOOD:** Thank you.

**HUNT:** Thank you. Any other questions? Senator Arch.

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**ARCH:** Thank you. Thank you for coming from Legislative District 14, and others around that area. I-- I-- I have a similar question. I want to pose it a little bit differently, and that is, you know, the effect of the SID on middle income, that's what our middle-- middle affordable housing. And-- and it sounds as though you're saying they're not antithetical, that they don't-- they don't oppose each other, but-- but they can-- they can exist together. I guess, I just-- if effective of SID on-- on finding that affordable housing and maybe in that definition as well. As I drive around our area, I see, I mean, remarkable explosion of apartment of buildings that are going up in the area. Not that that's the definition, but maybe help us understand what you mean by affordable and what kind of effect SIDs have on affordable.

**MARK STURSMAN:** Yeah. Yeah, you know, I think I'll go back to as a city, we're-- we're-- we've been growing very rapidly. And, you know, if you go back 16 years ago when I started working for the City of Papillion, it was a completely different city, much, much smaller. And-- and I would say maybe a different view of itself, you know, trying to manage the development that was coming our way. It was kind of our-- our place geographically in the market, our-- our niche, so to speak, was we had a great park system, that we invested in parks. We're getting a lot of really nice single family housing. As we've grown, we recognized we have a responsibility as a standalone city, not just as a niche market within a metro area, to provide more housing options for residents, to be more balanced. We need housing to have the retail development that we want. We have grown to where we have a lot of industrial and office development. We need to provide more diversity in our housing options. So again, I would say point the finger at the cities. We need to be clear what we want, what we will allow, what we will support, and possibly create incentives for. You know that-- that is a valid, I think, debate that we need to have to say that SID financing is-- is a cause for not getting that type of housing. Again, my experience is that that is not a valid concern. In terms of what you've been seeing in the City of Papillion, you're seeing a recognition that, yeah, we need more diversity. You're also seeing even as a result of the SID financing tool, you need more density. You need a stronger tax base to support the increased costs that were mentioned by Mr. Thiellen. Not only have just the construction cost, the bricks and mortar prices and materials and labor gone up, the

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price of land has gone up. Government added-on-fees have gone up, stormwater fees, or church street improvement fees, development fees. So those are all costs that need to get worked into-- into the price of building new houses, whatever type of houses they may be. Developers say all the time, we would love to build a \$150,000 house. We could sell them all day long. It's not that there isn't a market there, but we-- again, I'll point the finger at myself. We sometimes make it difficult through our regulations. Our regulations need to evolve with the market. So we have been changing our regulations. We have been changing our stance on housing. You've seen-- you can see the difference in Papillion with more apartments getting built. Some-- you know, now a new missing middle product being built. We're trying to incorporate and make it easier to allow or even encourage diversity in the housing types in our SID development. The value of SIDs is that they-- they have economies of scale. Through an SID you can do a much larger development, I would argue, than a private developer could on their own without that tool.

**ARCH:** I'm assuming, as you look at Papillion, the recognition and-- and it really struck me when-- when the Amazon project was announced out there at Highway 50 and Highway 370 and-- and the thousands of employees needed and-- and it-- that without the development of middle income, you stand the-- you stand the risk of simply becoming a better community, right? I mean, is that-- is that-- is that the result of that where if there is no-- if you will not be able to attract, you will not be the jobs and the-- and the diversity of jobs and that in the community, is that-- is that true?

**MARK STURMSMA:** Yeah, well, and I think that the expansion of the city and the growth of commercial and now lots of industrial and other commercial type uses has caused our perception of ourselves. When I say we, I mean our city as a whole, our leadership to move beyond, you know, kind of traditional, even though we hated to admit it. We were viewed as a bedroom community. As we've grown, we've realized we need to be more than that. It's not just that we are more than that, we need to embrace that we are and therefore support more diversity in our housing.

**ARCH:** Thank you.

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**HUNT:** Thank you, Senator Arch. Any other questions? Seeing none, thank you for your testimony today.

**MARK STURSMAN:** Thank you.

**HUNT:** Next opponent for LB168. Welcome.

**DAVID FANSLAU:** Thank you for your time. Chairman absent, and members of the committee, I'm Dave Fanslau, D-a-v-i-d F-a-n-s-l-a-u, and I am the director of planning for the City of Omaha. A lot has been said that was in my original notes and like some of the speakers that have come later, I'll probably not read verbatim from what I wrote down, but expand on what I was going to say and then what others have already said. So, obviously, I'm here in opposition to this bill or this LB168. You know, often I hear throughout my career that cities, especially Omaha, should have more tools in our toolbox to help developments, to spur development and to get the kind of development that we talk about in our Master Plan and that we see in our community. I guess I don't see a reason why we would take an SID tool away out of our toolbox when as been stated earlier, and I think everybody knows, we have a limited amount of tools in that toolbox to aid development and to-- to build our city. Our Master Plan talks about a number of things, but when it comes to housing, it talks about providing housing for-- all types of housing for all types of people. Not everybody wants to live in a single family residential house and not everybody wants to live in an apartment. We're going to talk about missing middle now and probably for a while going forward. So there's-- there's a range of that type of housing. But unlike-- unlike Papillion, Omaha has been around, it's bigger. We have that diversity. We have single family homes, not just in the suburbs. We have a mix of apartments. We have townhomes, row homes attached homes, duplexes. We have-- we have everything we need. We just need more of it, in my opinion. The City of Omaha is in a unique position. Our growth-- our growth area for all of you who aren't familiar with Omaha, our growth areas to our west, basically, we are-- we are hemmed in by the Missouri River-- Missouri River on the east, Sarpy County, which we cannot develop in, to the south, same goes in the north we're-- we're-- we're we're limited by-- we border Washington County. And then we talk about out west. We do have a natural growth boundary in our western area, and that is the Elkhorn River Valley. So everything that we develop at urban densities today is on the east side of that

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Elkhorn River Valley, which is the Papillion Watershed. So we have-- you know, a number of years ago I did a study and we had about 30 or 40 years left at that time to develop at urban densities. So I guess the point I'm getting at is as a city planner and as a director of the planning department, it's my job to manage our growth and how we grow, and we only have a certain amount of space left to grow in. So I think we need to be very thoughtful and very purpose-driven when we think about developing. But going back to what the Master Plan says, we need to provide different types of housing for different types of people. The SID is one of those tools that we use to provide the housing that-- what you heard today is-- is market-- is on the market, is what the market will bear, is what the market wants. So my city is obviously in opposition to this proposed legislation. I've heard throughout my career that government isn't very transparent and that decisions get made in conference rooms and not in the public. That is not true in the City of Omaha. Any major development that happens in my jurisdiction, in Omaha's jurisdiction, starts with a meeting most likely on my floor that, say, a developer and his team comes in to talk to my team about a proposed development. My-- my team consists of planners, obviously engineers. So we all get together around a table. We decide. They tell us what they want to do. We tell them how it might be or might not be Master Plan compliant. One thing we-- one thing we do is we make sure that we let the developer know that they need to reach out to the neighbors in the area. There are council people, everybody who might be involved in the development. So I think that's very advantageous because we're not working in a box. We're not working all alone. There are plenty of opportunities for people to--

**HUNT:** I'll just ask you to wrap up.

**DAVID FANSLAU:** Oh, sorry. Gee, that was quick. So I'm off-- off cue here because I didn't go off my notes. There's a lot of involvement, there's a lot of public participation. We have neighborhood meetings. We have a city planner, city planning boards, we have city council meetings that folks can come talk about any kind of development. The-- I guess to wrap up, the SIDs were-- are put into place so we can manage our growth so we can take advantage of the-- the infrastructure. We don't-- to touch on annexation, real quick, maybe somebody else is going to do that. City of Omaha goes through a very methodical process when we annex SIDs. SIDs are set up to be temporary. When we annex them, we make sure that they're net revenue



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positive and that no tax dollars, the existing city of Omaha residents will go up if we annex those areas.

**HUNT:** Thank you so much for testimony.

**DAVID FANSLAU:** Sure, yep.

**HUNT:** Any questions from the committee? Senator Blood.

**BLOOD:** Thank you, Vice Chair Hunt. Just a quick question. So there seems to be a lot of concerns out of Senator Wayne's office in reference to people not wanting to work with him, especially in the Omaha area when it comes to affordable housing. How would you address that and how could you make that better, briefly?

**DAVID FANSLAU:** Well, I can't speak for anyone else but myself and we, in my department, but we are more than willing to work with Senator Wayne and anybody else who wants to talk about affordable housing and the tools that can make that easier in our jurisdiction.

**BLOOD:** Have you done so before?

**DAVID FANSLAU:** Yeah, we've done some things. We've-- we-- somebody-- one of the other speakers talked about density. We've taken a conservative effort to increase density in our jurisdiction. And again, we put the tools, we put the-- we put the plans out there, we put the tools out there and hopefully developers will take advantage of them. So along our state highways in our jurisdiction we have, which is 204 Street, Center, Dodge and Maple, we've allowed just recently since last July, unlimited multifamily housing within a quarter mile of those transportation corridors, because that's how our city is built is along, and most cities are along transportation corridors. So along those corridors, quarter mile north and south, east or west, many of the apartments as you can fit, as long as you can meet code and all that stuff. Our Master Plan is also set up to concentrate uses together. So you heard earlier that, you know, you don't want to build uses away from each other and then become a bedroom community. Well, we don't on a micro level, we don't want that to happen in Omaha either. So we try to encourage different uses to be grouped together. So the retail and the office with housing right next to it, so people can live close to where they work. And this is not in

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Downtown, Midtown, or Blackstone, but it's out west too. And so our plan is set up to do that and I think it works very well.

**BLOOD:** Thank you.

**DAVID FANSLAU:** You're welcome.

**HUNT:** Thank you. Any other questions? Seeing none, thanks for your testimony today.

**DAVID FANSLAU:** You bet. Thanks.

**HUNT:** Next opponent for LB168. Welcome.

**BRIAN NEWTON:** Thank you. My name is Brian Newton, B-r-i-a-n N-e-w-t-o-n. I'm the city administrator of the City of Fremont and I'm in opposition to LB168. So I'll deviate from what I'm handing out because I, too, want to talk a little bit about our experience with SIDs. SIDs are just not a tool in Omaha. SIDs are used across the state. Fremont is growing, growing drastically. We've got a Costco, Hearthstone is doubling. We've seen a thousand new jobs come to Fremont. We're likely to see another thousand new jobs come to Fremont. Housing is not following. Housing is not coming. We beg for housing in Fremont. SIDs are a valuable tool. Recently, after-- after Costco and Hearthstone came, we've met with a couple of developers, both developing inside and outside the City of Fremont. And we explained to them and Fremont historically has not had a lot of housing development. And so this is relatively new because Fremont hadn't grown for many years. And so when we met with the developers, we asked them, we can annex you or you could set up an SID. And Fremont only has two SIDs currently, and now we've added two more. And by the time we get done meeting with the developers, the bottom of the line is, is absolutely is a transfer risk. Absolutely is it a financing tool and both new subdivisions are SID simply because they can build more infrastructure. They can put in more lots. They can develop more using the SID financing than they could if we annexed them and put them in the City of Fremont. Fremont is certainly not a bedroom community by no means. We're far enough away, we're not a bedroom community. Fifty percent of our city employees live in Omaha and drive to Fremont. Why is that? Because we don't have affordable housing in Fremont. These two SIDs that recently moved into Fremont

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are building affordable housing. Gallery 23 and Bluestem. Gallery 23 is a mixed use neighborhood. They're doing some commercial, they're doing residential lots. They're doing apartments. They're doing townhouses. They're doing things that we believe will actually make people will be able to afford houses and live in Fremont. Bluestem is even more affordable. They're doing apartment buildings, they're doing row houses, they're doing single family. They are doing things that we've not seen in Fremont. We've not ever seen this kind of development in Fremont. OK. SIDs, in my opinion, SIDs are the tool that is going to get us-- finally to get some housing in Fremont to keep up with the job growth that we're seeing. And I ask the committee certainly to not-- not move this bill forward is that because this is certainly a benefit not only for Omaha, you've heard that, but it certainly is a benefit for Fremont. And with that, I'd be happy to take any questions.

**HUNT:** Thank you so much for your testimony. I'll turn it back over to Chairman Wayne.

**WAYNE:** Thank you. Any questions from the committee?

**BRIAN NEWTON:** I thought you were going to ask me about the missing mill or infills. We have infill problems in Fremont.

**WAYNE:** I am aware. I have some people up there I know very well.

**BRIAN NEWTON:** Yeah, and the problem we've had is nonconforming lots. So even if you could build a house, it's not going to be conforming

**WAYNE:** Correct.

**BRIAN NEWTON:** The house you're going to build on it is going to be very unique. It may not even fit in the neighborhood. It might be overpriced and so, it's a tough nut to crack. I don't know how we crack infills, I really don't.

**WAYNE:** Now, and I'm not going to go through too long on it but the issue is, there's a reason why SIDs work and why they-- why developers want them and it's because of the benefit and we don't have that same benefit for infills.

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**BRIAN NEWTON:** For infills. I totally agree. I wish we did, nor do we-- we don't use TIF for residential either so we don't use TIF at all in Fremont for infills or for housing.

**WAYNE:** We just kicked out a bill today for you. Extremely blight and not to count towards your substandard and blighted, so.

**BRIAN NEWTON:** Hopefully that extremely blight is going to go through because we've got perfect example for that.

**WAYNE:** Yeah, we-- we just kicked it out for you today so it'll be on the floor.

**BRIAN NEWTON:** Awesome. Thank you very much.

**WAYNE:** Any other questions from the committee? Seeing none, thank you.

**BRIAN NEWTON:** All right.

**WAYNE:** You are out of here first.

**BRIAN NEWTON:** Thanks.

**WAYNE:** Are we on proponents? We had a whole bunch of proponents, oh, these are all opponents, though. Geez. Sorry, Hansen. Any more opponents? Welcome to your Urban Affairs Committee.

**STEPHEN CURTISS:** Good afternoon, Senators, and Senator Wayne. I am Steve Curtiss, spelled S-t-e-p-h-e-n, Curtiss is C-u-r-t-i-s-s. I'm the finance director for the City of Omaha. Like everyone before me, I think I'll probably divert pretty much from the testimony I was going to give, but I know I think a lot of conversation was had today about the missing middle and low income and affordable housing. And I think we'd all agree that in a city like Omaha and some of our other cities, we probably are missing that, but I don't know that getting into the SID mechanism really helps with that problem but we could all certainly have that conversation. Some of the misconceptions that we had, and Senator, while you were gone, there were a lot of people that were in opponents. And I don't know how much of that you were able to hear from where you were. But some of the misconceptions we talked about is do the-- do the financial risks of an SID get transferred to the city? And the actual answer is no. It stays with the SID until

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annexation. You know, are there development risks that get transferred to the city? And again, it's no, it stays with the SID until it's substantially developed and then it comes in. Are these things an open checkbook for developers? And again, the answer within the EJT, which for us is three miles, and I think for most people that is the answer, again, is no, because we have a lot of say as the city in what the SID can and can't do. And then do the taxpayers end up with the debt? And again, no, because they're usually not annexed until they are revenue neutral or positive. As we talked about a little bit, there are a lot of analysis that goes on for both the infrastructure and the financial condition before we'll even consider an annexation. And we'll also look at all the infrastructure needs, finances and ultimately the costs of city services for those SIDs to be annexed to make sure that it's revenue positive for the city. So we'll only come in as a resid-- as a revenue positive for the city in all. And I guess lastly, I'd have you consider this. If SIDs add to the housing stock of the Omaha area, and as we all know when supply outpaces demand, housing options increase and prices fall. I believe LB168 could constrict housing development, which isn't going to help us much with our low income and missing middle properties, but it will actually just limit housing options for other residents and increase housing costs. So, I would say that, again, we need to consider other ways, other mechanism, maybe more tools that we could use to figure out how to do the missing middle and low income housing. But again, I would suggest that the lack of the SID tool probably isn't going to help that problem. And with that, I'd be happy to take questions,

**WAYNE:** Any questions from the committee? Seeing none, thank you for being here today. Well, actually, I do have a question. When you do your analysis on the cost benefit analysis, is that part of the city council's agenda, the actual table?

**STEPHEN CURTISS:** While the city council, I believe, would be welcome to that, we do present them with the total model and show them all the cost, so I guess, in essence, yes. They get a spreadsheet that shows them all the costs over a 1-year and a 10-year period so they could see the debt and the payoffs.

**WAYNE:** Is that attached to their agenda, though, so the public can see?

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**STEPHEN CURTISS:** I would probably defer to the finance or to the planning director. I believe that could be available.

**WAYNE:** I just wondered. Thank you,

**STEPHEN CURTISS:** But we may be to able to get that for you.

**WAYNE:** OK. Thank you. Any other questions? Thank you for being here.

**STEPHEN CURTISS:** Thank you.

**WAYNE:** Next opponent. Lynn, he's offering, if you want to go.

**LYNN REX:** No, go ahead. That's fine.

**LARRY JOBEUN:** Thank you, Chair, members of the committee, Larry Jobeun, L-a-r-r-y J-o-b-e-u-n. I think I just really wanted to fill some gaps and maybe just be here for questions that you might have generally about how Sanitary Improvement Districts work. I guess what I wanted to say generally, I mean, been a lot of good testimony here, but what I think needs to be understood is that these Sanitary Improvement Districts are really self-contained taxing authorities. We don't tax outside the corporate limits of the SID. So the SID really stands alone in its ability to provide public infrastructure on the interior of the development, as well as contribute to arterial roadways and collector streets outside of its corporate limits through what we call interlocal cooperation agreements between other SIDs and between cities and counties. So I would also say that SIDs really are the only taxing authority that really strives to reduce its tax levy. And the reason why we do that is because we start typically as required by the subdivision agreements to start out with the 90 cent tax levy per \$100 of valuation. Well, a city is generally about 50 cents per \$100. So there's just about that 40 percent increase, right? But our goal ultimately is to always reduce that tax levy to the point where our debt is structured in a way that the annexation makes sense. And so that's the life cycle of the SID. The SID is not really designed to operate out there in perpetuity. The idea is to reduce its debt structure to the point where it can be annexed in order-- orderly annexation is a great thing. I think other states around the country are-- look at us in envy because we have such good annexation policies, because you don't get a St. Louis where you're strapped by a

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bunch of other municipalities that are making all the money and bankrupting the-- the city itself. So SIDs play a valuable role in allowing orderly annexation. I would also say that in Omaha, Omaha and the metropolitan area, meaning Sarpy County, there is substantially more development going on there than there is in Council Bluffs and Lincoln combined, I think last year on average there was about 2,500 to 3,000 single family building permits issued on an annual basis. That's a lot. And that simply wouldn't happen without the use of Sanitary Improvement Districts. You know, and you're talking about really one of the bright spots in the economy right now is this kind of development. You're talking about probably a billion dollars of-- of investment annually through, you know, jobs, job creation through-- and that's building infrastructure, that's grading the subdivisions, that's building the houses that are in them. I mean, you're talking about a substantial impact to the state's financial condition, if you ask me, because these things generate a lot of jobs and the ability to create value. Also, SIDs are used and I don't know if this came up, but-- but we talked about SIDs and their participation with the various cities. Well, SIDs participate by paying community park fees and trail fees. We pay interceptor outfall sewer fees, which allows the sewer extended to-- sewers to extend beyond the SIDs boundaries to help other developments in the future develop. We do, in Omaha, there's arterial street improvement program that provides through the building permit process contributions towards arterial street systems to make sure that the city is growing. And we're maintaining the public improvements and public infrastructure on the arterials and the collectors as well as the interior. We currently have, and Mr. Hoins didn't get into this yet, but-- or couldn't get into it with his time, but we have a south Sarpy sanitary project, sewer project that is going to create a way to even drain more sanitary sewer into the Omaha system, which opens up-- don't quote me on this, but could be 40,000 some acres of developable land. The SIDs are instrumental in allowing these things to occur. I'd also say that there are some developers, I know that Denny Van Moorlegem and Jerry Standerford testified they build a little higher end. There are celebrity homes, for example, legacy homes, for example. They'll build a little lower end house, which was probably around the \$200,000, \$225,000 range. But that's about-- that's about the least expensive house that you can do right now, just with all the costs that are involved. And, you know, you always have site regulators that we can talk about. But I guess the

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bottom line is, I think the development community is more than willing to talk about incentives and economic tools to help provide for affordable housing. That's in our interest. That's in your interest. That's in Nebraska's interest and, I think, you know, the way I look at Nebraska and I've been here my whole life, I look at Nebraska as we compete with every other state around us and we need more economic development tools to compete to get business, industry and-- into the state. And the only way to also do that is to have the housing, as the gentleman from Fremont talked about with all their work force housing that they have with the Costco plant, you have to have the ability to meet those housing needs. I look at Kearney, Grand Island, and some of those other cities that I think could use SIDs in their growth, and especially as they continue to maybe get more business and industry in their communities. So with that I'm happy to answer any questions but I thought I wanted to fill a couple of gaps in here for any questions that you might have,

**WAYNE:** Any questions from the committee? So right now, under state law, could the city demand that part of the SID have affordable housing, X-number of houses?

**LARRY JOBEUN:** Right now, no, that's not in the law. I mean, I suppose they could through a subdivision agreement of some sort, but that's currently not being done.

**WAYNE:** So, essentially the cities have no control over the SID when it comes to demanding affordable housing.

**LARRY JOBEUN:** No, because the way our statutory structure works with respect to zoning, all governing jurisdictions or cities have to have a master plan or a comprehensive development plan because zoning has to follow that comprehensive development plan. And so I don't think there's anything currently in any comprehensive development plan or master plan that I've seen that would require some kind of a set aside for affordable housing. I'm not sure that-- that the law really provides for that. I've never researched it. But-- but it gets to the economics of the deal as well. Right now-- I say this all the time, this happens infill wise. You know, the number of regulations that are impacting development right now is, they're great. I mean, you know, we have post-construction, stormwater management where we have to have dry detention basins. We have this new concept of a 3-to-1 plus 50



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slope along our waterways, which-- which takes away, I think Mr. Thiellen talked about this, it takes away our developable ground and our ability to really utilize the ground in a way that makes economic sense for the developer to take that on, given the risk that's associated with these developments. So there are things to work on and there's things to talk about, and I think the development community is open to that, so.

**WAYNE:** Last-- I think last year I did a bill-- it was last year to waive regulations if affordable housing was included and nobody from the business community or development community was down here in support. And that was exactly what you just-- what you just said. So I'm kind of lost on what I'm supposed to do as Chairman of Urban Affairs and affordable housing is one of our big issues when the League and the city, every city-- every city came down here opposed to that because we were taking away local control, but you're telling me that's what we need to do. But we did that and nobody from the business side supported it. So I'm in a catch-22 where nobody wants to come up with the answer for affordable housing.

**LARRY JOBEUN:** Yeah, and I'm not sure I wasn't-- not invited to that discussion, but--

**WAYNE:** You weren't invited to this one but you showed up anyway.  
[LAUGHTER]

**LARRY JOBEUN:** Well, that was kind of through the Eastern Nebraska Development Council, and what we do, our clients ask us to be a part of this.

**WAYNE:** No, I mean, we talk offline. I mean, we-- I'm giving you grief a little bit, because--

**LARRY JOBEUN:** I know.

**WAYNE:** --I'm still trying to solve this issue--

**LARRY JOBEUN:** I know.

**WAYNE:** --for our community. So if cities can't control it, and I guess the reason why I'm saying that is because part of what we fought with the cities on and municipalities is, we are trying to modernize their

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community development plans, their overall planning, their codes. We-- we've been modernizing. But when I look back at the history of SID, we really haven't modernized any of those statutes. They're pretty much all the same. We add things like build levees and lakes and docks for the benefit of the SID, but we haven't added anything to benefit the homebuilder or the person in the community.

**LARRY JOBEUN:** What I would say about that, and I kind of describe it this way, I mean, the SID world is a pretty good ecosystem. There are a lot of checks and balances. There's a lot of people that-- that review the process. We've got, you know, we've got bond council that reviews our debt that we issue to make sure it follows all the state and federal laws for its tax exempt status. We've got engineers that are making sure the street systems are putting in-- being put in and constructed in accordance with the plans and specifications. We have the cities that make sure that we're putting in the streets and sewers and utilities in accordance with the plans and specifications that-- that they require. We-- you know, it's-- I have a lot of out-of-state developers as well that come to Nebraska and they-- they look at me first, and don't understand SIDs because they don't have them in their state and they kind of say, oh, those things-- that seems a little strange, you know. When it's all said and done, every single one of them says, I can't believe we don't have those in our state. I wish we did because it provides flexibility of the developer and the development. It puts the risk on the development and the developer. It really takes it outside for the cities, from the city's perspective, it takes it outside their books or off their ledger, as far as the infrastructure. I mean, these are-- these are big developers that come in and say, wow, I wish we had this tool in our state. I think there's other tools that we need in addition to TIF and your own business occupation taxes in Sanitary Improvement Districts. Yeah, I don't think we have enough tools and I wish there was a way to talk about those because I think those incentives and/or economic tools are what answers your question. And I don't know, and that is probably more of a state Legislature issue than it is more of a local one or a development community one. But I think we'd be happy to discuss how, you know, those legislative bills could be put into place. I don't know if you look at other states and the things that they have around us, but, you know, I've done a little bit of work in Missouri, for example, and they have an incredible number of economic incentives and

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development tools to use. So I don't know what the answer is, but I know that eliminating SIDs is not the answer. I think there's other more viable ways to provide for affordable housing, and--

**WAYNE:** But other states don't have SIDs and they seem to be able to build housing.

**LARRY JOBEUN:** No, but they wish they had them. You know, I'm not that familiar with the Iowa SID, but it never really came off the ground because my understanding is they didn't have it structured in a way that made their debt viable to purchase, if you will. So there were some mistakes in their legislation that didn't really take-- have the SIDs take off. But they had some, a similar type concept, but it didn't really work. This has been legis-- in legislation in Nebraska since 1947. I mean, the whole history of it was designed to take care of the GIs when they came back from World War II because they didn't think the municipalities in Nebraska could get ahead of the housing needs when the GIs came back. That's the history of Sanitary Improvement Districts and they cast that idol and really didn't do anything until probably the '70s when they really started kicking in and being utilized. And it's being utilized, I think effectively and successfully ever since.

**WAYNE:** Yeah, but they are also been utilized to keep out people too and I don't think we can-- I don't think we'll disagree on that. So my question is, I think you would agree and it's the assumption that it's an uneven playing field when it comes to home building inside city limits versus SID. And you're down here and you represent many people because they're in the business of making money or they wouldn't be doing it. They'll still be a nonprofit, but they're in the business of making money and they can make money under the SID.

**LARRY JOBEUN:** But I do a lot of infill developments as well. I mean, I did the riverfront condominiums, the Paxton condominiums. I've done all sorts of development. We're doing the multifamily and the Conagra riverfront. I mean, I've done many, many infill projects.

**WAYNE:** So then you agree we don't need SIDs?

**LARRY JOBEUN:** Well, no, of course we do, because they fill two different. There's greenfield development and there's infill

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development. You got to serve the needs of both. I mean, people-- not all people want to live in the urban community in downtown Omaha. And obviously not all people want to live out in the suburbs. So, I mean, but the idea of a metropolitan city is to provide for housing in both contexts.

**WAYNE:** So my last question is, if we provided just the same incentive as you would get underneath TIF, would SIDs be a valuable option for developers? If we provide the exact same incentives for infill development as SIDs as outside of city limits, creating an equal playing field, would it be- would SIDs still exist?

**LARRY JOBEUN:** Oh, I think they would because there's a demand for both. There's a demand for people that want to live infill, and there's-- you know, there was a time when there was a mayor in the City of Omaha that actually talked one time about, is there a way that we could ever have SIDs within the city? You know, I think the problem is there, is that you would have a tax on a tax. Now, I said maybe there-- it would work if the city could give up a portion of its tax within that corporate district.

**WAYNE:** Yeah.

**LARRY JOBEUN:** I mean, there's all sorts of things to talk about.

**WAYNE:** OK, well, we'll talk offline.

**LARRY JOBEUN:** But, you know, I think that the answer is not the abolishment of SIDs, I think the answer is let's talk about really creative ways to make these types of vehicles viable inside the corporate limits of cities such as Omaha.

**WAYNE:** Appreciate it. Any other questions? Seeing none, thank you for being here today.

**LARRY JOBEUN:** Thank you.

**WAYNE:** Next opponent. Welcome back to your Urban Affairs Committee.

**LYNN REX:** Thank you. Senator Wayne, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities and we're here today respectfully opposing LB168. With

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that, I did want to just underscore a few points. I think that what the city administrator of Fremont brought to you today is really important and talks about the viability of SIDs today. I think, in terms of providing missing middle housing, affordable housing, Kearney, I think, has one or two, if not more SIDs. It's a very valuable tool and it is relevant today. And I think Fremont underscores that. It's relevant in Omaha and certainly relevant in Douglas and Sarpy Counties. And there was a history in terms of how other areas grow and why they choose certain mechanisms than others, but I do want to underscore for you, too, that the loss on SIDs have changed dramatically over the years. This committee, when the Chair was Senator George Fenger, retained John Cavanaugh to basically rewrite the statutes. I think John was with Kutak Rock at that point. Maybe he still is, but to rewrite all the statutes involving SIDs and tighten them up dramatically, and that did happen. And, of course, SIDs laws have changed over the years and they need to be improved. So what I can just say to you is that where we are today is we have a very viable tool here with Sanitary Improvement District laws and how they operate throughout the state. I think what Steve Curtiss said is also really important to underscore, which is that there's no question that the need for missing middle is important. I think the legislation last year has underscored that and municipalities continue working on that. Some cities never called it missing middle before. They just call it affordable housing. Some of you may remember when the Nebraska Bankers Association did a study, I think three years ago, and affordable housing was the number one issue that they found across the state of Nebraska that needed to be addressed. Missing middle certainly is part of that. And Senator Wayne, I wish I had the answer for you for infill. I think it's something that does need to be addressed in a way in which to do that effectively. I don't think it's waiving municipal requirements, but I think there are things that could be addressed and should be considered and maybe that's something for this committee to really focus on, the infill issue itself. But I think in terms of Sanitary Improvement Districts, this law is working well. It's important and it is fundamentally one of the most important tools that we can have for growing what become municipalities across the state. La Vista started as an SID. With that, I'm happy to respond to any questions that you might have.

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**WAYNE:** Any questions from the committee? Seeing none, thank you for being here.

**LYNN REX:** Thank you very much. Really appreciate it. Happy to work with the committee as always.

**WAYNE:** Any other opponents? Anybody testifying-- one more time, any other opponents? Anybody testifying in a neutral capacity? Senator Hansen, you're welcome to close.

**M. HANSEN:** Thank you, Chairman Wayne, and thank you, members of the committee, and thank you to all of the testifiers we had today. Kind of a variety of different things to hit in closing. First, kind of the concept, I think it was framed today that if-- if-- if SIDs didn't exist, there'd be no other way to finance housing except bundle it all, put it in the mortgage. The other option is annex it. You know, rather than SID, you build, then annex, you get annexed and build, and that would change the financing differently. But that is what some cities that-- so cities like Lincoln heavily rely on. So it's not necessarily this-- the scenario that there was a lot of questioning that Senator Arch went on, so I wanted it brought back. Additionally, Senator Wayne, to your point of some of the bills we've worked on in the past, you know, I appreciate the cities. I appreciate that apparently the City of Papillion is really looking in at missing middle. I will tell you, proposing missing middle last year was relatively unpopular with the cities and-- and took a fair amount of time to work through what [INAUDIBLE] in kind of very watered down version. And that's part of what inspired me for this was, you know, we kept talking about who does housing policy in the state. And throughout that process, I wouldn't-- it was a different tone today in terms of how intertwined the cities and the SIDs are and how coordinated they are. The SIDs through that process kind of got a little bit of the finger pointed at them of like, well, they're the real problem, you know, don't make our cities wade into it. Which isn't to say just me hashing out sour grapes, it's that I think there's genuinely some confusion and maybe some genuine disagreement on who shapes housing policy in the state and who should shape housing policy in the state. By eliminating SIDs, you inherently force the cities and the municipalities to run the housing policy in the state. If you eliminate these outside political subdivisions that can take on some of those duties. So that's kind of where my mindset was going. In

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terms of affordable and in terms of ideas, you know, that's what we're talking about is-- is-- I still with missing middle with all these terms and housing terms and people use different terms to mean the same concept, mean different concept. I don't-- when I talk about affordable housing, I don't just necessarily mean a cheap single family home because not everybody is in the place to buy a home, not everybody is desiring to buy a home. As some of the testifiers indicated, you know, there's actually a huge market for cheaper, smaller, more affordable housing. It's a huge market for-- the demand is there. The supply has being choked off for whatever reason. That's burdensome regulations, if that's literally the features of the land, whatever it is. But we talk about the market reaction. You know, the market, there's definitely a supply-- demand, excuse me. There's definitely demand for all sorts of varied housing that we don't have. And that's what I'm trying to get at, because here we talk about, you know, when we talk about affordable housing, talk about a starter home, people are talking about what they could see with starter homes or affordable houses that are twice as expensive as what I bought my house for. And yes, I bought an older house. Yes, I bought it in the interior of the city. But we're talking about, you know, magnitudes of difference in terms of price and affordability. If the cheapest house you can build is a \$250,000 house with or without the SID, that's its own issue. And that's the thing we're going to have to look at because we realize that we can't just build quarter of million dollar houses forever and actually have places people can afford to live. So with that, I know I've got some interest, at least from the Committee Chair, and I'm happy to work with all stakeholders and committee members moving forward to figure out what the best solution is.

**WAYNE:** Thank you. Any questions from the-- I will tell you, briefly, I think it's more than just the Committee Chair. It's also a property tax issue, as you also heard. But I do think as we move forward on this issue, I can't continue to allow unjust system, whatever we want to call it, it's a system, and the answer can't be, well, don't hurt us, figure out a different solution to the unjust part when they're actually creating the unjust. I mean, that is what it is. And when SIDs were started in 1947, that's the same year that we decided to make sure Westside wasn't a part of Omaha Public Schools. And there were racial reasons for all of that. So to ignore that history and to ignore how SIDs were built out, particularly around Burke in areas

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that discriminated and had in their deeds that you couldn't sell to African-American, we have to deal with that. And I can't ignore that legacy and that's why hopefully you can work with the people and come to a solution or we'll just have fun. Thank you again.

**M. HANSEN:** Thank you.

**WAYNE:** We have multiple letters that I have to read, letters of support. Gloria Austereberry, A-u-s-t-e-r-b-e-r-r-y; support from Dr. Erin Feichtinger. I think Transcribers know how to spell that. She's in Judiciary all the time for a reference. Opposition: Sarpy County; opposition: City of Omaha; opposition: Greater Chamber of Omaha Commerce; opposition: CUAL Capital Corporation, S-k-u-e-h-l; opposition. Neeraj Agarwal, N-e-e-r-a-j; opposition: Herb Freeman; opposition Papiro-Missouri Natural Resources District; opposition: Mayor Jean Stothert; neutral is Palma Strand. Do you have any written testimony?

\_\_\_\_\_ : [INAUDIBLE]

**WAYNE:** Oh. Written testimony submitted: opposition, Justin Brady, Nebraska Realtors Association, Home Builders Association of Lincoln, and Omaha Metro Home Builders Association; opposition, Russell Westerhold, National Utility Contractors Association of Nebraska. They would put money in that business; opposition, Matt Schaefer, Associated General Contractors. With that, that'll close the hearing on LB168. Briese is here so I would like to quickly Exec, like five-minute Exec. So with that I'll ask the public--