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Urban Affairs Committee
January 24, 2012

[LB918 LB921 LB932]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 24, 2012, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB918, LB921, and LB932. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Brad Ashford; Tanya Cook; Bob Krist; R. Paul Lambert; and Jim Smith. Senators absent: None.

SENATOR COASH: Good afternoon. It's 1:30. I'm Colby Coash. I'm the Vice Chair of the Urban Affairs Committee. Senator McGill is going to be here shortly, but we're going to go ahead and get started without her. So if I could use this opportunity to ask you to shut off your electronic devices, and we are going to go in this order, LB918, LB921 and then LB932. If you have testified in one of those bills at that time I'll ask you to come closer to the front of the room so we can keep this moving expeditiously. And we are going to go ahead and start with Senator Cornett introducing LB918. Pardon me, I'm going to introduce the committee real quick before we let you start. To my far left this is Senator Lambert, our newest member, from Plattsmouth; Senator Smith from Papillion; Senator Cook from Omaha, and Senator Krist from Omaha as well; and this is Laurie, our legal counsel. So with that, we are going to use the light system, so pay attention to that, and we'll get started. Thank you.

SENATOR CORNETT: (Exhibit 1) Thank you very much, Senator Coash. My name is Abbie Cornett, C-o-r-n-e-t-t, and I represent the 45th Legislative District, which is the city of Bellevue. My LB918 was brought in response to a TIF study that we did this summer in regards to how much of a base was being used in tax increment financing. Now, we did the study. We were responding to a concern expressed by public schools about the impact of tax increment financing on their value growth and financial resources. We held a public hearing in Omaha at which officials, developers, and school officials all expressed their views. The bill I'm presenting today is in response to those concerns. Understand though, committee, that I'm more than willing to work on any area in the bill, and I'll explain a little bit further what some of the reasoning behind this is. Under current law, cities tax increment financing use is limited by state law Section 18-2603 and found on page 4 of this bill. Under this existing law, Nebraska's largest cities are limited to declaring 35 percent of their geographic area as blighted and using tax increment financing in this area. This could include as much as 50 percent of their current taxable value. If 30 percent of an area declared blighted includes their valuable downtown properties, under this same provision of law smaller cities may declare their entire city blighted and divert all valued growth away from schools and other governments into cities designed redevelopment projects. Diverting school, county, community college, and natural resource districts property tax dollars away from this large a portion of the tax base, using it to pay for city controlled redevelopment projects, is a concern. It is a concern expressed to us by local schools. It is also a concern to state government. I've heard numerous times over the past few years that every time a

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

Urban Affairs Committee
January 24, 2012

city TIFs a project, that increase in valuation that is foregone for up to 15 years has to be made up, or is made up in a percentage by the TEEOSA program. Our study produced an estimate that \$21 million of additional school aid must be provided from the state under the current use of the tax increment financing. It is also well-known that school, city and county bond tax rates are higher when value growth is diverted to provide a public subsidy to redevelopment projects. One developer testified in our hearing indicated that his firm and others were asked for public assistance in order to generate higher rates of return on investment in real estate, raising these rates of return from 7 percent to as high as 12 percent after receiving tax increment financing. Obviously, there are benefits to developers from this public finance just as, obviously, there are benefits to the public from using tax increment financing. These include the revitalization of downtowns with well-lighted and maintained parking garages; widen city streets; repave sidewalks that are safer to the public. There are also costs and fiscal impacts, including tax rate shifts to other taxpayers and greater state aid costs. Bearing this in mind, I have proposed a revision of the limits. The current limits on city use of tax increment financing which allow the city to finance up...financing to be used in 35 to 100 percent of tax base of the city cannot be justly described as an effective limit on their use. The bill you have in front of you proposes the use of a fiscal capacity of 7 percent of the tax base of each political subdivision impacted by the tax increment financing project. What this means is any political subdivision affected, so you have OPS as it's own subdivision, the city could not tax away more than 7 percent of that base, of OPS, or 7 percent of Westside. Seven percent is a negotiable number. It is one that my staff looked at and proposed and I said, that's our starting point for discussion. I know the city of Omaha has some significant concerns with that because OPS is already pretty much at that 7 percent. And I'm more than willing to work with the cities on this. And last year a statewide average used by cities, where we came up the 7 percent, was 3.5 as a development tool for TIF. That was the statewide average and my staff basically said, we're going to double that and say 7 percent is where you have to start the negotiation point. Allowing the city to use twice the state average amount seems fairly reasonable. But again, like I said, we're more than willing to work with the cities. My staff has done some analysis on the impact on the city...the state, cities, and school districts with particular focus on Omaha since Omaha has voiced the most concerns. I'm providing that to you today in a handout. At our hearing this fall, we were told that a majority...a major project using tax increment financing was planned for the Crossroad Shopping Center and the Westside School District. Under the bill I'm proposing today using the most current information we have on the Westside tax base, the city of Omaha would be able to develop a project of \$230 million in value. I don't know if that addresses the concerns that the school district has expressed to me, but as a result of their concerns, this bill was drafted. Finally, I would like to suggest that other policy options have been discussed with me and my staff including some limits on the use of tax increment finance imposed by...looking at what other states do. Iowa policies on tax increment financing appear to use...limit the use by prohibiting voter approved school bond tax rates or levies from being diverted to redevelopment projects. So if they pass a bond

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

Urban Affairs Committee
January 24, 2012

issue, that money is not diverted, that increase in property valuation is not diverted to the bond issue. While I did not address this option in my bill, I would definitely suggest that for a future option, and again a couple of things that really brought this about is Senator Mello and I have had a number of discussions. He has a bill on TIF also that would increase the time period of TIF from 15 to 20 years. That's another five years in...of additional for bond property tax increase, not loss, but the school district has to wait an additional five years, whichever school district it is. At what point does the school district get to have some input on what's TIFed and what isn't TIFed. It is definitely not my intention to shut TIF projects down in the state, but for them to be more inclusive for the other local, political subdivisions that are affected by the projects. And also for everyone because not everyone was aware, even with people that deal with this on a daily basis that that amount is made up then and...to a percentage out of the state aid formula. So it does...every TIF project does cost the state money at the end to bring awareness to that. So with that, I'd be happy to answer any questions. [LB918]

SENATOR COASH: Thank you, Senator Cornett. Any questions for...Senator Ashford. [LB918]

SENATOR ASHFORD: Well, the school district would have to equalize, I assume, in order to get the increased state aid, is that...? If it's not equalized, then... [LB918]

SENATOR CORNETT: Correct. Yes. [LB918]

SENATOR ASHFORD: ...but a lot of the other ones are, but at the end of the 15 years now, the value of the project goes... [LB918]

SENATOR CORNETT: Well, it goes from whatever it was set at to what it is, but there's that 15 year gap where a school district doesn't have that increase in valuation from the project. They forego that increase for the 15 years and a lot of our school districts express significant concerns in regards to money now, not 15 years from now. [LB918]

SENATOR ASHFORD: No question, except that if you're looking at Crossroads today, which is really in bad shape... [LB918]

SENATOR CORNETT: Yes, and I was going to say, I have a bill for that, so, yes. [LB918]

SENATOR ASHFORD: ...versus Crossroads 15 years from now, that's going to be a significantly higher value and then if you look back, I mean, if you look back 15 years, you're at 2,000 or 1990... [LB918]

SENATOR CORNETT: When it was...the Crossroads was seriously... [LB918]

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

Urban Affairs Committee
January 24, 2012

SENATOR ASHFORD: Well, 1995 was... [LB918]

SENATOR CORNETT: Was going very well with the mall. [LB918]

SENATOR ASHFORD: Or...well, but 1995 was 17 years ago, what are we doing, 1996? [LB918]

SENATOR CORNETT: Seventeen. [LB918]

SENATOR ASHFORD: Okay. That, you know, and if the project had been done then, today, theoretic, and I guess that's the theory of TIF. [LB918]

SENATOR CORNETT: Correct. Well, it was very interesting. We looked at a number of factors in regards to this, particularly with all the concerns raised by the Westside School District. Westside is a geographically landlocked school district. And unlike the districts around it, has seen rather a static increase in valuation while other districts around it have seen an increase in valuation. The issue is, there is no real develop...land that can be developed. All they have is the opportunity for redevelopment to grow their property tax base because they have no geographic area to grow. You have to have some type of a redevelopment project. The question is, at what point do you include the school district in a discussion in how long they forego that revenue, and particularly if you're looking to increase that to 20 years. [LB918]

SENATOR ASHFORD: Fair enough. [LB918]

SENATOR COASH: Thank you, Senator Ashford. Senator Lambert. [LB918]

SENATOR LAMBERT: As I understand TIF, I mean, we're talking about 15 and possibly 20 years. [LB918]

SENATOR CORNETT: With a constitutional amendment, yes. [LB918]

SENATOR LAMBERT: That is not a given. I mean, if the governing party wants to go 5 years, 10 years, that can be done also, is that correct? Am I...? [LB918]

SENATOR CORNETT: Yes. [LB918]

SENATOR LAMBERT: Okay. [LB918]

SENATOR CORNETT: It is, and some of the things that we've been researching and have found that a...I'm very happy that Nebraska set it up the way we have. Some states have TIF where it doesn't end. Basically, they just kept renewing the projects so they don't see that increase in valuation ever, basically. So it almost permanently

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

Urban Affairs Committee
January 24, 2012

removes it from the tax base. But, no, Nebraska set up a very good standard for TIF. I just think that at some point when you're talking these very large projects, when our school districts need to have some input in that. [LB918]

SENATOR LAMBERT: Thank you. [LB918]

SENATOR COASH: Thanks, Senator Lambert. Any other questions for Senator Cornett? Seeing none, thank you. We're going to start with proponents of LB918. Come on up. Welcome. If you could, please state and spell your name for the record. [LB918]

JACK DUNN: (Exhibits 2-4) My name is Jack Dunn, D-u-n-n. I represent the Progressive Research Institute of Nebraska. I'm going to have some materials that I could hand out to the committee. I apologize, this is my first appearance at a public hearing. So, now, I'll simply read the statement that is prepared, although I would like to thank Senator Cornett for raising this issue, which I think is of great importance. To quote from a study that was done by the Progressive Research Institute, of the 37 tax increment finance plans approved by the city of Omaha in 2008 and 2009, 30 lacked any statement or justification that the project could not proceed without TIF designation. Of those seven that did have this statement, five were mere formalities; two stated that the project would be profitable without a TIF authorization, but would be more profitable with one. The basic points of my testimony are the following: TIF is a useful tool as long as it is being used for public benefit. This is most easily seen when it is used for low-income housing, drug and alcohol rehabilitation facilities, and other nonprofit public welfare entities. TIF can be a useful tool for economic development with private, profit-making entities as well, as long as the "but-for" rule is followed. This is the rule which requires that a TIF plan produce solid evidence that this project would not be economically viable without the TIF expenditure. The senators are tasked with ensuring that the "but-for" rule is followed, otherwise there is the suspicion that the plans simply enrich select private entities at public expense. As pointed out in numerous studies, TIF is a strategy to shift costs from a developer to the rest of the taxpaying public. When the public gain is more than the cost, the TIF authorization is worthwhile. Too often the TIF plan does little other than provide extra profit for the developer while removing tax revenue from the city, the school system, etcetera. Reducing the area of a city that can be used for TIF plans as called for in this bill is a blunt, but effective tool to reduce the known harms of out-of-control TIF authorizations. It would seem to be the kind of nuclear option that would be reserved for use if all else failed. I would encourage the committee to begin by exploring other options such as requiring TIF proposals to be posted on the Internet as soon as they reach the planning stage, and that there also be posted the results of a mandated study by a disinterested third party of whether the project is economically viable without TIF authorization. For a more ample review of the problems accompanying TIF, I encourage you to review the aforementioned study of Omaha TIF plans by the Progressive Research Institute of Nebraska. In passing, I would also encourage the committee to review the conditions for blight. In Omaha, we

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

Urban Affairs Committee
January 24, 2012

recently had the absurdity of one of the richest neighborhoods in the city being included in a "blighted" area because their mansions were over 40 years old. I would encourage the committee to reject the part of the amendment that eliminates the cost-benefit analysis requirement for TIF proposals. The problems with TIF are caused by lack of oversight. I do not believe that further reducing oversight is a useful solution. The problems with TIF are not intrinsic; they are the result of a lack of oversight and accountability. I would encourage the committee to strengthen the oversight. But, if for political reasons that cannot be done at this time, I would support at least the part of this bill that reduces the area of a city that can be put to TIF use. [LB918]

SENATOR COASH: Thank you, Mr. Dunn. Let's see if there any questions from the committee? Seeing none, thank you for testimony. [LB918]

JACK DUNN: Thank you. [LB918]

SENATOR COASH: We'll take the next person in support of LB918. Seeing none, we will move...this is in support of LB918? We'll do neutral after the opposition. We're going to go to the opponents and we'll do neutral after. Thank you. Senator Landis, welcome. [LB918]

DAVID LANDIS: (Exhibit 5) Thank you, Senator Coash. Can I ask for something to be handed out to the committee? My name is David Landis, the urban development director for the city of Lincoln. And we don't know much about what happened in Omaha that produced that problem, and I can understand why the committee and the senators would be concerned, but I did want to say how we use TIF and what it's effect has been and to put to the test, I think, an issue that Mr. Dunn just raised, and that is, whether or not there is a civic or municipal benefit beyond what the private sector receives, and whether that's measurable, and whether the cities are doing a good job. So, if you would, open up one of our TIF designated areas, North 27th. Over the course of the last 13 years, because this is a TIF district about to close, we'd like to show you some of the projects that we've done. We replaced on the first one, Sterling Village. We assisted a developer to take over the land which is a picture at the top to produce the image at the bottom, all of which, by the way, are now retail base. They're open and available, making money, employing people, and I think having replaced blighted and substandard property with the kind of thing that you would like to have a business operated in. If you turn to the second one, you see CenterPointe. By the way, CenterPointe is not a profit-making organization. It is, in fact, exactly what Mr. Dunn described. It's a 501(c)(3) that does mental health concerns. But if you take a look at the old buildings that were there and what has replaced it, I think you see an older neighborhood in our community being revived. Turn the page and you'll see another section, old buildings unoccupied, replaced by new vibrant and profit-making businesses, absolutely. But what you have is the revival of the neighborhood as well. This is a nice place to live. Why? Because there are open businesses, open retail, open opportunities, and jobs. It's had a carryover

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

Urban Affairs Committee
January 24, 2012

effect not just along 27th Street, but in the neighborhood that we depict around it as well. The next page is Northbridge Community Center. It was, at the top, at one time a building that had been occupied but then was a grocery store that was unoccupied for six years. When a building is not occupied for six years it means that building doesn't meet current needs. It doesn't have a useful life. It was replaced by the Northbridge Community Center that we have here. Now this...the next one, the Matt Talbot Kitchen, is a beautiful building and it remains there. What we did, however, was to add to it a kitchen and outreach that is for, again, people in need, but the building that you see at the top still exists but on the back side of that in the very harmonious construction, is this one, which was done with TIF proceeds. The small Asian restaurant at the top of the Little Saigon is an example of a successful entrepreneur and if you look at the one that's down there below, it's now in the middle of construction, so it's not done. But that restaurant at the top is now at the farthest edge of the distant part of this project. And they have expanded to another...other Asian businesses that are going to fill those retail spaces and to serve a part of our community which, by the way, has a large immigrant population, a good deal from Asia, and for which this community has gradually changed to take on a sense of welcome and opportunity for immigrant populations. The next page is the Peoples Health Center. It replaces ugly billboards and empty building, cinder block construction, old--the kind of thing that you probably don't want to have the business next to it, and it's replaced by what's below. This building...well, the next, the Heartland Optical, if you wanted to walk behind the brick and look at that section in the back, you'd have no difficulty finding blighted and substandard construction. I think when you see what it's replaced with, and by the way, it is private sector, generating value and jobs, I think you'd be impressed. The police station that we did at 27th Street has multiple uses. There's community rooms in it as well and we use the proceeds available through the district to be able to pay for that construction, and it replaced a car lot on the edge of that community. You can take a look at it, but the neighborhood was very glad to see the availability of police, neighborhood protection, and the end of that small car lot. There are some additional benefits that we paid for with TIF, including the improvements of Pentzer Park and the Elaine Hammer Trail Bridge which is part of our biking and walking trail. All of those were done in that district with this tool, tax increment financing. Next page is a graph of our tax base in Lincoln. Because I think the argument might be, wait a second, if you've done this and you've diverted taxes, haven't you starved other political subdivisions? This tax base, by the way, if it starts in 1976, I think the better place to have started would have been 1979 because I think that's the year the tax increment financing was passed. In 1979, the tax base in Lincoln, Nebraska was \$2.9 billion. It's now \$16 billion. In the time that we've been having TIF usable to us, and we've had a tax base that is used to support our Natural Resources District, our county, and our schools, when tax...when TIF began, it was at three and today it's five times larger. It has not had a dip because we've raked off and diverted TIF programs so sufficiently there has been a slow steady growth until you get to contemporary conditions and property values in the last several years have been frozen or fallen in many jurisdictions, not because of TIF, but because of the marketplace. In other words,

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

Urban Affairs Committee
January 24, 2012

we haven't diverted so much that our accompanying political subdivisions don't have a solid base to build on. But what about the projects themselves? How have we done on that score? And I have this last piece that I'd like you to unfold. It's a little bit involved. Let me see what I can do. What I wanted to do was to give you a feel for what the overall impact was because Senator Cornett is right. There is a period of time when the growth is diverted to TIF projects, and it's diverted for up to 15 years. It can be less, Senator Lambert, but it's not uncommon for it to run the 15 years. Here's what we did. We closed the books on 15 projects so far and we ran the math. If you take a look at number one, this is those first 15 projects and what their conditions were when they went into TIF. What was their valuation and what were the taxes that we were paying? And the answer to that is, the total valuation for those 15 projects was about \$15 million, and they were paying \$347,000 a year in taxes. Then we built buildings, we did things in those locations. We took the growth and we put it into the projects. And by the way, we know how much we spent in this gray period for those projects. We did divert taxes and we diverted a total of \$6.3 million of taxes, that had the projects occurred, and had we taxed them in the regular way would have gone into schools, counties, cities, and others. Instead we diverted it with projects. Then they came out and those buildings were on the tax roles. And that's what the number two's are at the beginning of the yellow. When you add up the number two's, which is when they come out, the valuation going in was \$15 million, coming out was \$105 million. And they began to pay taxes at \$2,400,000 a year. Remember going in, they were paying \$347,000 in taxes, when they came out they were paying \$2,400,000 in taxes. Time has gone on. Number three, the last column, is last year. How did we do last year? Last year those projects which began at \$15 million of valuation were on the books at \$165 million of valuation. What went in at \$347,000 in taxes in year one, they are now paying \$3.3 million in taxes per year. What happens when you compare the return on investment to the investment? That's the last set of numbers. Take the \$6.3 million that we diverted and compare it to what we received. You can do it on an annual basis and you can do it on the whole project basis. If you do it on all the whole...all of the yellow, compared to all of the gray, our return on investment so far is 399 percent. What we did is we diverted \$6.3 million in taxes. We've gotten \$28 million of taxes in the yellow position. If you subtract the taxes as they were being paid when they go in, it means the new taxes are \$25 million so far, and every year it goes by, we get another \$3 million in taxes that we were never getting in the beginning, which means every year we're getting \$3 million compared to the \$6.3 million of investment, our annual rate of return is 48 percent. Every year that goes by, we add the 48 percent into the 399. If I was to come back here next year, that number would be 445 percent return, and in two years it would be 500 percent return. If we're screwing up in redeveloping the city and making things happen, and if we aren't producing benefits that justify this program, tell us what we're doing wrong and we will change. But right now, we don't know what it is. [LB918]

SENATOR COASH: Thanks, Senator Landis. [LB918]

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

Urban Affairs Committee
January 24, 2012

SENATOR MCGILL: Thank you. Thank you, Senator Landis. We can always count on you to be clear and bring nice charts, so we appreciate that. (Laughter) Questions? Senator Ashford. [LB918]

SENATOR ASHFORD: One thing I would point out that you may have done slightly wrong, Senator, is this chart with all the years and the numbers, this nice chart, the years are upside down. (Laughter) [LB918]

DAVID LANDIS: Heads will roll, Senator Ashford. (Laughter) [LB918]

SENATOR ASHFORD: When you get back to the office, I expect that you will be terribly (inaudible) about... [LB918]

DAVID LANDIS: Let me make a note of that. (Laughter) [LB918]

SENATOR ASHFORD: No, I think one of the differences, and I think the Omaha problem is slightly, by nature, different and that is because of the fact that we have eleven school districts or eight school districts in the metro area, whatever it is, and in Lincoln there's one, so that, you know, the overall benefit...the valuation benefit which we also have in Omaha, clearly, the same kind of increase in valuation, is...may not be distributed particularly the same way. And I think that may add...I think that's part of the concern that the Westside School District has raised is that there may be a general overall valuation increase but because we...our district is not in the OPS district or the Elkhorn district or the Millard district, we have an undue burden because of that. But that may be a difference, I don't know. [LB918]

DAVID LANDIS: We may not be analogous situations. What I'm...but I must say, that you've drafted...the bill here affects all of us, and in that sense. By the way, I think Lincoln would probably qualify, depending on how it's interpreted. I don't think this represents a current straightjacket for us. My opposition isn't because this throws us out of the business and, you know, you've thrown in a monkey wrench, and it can come to a screeching halt. But I would say this, you handed cities a tool. I mean, you said use it for community redevelopment purposes and grow your tax base and take out blighted and substandard properties and make them work better because the market doesn't work particularly well on substandard buildings. The reason is, if you need to buy that property and you're in an older neighborhood and you want to expand, you've got to buy four properties or five properties. That's going to be tough to do and I'll tell you why. The first couple will be easy to buy. The fourth and the fifth, they're hard to buy, and they're at a premium. Second, you're going to buy a building you don't want because it's old, it's tired, it doesn't meet your needs. So you're going to buy a building you don't want, then you're going to demolish that building which you don't want so you can get to a piece of ground that you've paid a premium for, bought a building you don't want and demoed it so you can build a building that you want. That's why building at the edge of the city

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

Urban Affairs Committee
January 24, 2012

doesn't have that problem at all. TIF doesn't work at the edge of the city, doesn't work particularly well there, and it's not really needed there because the market conditions work just fine. It doesn't work well in older, blighted, substandard neighborhoods when there are conditions that make it difficult for the market itself to regenerate and that's what this tool does well. North 27th is an older neighborhood. There were buildings there that we had to buy and tear down to get the business that moved in to get to a profitable rate to work. And the tool has been so valuable, we're sensitive about problems that would be created. That's why we're here. [LB918]

SENATOR MCGILL: Senator Krist. [LB918]

SENATOR KRIST: I'm a little confused and I know you can make me understand this. You're here supporting Senator Cornett's bill. [LB918]

DAVID LANDIS: No, I think I heard that we had moved to opposition. [LB918]

SENATOR KRIST: Okay. That explains it. Thank you very much. The second...my second question was, though, in your years of experience, now I understand the premise, in your years of experience, we went through these ebbs and tides. We built the First National building downtown. We built ConAgra. We did things in Omaha that really have increased all...just as you have said, and you know it affected OPS, it affected all the other districts. Now, because it affects District 66, we come back there and want cap. I have a problem with that because I may not know the constitutional laws I need to, but we have no other options in the state of Nebraska except two. The constitution, we can't just say, you don't have to pay taxes for 10 years. So this is the development tool and in those ebbs and tides, OPS hit a low point and then, and then, and then. So if we have to, my statement and I'd like you to comment on it, if we have to subsidize District 66 for a period of time and offset what we are doing within the TEEOSA formula, at the end of the day, these numbers you're giving me tell me it's worth the offset for a period of time. [LB918]

DAVID LANDIS: Yes. (Laughter) [LB918]

SENATOR KRIST: Wow. (Laughter) [LB918]

SENATOR MCGILL: That might be the shortest answer I've ever heard from you. Are there any other questions from the committee? All right, thank you, Dave. Next opponent. Hello, Rick. [LB918]

RICK CUNNINGHAM: (Exhibits 6 and 7) Chairperson McGill and other senators of the committee, I find myself in a difficult position. I'm following Mr. Landis and that's a difficult show to follow, but I'll try to meet him. I have passed out, I think, for the first time, copies of my testimony and some supporting data and I do that because of the

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

Urban Affairs Committee
January 24, 2012

importance of this particular opposition, which I do find a little bit uncomfortable because usually I'm here to support things, but that we are opposed to this. TIF is a Nebraska and a city of Omaha primary tool to incentivize...I'm sorry, my name is Rick Cunningham, spelled R-i-c-k. Actually, my legal name is Ricky so put a "Y" on the end of it, and my last name is C-u-n-n-i-n-g-h-a-m, that's Cunningham. I am the planning director and, to a certain degree, the chief economic development officer, following the mayor, for the city of Omaha. I'll start over again. TIF is a Nebraska and city of Omaha primary tool to incentivize economic development, that's jobs, increase sales tax revenue, increase property taxes, increase provisions of housing, and other things for our city and the state. TIF is also an effective tool to provide, as I say, much needed housing for low-income and, in our case, senior citizens in our state and particularly in the city of Omaha. A limit of 7 percent applied to either the area of designated blighted and substandard, which is our community redevelopment areas, within a city or used in the cost benefit analysis will have a negative impact on the promotion of economic development within the state of Nebraska. It will decrease our competitiveness with other states around us and, certainly, will affect us in the city of Omaha. Further, as I indicated, as you probably get, a restriction of this incentive tool for economic development will hinder our efforts as it relates to, in particular, the state of Iowa, who we're constantly in the city of Omaha, competing with. Basically, as written, this bill will shut down TIF in the city of Omaha and in more than 20 other Nebraska cities either immediately or within as little as six months. We request that LB918 not be advanced, one; and two, that if it is advanced, that it not be advanced in its current form. We stand ready to work with the bill's author and sponsor, Senator Cornett, and you, the committee, to do that if you feel you need to advance it. But our first stance is not to advance it. I have to say that. First of all, to maybe make sure that we're talking apples and apples, I want to give you an analogy of how we work. Let's say that this building, the Capitol building in the state of Nebraska, is a community redevelopment area. When we designate areas blighted and substandard...I'm not indicating that we blight and substandard this building but just use this as an analogy. When we designate an area as blighted and substandard, we are creating a community redevelopment area, that all that does is gives us the ability to use, to create TIF projects within that area. That is not whole area when we do a TIF project. A TIF project is a specific project within that area. Therefore, the problem then is when you apply a percentage to both the designated area and the TIF projects, you run into a problem of not being the same thing that you're applying it to. So we indicate that right now that this bill has two structural problems and one is that we need to understand and make sure we allow for the difference between the community redevelopment areas with the blighted and substandard designated areas, and the value of TIF projects. First, in looking at Section 18-2103, based on a 7 percent blighted and substandard area, TIF value versus the total city taxable value, many Nebraska cities, including Omaha, are already over the limit or very near it. We believe that the 35 percent limitation currently for the city of Omaha and metropolitan primary cities works fine and we have managed our process to the point that we have maintained under that. We are at 18 percent. And by the way, that does include our

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

Urban Affairs Committee
January 24, 2012

downtown area. If there is a desire, however, to limit the total tax value of blighted and substandard, as compared to the total taxable value within a city or village, we ask that you consider a 40 percent measure rather than 7 percent. And I've used the same rule of just doubling where we are currently, because we are in the city of Omaha at 18 percent, so I doubled that to 36 and I just rounded it up to 40 percent as a point of departure for discussion. Second, looking at Section 28-2113, which basically looks at the cost benefit ratio, it is true that the excess value right now in TIF projects in the city of Omaha is at 4.65, that is over the whole city. It isn't...and we have been managing that number so, and that's based upon the August, 2011 certification of values by the Douglas County Assessor's Office. We work very closely with them on an ongoing basis to get those assessments and come up with our values that we use. However, when you apply the spirit of the cost benefit analysis in valuation embodied in Section 18-2113 and use the 7 percent measure applied to OPS, and OPS is our...the biggest political subdivision within the city, it is also probably where the most need is. I'm not saying that there isn't a need in District 66, for example, because clearly there is with the Crossroads redevelopment area that we created. Clearly, there's need in other school districts, but I'm just using OPS because it's the largest and has the most need and that's where we applied TIF for the most part. We are currently, right now, at 6.75 percent. That is only using TIFs that are in the ground, already approved, and being paid off. Many Nebraska cities have indicated, some 25 are already over that 7 percent limit. When you consider now TIFs that we have in the pipeline, those are projects that either we have already got an application or we're working with the applicant on his application, or we know that it's coming because they have opened the dialogue with us. And we look to those all the way to the end, we would be at 7.45 percent. Therefore...and this again, is with OPS. Therefore, we would not be able to prove those...we would only be able to prove one-third of those potential TIFs moving forward. That's why I say, we would be closed down in six months. When we look at what we know is coming because we are in dialogue with potential projects out there, and these are big projects for the city of Omaha, ones that are in line with our master plan and as a planning department and as the economic development arm for the city, the kinds of things in the master plan are what drives us as far as economic development, we would be at...and that ranges at about \$2 billion of investment in the city, and that would put us at 15 percent. We would not be able to do any of those projects as far as TIF. And we've taken out projects that we wouldn't TIF already on that analysis. While it might be debated by some that these potential projects would not occur...would occur without TIF, we know, without a doubt, that most will not. The type and level of reinvestment in the city of Omaha in this case, alone would equate to over \$1 billion of incremental sales tax revenue over 20 years to the state of Nebraska to offset any other costs. I see a red light. [LB918]

SENATOR MCGILL: Yes, if you could wrap up or sum up. [LB918]

RICK CUNNINGHAM: Can I wrap up? Okay. We suggest then for your consideration in

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

Urban Affairs Committee
January 24, 2012

2113 that 30 percent be used versus the 7 percent to allow us to continue using the tool. Further in discussion with the county, their concern that we, one, need to define what personal property is if we're going to add it in, which is okay, I mean we would add about \$2 billion to our number, but we need to define it and we need to make sure that it's a current...we need to have a mechanism to make sure that it's current. And then we also need to deal with the fact that there are certain centrally assessed taxes that we need to figure out how that's going to work and make sure that it's accurate. So we need to come up a mechanism to do that. Therefore, the counties would...and because they are the instrumentality that does that, we need to encourage them, somehow, to make accurate. I have provided a couple lists of some of the projects that I've talked about, the ones that are in the pipeline now and those that we are looking at. And we are excited about those \$2 billion worth of work that's between downtown, 77nd and Dodge, Aksarben Village, in north Omaha and south Omaha, we're excited about that potential \$2 billion of investment in Omaha. We're excited about that we can help provide over \$1 billion of sales tax...sales tax to the state. We would love to provide you a review of projects that we have done, before and after and all that, if you would like to see it. I've given you, one, a listing of what we did in 2011, and also the listing of 2012 moving forward. We're also indicating we're proud of the record for the city of Omaha, 1,000 percent increase in that taxable value. Unfortunately, or fortunately, depends how you look at it, OPS is the beneficiary of that right now because we haven't done TIFs anywhere else yet. Our TIF potential in District 66 is the first for the city, outside of a property tax under the Nebraska Redevelopment Act at First Data, which is paid off. But we would love to show you how this did in it and how it came about. I'd also point out that as TIFs are met, a tremendous amount of needed and required public infrastructure improvements have been paid for by these TIF projects. It's not just going into the project. In fact, our first line of getting money off of a TIF is to do public infrastructure, improvements of streets, of utilities, of streetscaping in our downtown area. That's the first line of the waterfall is public infrastructure. If there's anything left over, then it goes into certain eligible expenses... [LB918]

SENATOR MCGILL: All right. [LB918]

RICK CUNNINGHAM: ...related to the project. [LB918]

SENATOR MCGILL: And with that I will cut you off. [LB918]

RICK CUNNINGHAM: Thank you very much. I am done. [LB918]

SENATOR MCGILL: All right. Questions for Rick. Senator Cook. [LB918]

SENATOR COOK: Thank you very much. Mr. Cunningham, I see the listing that came with the two-page handout, SODP, I'm going to go to south Omaha development project, is that a good guess? [LB918]

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

Urban Affairs Committee
January 24, 2012

RICK CUNNINGHAM: Yes, that's working with the Chamber. [LB918]

SENATOR COOK: North Omaha development project and what is NOVRP? [LB918]

RICK CUNNINGHAM: North Omaha Village Revitalization Plan. That is the successor plan. [LB918]

SENATOR COOK: Ah, acronyms, okay. [LB918]

RICK CUNNINGHAM: Yes, sorry. [LB918]

SENATOR COOK: Well, they're familiar with the Village redevelopment project, but I didn't realize it had an acronym already. [LB918]

RICK CUNNINGHAM: As you know, Senator Cook, that's a \$1.4 billion dollar investment potentially in north Omaha. We've only considered \$700 million of that's potentially TIFable. [LB918]

SENATOR COOK: All right. Thank you very much. [LB918]

SENATOR MCGILL: Other questions? I don't see any. Thank you, Rick. Next opponent. Hi, there. [LB918]

DAN MAUK: Senator McGill, members of the committee, my name is Dan Mauk, D-a-n M-a-u-k. I'm the president and CEO of the North Platte Area Chamber and Development Corporation. I have both Chamber and economic development duties. In addition, I've been asked by the Nebraska Chamber of Commerce and Industry, the Greater Omaha Chamber, and the Nebraska Economic Developers Association to oppose this bill on their behalf as well. I first noted this bill and a story in the Omaha World-Herald on-line yesterday. We don't get the World-Herald delivered out there in North Platte anymore, and what the headline, TIF would be capped under LB918. I read the story, understand Senator Cornett's concerns about District 66. I've had discussions like that in my own career. According to the story, there are 25 communities, and they were listed, that are already out of business under this bill that they exceed the 7 percent. And if you looked at the list, you have cities like Albion, Beatrice, Cambridge, Central City, Atkinson, Gothenburg, and Lexington out near North Platte, Mead, Minden, Ord, Ravenna. These are communities that would be put out of business and many of these communities had an ethanol plant nearby. The infrastructure costs were very high. TIF made the thing possible for them and if you have a town of 3,000 people and you have 35 jobs that pay very well, if you want to make that proportional to metro Omaha, you're talking about six or eight thousand jobs. It's extremely important to the viability in rural Nebraska to be able to have this TIF tool to be able to make deals possible that wouldn't otherwise be

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

Urban Affairs Committee
January 24, 2012

possible. We have heard from Omaha and Lincoln representatives opposing this bill and I have already cited the very small communities, but communities like North Platte would also run into some problems. Using approximations, the maximum TIF level under this bill for North Platte would be about \$77 million. We have \$69 million on the books right now. Now that \$10 million leeway, we've got projects that we are working on right now that would exceed that \$10 million leeway. It's not been determined yet if we're going to use TIF on these projects or not, but it's very close to being out of business in that regard. Now I've had, as I mentioned, conversations with school administrators and school board members since I've been in this business, particularly back in Norfolk. We had to come to an understanding at the local level that there had to be an understanding of...but for this tool, we're not going to get the deal. You're not going to gain this additional valuation if we can't make the deal happen. This is not a zero sum game. You don't lose. You still have the base valuation of going forward but you have the promise of a growth in the community by using this...when it's used properly. In North Platte, in the past decade we've created about 1,000 new jobs and about 620 of those jobs paid better than \$20 an hour. That's a good income in western Nebraska. Now, we've had nearly \$100 million in new investment. They were projects that would not have happened if it were not for TIF. The biggest one was the Walmart Distribution Center and they pay about \$20 an hour at the Walmart Distribution Center. There's about 525 employees there currently. Each of those employees live somewhere in our region. They pay property taxes either through rent or they're owning their own home. They spend their money in the local economy. We benefit during that 15-year period very substantially, not without regard to the fact that there's been a deferral of the property taxes. I urge you to oppose this bill. Let us govern ourselves at the local level and I think our track record in most of the communities that you're going to hear from as this bill is debated will be convincing that this is a good tool. It's one of the few tools that we have, particularly in rural Nebraska, and it's been a very effective one. I'm available for questions if you have them. [LB918]

SENATOR MCGILL: Thanks, Dan. You just read it in the paper yesterday and drove... [LB918]

DAN MAUK: I called the first three economic developers. I called from the list of the towns. They didn't know anything about it. [LB918]

SENATOR MCGILL: So you hopped in your car and headed east. [LB918]

DAN MAUK: I said, this is important, this is important. You know, some of these little towns, I mean, it's just...it takes everybody in town to try to keep them alive, and this is an important tool. And 7 percent, when you have a very small valuation in the first place, I mean, you can...I think the 30 percent that Mr. Cunningham suggested, in some small towns if you have a project the size of an ethanol plant, 30 percent wouldn't probably work. TIF is working the way it is. I urge you to let us use it the way it is and not change

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

Urban Affairs Committee
January 24, 2012

it this way. [LB918]

SENATOR MCGILL: Well, thank you for driving in to visit with us. Are there any questions from the committee? I don't see any. Thank you very much. [LB918]

DAN MAUK: Thank you very much. [LB918]

SENATOR MCGILL: Any other opponents? [LB918]

LYNN REX: Senator McGill and 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 this measure. We do know that Senator Cornett has done great things for cities across the state of Nebraska and villages, too, in strong support of economic development. But we're very concerned about the implications and how this particular bill would work operationally on the local level. Many of those concerns have already been expressed today, but I think it's just very important to understand, as has already been mentioned, TIF is a primary tool, and in some of our cities and villages the only tool that they have. And if we need to take a drive through some of our smaller villages in the state, of which we have hundreds of them, when we're talking about the current restriction of 100 percent of that village, you're really looking at essentially a one-way street, one...one street, not a one-way street. They don't have one-way streets, a one street village. In some of our second-class cities, obviously, they're bigger than that. But as you look at the first-class cities which now have the limitations of 50 percent, and then, of course, the villages of 100 percent, Lincoln and Omaha are limited to 35 percent. I do think that there's some issues that have been raised by those that have testified before me. The planning director for the city of Omaha pointed out that essentially in Omaha it's so important to look at the distinctions, not just in Omaha, but also everywhere across the state. Look at the distinctions in terms of between development area versus the TIF project itself. And I think, as an example, the metaphor that he was referring to, if the state of Nebraska...or pardon me, if the State Capitol...let's take the State Capitol, if the State Capitol was the entire city, if this, what you're looking at here, represented an entire city, this hearing room, as an example, could represent a community development area. Within the community development area, i.e. this hearing room, the chair you're sitting in would be the TIF project. There are distinctions between the community development area as well as the actual TIF project. And I think those are some of the issues we need to address with this bill. The bill in its current form, we believe, is not workable. But, certainly, I think that Senator Cornett has brought forward a very legitimate issue, which is the need to work with schools. We're always prepared to do that. I think it's very important that if a bill like this were to move forward the counties would be required, and we're opposed to mandates on cities, so I hate to even suggest something like this for counties, but the cities would have...the counties would have to be in a position to make sure that they have accurate valuations, otherwise you really can't make this work. And, again, we're willing to work

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

Urban Affairs Committee
January 24, 2012

with the committee, but I can't underscore enough the importance of this. We've heard from cities and villages across the state of Nebraska about concerns relative to this. And they understand that their economic viability is tied directly to their ability to TIF. But that being said, we understand TIF should be used for those areas that really are in need of rehabilitation and redevelopment. It's not for everything. But we think the biggest...there are two really big winners when you use a TIF project and certainly when it's retail. That is certainly the school because they're the ones that have the bigger share of the dollar of property tax. And so, therefore, as the base grows over time, and I think David Landis' testimony underscores this, as the base grows, they obviously are the primary beneficiary of that. So is the state of Nebraska in terms of the generation for sales tax revenue. I think the Crossroads project that you're hearing about is one primary example of how the state of Nebraska itself, in terms of your budget, would be a big winner with something like that. So again, we're willing to work with the committee as always. Really appreciate Senator Cornett's willingness to bring an issue like this forward and we're looking forward to working with her and others in trying to address some of the concerns. Thank you very much for your time today. [LB918]

SENATOR MCGILL: All right, thanks, Lynn. Any questions? No, thank you very much. [LB918]

LYNN REX: Thank you very much. [LB918]

SENATOR MCGILL: Anyone else here in opposition? [LB918]

KEN BUNGER: Good afternoon, Madam Chairman, members of the committee. My name is Ken Bunger. I'm an attorney in Omaha. I was formerly deputy city attorney of Omaha. Since I retired, I have practiced in the area of redevelopment. Most of my clients are cities, smaller cities. I've represented the city of Omaha, still do on occasion, and the city of Lincoln and some of their downtown projects. The only reason I'm testifying is because I think the previous testifiers have done a great job in kind of setting how it's used. It's just a little bit of perspective. I had the opportunity to actually draft the first TIF legislation back in 1979 and have been working with it since then. One of the things we were very proud of in Omaha, really from the beginning, is our relationship with the school district. As the city and redevelopment happens over decades, you know, you move into other school districts, which is what happened at Westside. We did Aksarben. Part of that project actually extended into the Westside School District. Westside School District was very supportive at that time of the Aksarben project because it brought new business to the area, just on the other side of 77nd Street, but, you know, a large part also, little bit on the west side. So with that perspective on the school districts, I just want to let the committee know I think that the city of Omaha and the other cities I've worked in take a great deal of effort to make sure that the projects are well-thought out and go forward to the benefit of everybody. And I think there can be very little argument about what's happened in some benefits of TIF.

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

Urban Affairs Committee
January 24, 2012

You know, we're not really arguing about that and I guess the old saying, if it's not broke, let's not try to fix it. Unintended consequences are, if you can start putting limits on things, the next time you have a larger project show up, which, you know, if you go back 20 years, who would...you would expect some things in the city of Omaha to look like they did. Some small town, a manufacturing plant comes along and you have to say right at the beginning, can't do it, we're out of authority. So I really think it should be left in the hands of those who know best which is locally elected officials. So that's it. Any questions? [LB918]

SENATOR MCGILL: Do we have any questions for Ken? No, thank you very much. [LB918]

KEN BUNGER: Okay. Thanks. [LB918]

SENATOR MCGILL: Anyone else in opposition? Anyone here in neutral? [LB918]

ANDREW RIKLI: (Exhibit 8) Senator McGill, members of the committee, good afternoon. My name is Andrew Rikli, R-i-k-l-i. I'm the assistant superintendent for District 66 Westside in Omaha. First and foremost, we would like to thank Senator Cornett for bringing forward this very important piece of legislation, as the committee may be aware, Senator Cornett certainly is. Last fall we did provide testimony regarding LR232, which is interim study on tax increment financing which was of particular importance to the Westside School District. In our testimony last fall, one of the issues that we wanted to establish was the blighted and substandard district that was being established in parts of Omaha Public Schools as well as the Westside Community Schools. Our concern wasn't the Crossroads project in particular. And to be very clear, no one is more supportive of the Crossroads redevelopment than we are. Our primary concern at the time was the sheer size of the proposed blighted and substandard district, which encompassed perhaps 50 percent of our total geographic area. As Senator Cornett correctly pointed out, we are a landlocked district and it encompassed perhaps 80 percent of our commercial interests, which I suspect the committee would agree is a significant proportion. Crossroads does need to be redeveloped. There's no question. It has been declining at a precipitous level for some time. That's not good for the community, that's not good for the school district. We count on Crossroads, among other commercial properties, for a healthy commercial tax base. And when it's declining in value, that has an impact on our bottom line. Our primary concern was just the sheer size of the zone. Instead of, perhaps, drawing a boundary which encompassed Crossroads and the surrounding adjacent areas, as I said, it covered virtually 50 to 60 percent of the entire school district, which in our opinion was excessive. We are pleased to report, thanks in no small part...Mr. Cunningham, who previously testified, and we do thank him for his efforts, we were able to reduce the size of the proposed zone, which we're very appreciative. We feel like this was a win-win in two regards. The city and the developers are getting, hopefully, what they want and that is a zone that will establish

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

Urban Affairs Committee
January 24, 2012

Crossroads is, hopefully, a good candidate for TIF incentives, while at the same time minimizing the impact on Westside taxpayers because the zone is smaller. As a number of testifiers have pointed out, though, this is not necessarily the case in all community. Perhaps 20 or more municipalities across the state of Nebraska are already capped out if 7 percent is, in fact, the limit. That's why we're proposing neutral. We do not necessarily believe 7 percent is an appropriate limit. I'm certainly not an expert on community redevelopment. Thirty-five percent, in our humble opinion, perhaps seems a little bit high. Seven percent probably seems low. We don't know what the magic bullet is, which again is the reason why we're testifying in the neutral capacity. We are not against TIF. We are very much for TIF. We understand it is one of the few tools that's available to municipalities, both large and small, in this great state of ours, so by no means do we want to convey the opinion that we do not support tax increment financing. We just believe that there's perhaps a middle ground between the 35 percent for our larger cities and that 7 percent which is outlined in LB918. The last point that I would leave the committee with, as Senator Cornett pointed out is, there is a price tag and there's no question that TIF is good from an economic development standpoint. That, with all things in life, there's usually a price tag attached to good things even. And the price tag comes in two things. One, increase state aid. As Senator Ashford pointed out, this is particularly true for equalized districts. Of the 249 public school districts in the state of Nebraska, all but approximately 90 are equalized. That is, they get state aid. The state aid without getting into all the intricacies of TEEOSA, basically is this: It looks at needs, minus resources, equal aid. If your resources in the form of a diminished tax base go down or stagnate, as hypothetically they could with tax increment finance, means that the state aid formula has to chip in extra resources to offset that stagnating property tax base. It could be construed in a way that the state of Nebraska then is indirectly subsidizing such projects through state aid dollars. We also talk a lot about, this is only 15 years. It could be 20 years as it is in some surrounding states. I believe in some states it's as high as 25 years. I believe Mr. Cunningham would tell you the average payoff, I believe, is approximately 12-13 years. And there's no question that at the end of that period of time there is a payoff in terms of increased valuation not only for that property but surrounding properties. Of that, we're deeply appreciative. Twelve years is a long time. And I would remind the committee that an entire generation of kids can go through a school district in 12 years, and if they had fewer or perhaps even stagnating resources compared to their peers, that's also a price tag that I would just humbly ask the committee to consider. And with that, I'd wrap up my testimony and gladly answer any questions you may have. Thank you, Senator McGill. [LB918]

SENATOR MCGILL: Thank you, Andrew. You have made some very good points. Senator Krist, you have a question. [LB918]

SENATOR KRIST: I would offer to give you my copy of Senator...former Senator Dave Landis' economic package. [LB918]

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

Urban Affairs Committee
January 24, 2012

ANDREW RIKLI: I've reviewed it, Senator Krist, thank you. [LB918]

SENATOR KRIST: Yeah, because it...I understand truly, and your rationale is right on target. We're going to have to take some money out of state aid to keep you afloat for 15 years and at the end of the day, at 300-some-odd percent increase over a period of time, it's going to put our kids in better shape as years come. It's an investment. Thanks for taking the time to come down here and it doesn't go on deaf ears. I've watched OPS be affected by the downtown development, and in retrospect, it was worth it. So please understand, we respect your coming here and telling us what you feel and I will get you a copy of this because it's a great...as usual, Professor Landis has given us a great product. Thanks for coming down. [LB918]

ANDREW RIKLI: Thank you. [LB918]

SENATOR MCGILL: Any other questions? Thank you for coming. [LB918]

ANDREW RIKLI: Thank you, Senator McGill. [LB918]

SENATOR MCGILL: Anyone else here in neutral? Go ahead and come on up, or do you feel you fall under something other than neutral? Is this your first time at a hearing? [LB918]

BETTY QUINN: More or less. [LB918]

SENATOR MCGILL: Okay. Well, wonderful. Go ahead and have a seat and tell us who you are. [LB918]

BETTY QUINN: (Exhibit 7) I know one thing, it's very difficult to hear the speaker when you're sitting behind them anywhere. [LB918]

SENATOR MCGILL: Okay. Go ahead and give us your name and spell it for us. [LB918]

BETTY QUINN: Okay. My affiliation, I was the woman who lead the protest against our neighborhood, which was the neighborhood Fairacres, Happy Hollow, that whole area. We fought the designated "blighted" and I am also a board member for 30 years on Holy Name Housing, which is actually doing two projects at the near north side and has been remodeling and building homes in the near north side for the last 30 years. [LB918]

SENATOR MCGILL: Can you go ahead and say and spell your name for the record? [LB918]

BETTY QUINN: Oh, I'm sorry. Betty Quinn. [LB918]

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

Urban Affairs Committee
January 24, 2012

SENATOR MCGILL: Thank you. [LB918]

BETTY QUINN: Yes. Okay. My problem is that my understanding of the federal law is that it is for truly blighted areas and that that gives them, a developer a little bit of an edge going in that they know that they're not going to maybe be able to be as successful as if they had started in another neighborhood that is more prosperous, and therefore, that's why we started giving TIF. Somehow last summer, it moved quite a ways away from it and we blighted not only my neighborhood which was east of 72nd, we also did District 66. I guess my answer in that is, we did have someone do all the facts. We had an appraiser give us a complete report. I paid for it. I had a predoctoral student go and do all numbers for the census data. It proved we were not blighted. The only one criteria was that our homes were over 40 years old. Okay. We also did, while we were doing that, the statistics for District 66 and they had the same profile as we did. They were not blighted areas. Okay. When we went into the hearing I did go with an attorney and before the hearing I said to him, okay, now what is going to be the cost for this and what happens next? He said, well, if you don't get it here then you try a class action because I've seen your data, I know that you're right. So he gave me the price for both attending the hearing and also for doing the class action suit. And I'm just saying that because I think we felt very helpless once we'd been made a...everyone was laughing at us that we'd been blighted. Okay. But we're out from under it and I think that that same scenario happened to District 66. They got worried about their school district but nobody spoke up for the home owners. Now the home owners are facing a problem. They have spent 30 years paying for their houses and all of that and we have very...the cheapest house we found in our area was \$175,000. The most was on the records for \$4.5 million. We had 28 homes that were over \$1 million. Okay. Now what does this do when you're named a blighted neighborhood? That you have to open disclosure when you sell your house. Now if you are a buyer, an executive coming in from the West Coast, and you find out in the disclosure sheet that this is in a blighted area, are you going to buy...are you going to spend your...a lot of money, anything over half a million on up in an area that has a blighted designation and is under possibly the cloud of eminent domain, which is fine for state and government, but also for private investors that may come up with a program that they want to finance. Okay. The home owner gets hit twice. He gets hit when he tries to sell it because now we're not as attractive as Linden Estates. So we lose a lot of people and the prices go down. Okay. That's just one of my problems. The...I want to thank everyone on the TIF committee. I really think we do have a good TIF bill. And the National Association of Realtors, of which I belong to, also says that and on doing this, I did a hell of a lot of research last summer. I went through the city budget, which I think you're all familiar with that. It's about that thick and through all the TIF projects and everything else. And the comments I have at the end of it are, don't blight an unblightable area because that's an abuse of power and that's unfair for the citizens who have kept their neighborhood nice. Okay. Now Jack has already spoken. I understand it better when I'm against...I don't know if I want the cost

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

Urban Affairs Committee
January 24, 2012

benefit...I want the cost benefit analysis. I still think that I'm definitely...the TIF building, competition, business services in the same area. Okay. We've seen that. You know when there's two gas stations on one corner, one of them suffers. Now, I feel the same way when you put...if you're going to TIF something, I wouldn't have it in the same neighborhood as another major situation because what we were trying to do was to get these basic services to come into unserved neighborhoods, not putting them in direct...in competition with someone that has been paying their taxes, did not get a TIF to build his building, etcetera. Okay. That's just one of my comments. [LB918]

SENATOR MCGILL: And I'm going to have to ask you to wrap up real quick and we do have the physical copy of... [LB918]

BETTY QUINN: Okay. The other thing I'm worried about is the Catholic school system. Now it looks like that eight schools may close in that already designated blighted area and is that going to be a problem? [LB918]

SENATOR MCGILL: Well, we appreciate you coming here to Lincoln to share your experiences with us, and... [LB918]

BETTY QUINN: There are more but the things... [LB918]

SENATOR MCGILL: And we have it all here. [LB918]

BETTY QUINN: ...I really agreed with the Wikipedia. After all of the research I have done, I came back to the basic things that will be problematic. On the second page, you will find Wikipedia and that is the normal inflation will increase property values. And must...it will still go into the coffers. The districts are large, too large and they capture value that would have been increased anyhow. The process leads to favoritism for politically connected developers, lawyers, economic develop directors, and other implementers. Funding often goes towards what has traditionally been private improvements from which developers profit. When the public invests in these improvements, it is the developers who are going to receive the return. The approval of districts can sometimes capture one entity's future taxes without its official input which we found with District 66. School districts taxes will be frozen on an action by the city. So those are the things I think are really significant... [LB918]

SENATOR MCGILL: Thank you, Betty. [LB918]

BETTY QUINN: ...and that we ought to be careful, and I'm... [LB918]

SENATOR MCGILL: Well, let me make sure there aren't any questions from committee members. Oh, Senator Cook. [LB918]

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

Urban Affairs Committee
January 24, 2012

SENATOR COOK: Are you my best friend, Weber's, Mom? [LB918]

BETTY QUINN: Yes. (Laughter) [LB918]

SENATOR COOK: Thank you. I'll send you an e-mail. Thank you for coming down. [LB918]

BETTY QUINN: Well, thank you all. I want to say this, you are an underpaid group (laughter) especially for the number of lawyers and other people who are donating...I say, donating...volunteering a large amount of their time. And I don't think I could stand it. You guys are doing a great job. [LB918]

SENATOR MCGILL: Well, thank you, Betty. Anyone else here to testify on this legislation? Senator Cornett. [LB918]

SENATOR CORNETT: You'll have to excuse me. My cold medicine has worn off officially and the new stuff hasn't kicked in yet. There's a couple of things that I want to clear up first. We...my staff and I started working on TIF long before the District 66 issue came up. I keep hearing that...and particularly from Senator Krist, and I wanted to address that, that this was directed at District 66. It was not. We already had interim studies scheduled on TIF financing prior to that. But that was an issue which brought it to the front page of the World-Herald which, again, is the major newspaper in Nebraska. But in Revenue, we frequently hear about communities that are having difficulties because a large percentage of their tax base has been TIFed away, and they came back to the state going, we need some further assistance, which was part of the original impetus for the TIF study. I also had numerous conversations with Senator Mello over the interim in regards to expanding TIF from 15 to 20 years, and when I sat on this committee, the blighted standard was one of the first things we talked about. And I remember Senator Landis and I having numerous conversations because at that time a community had blighted a cornfield and we had numerous jokes about, was it corn blight? (Laughter) What constituted blighted and substandard and if that was something that needed to be looked at and that is not something addressed in this bill but I think that that is something that the committee needs to look at, in an overall look at TIF. What this bill is aimed at is, the 7 percent is negotiable. What it was, was doubling the state average. That's where we came up. Good luck, bad luck, it's what hit Omaha primarily right then. That was not targeted at Omaha and I've been working with Mr. Cunningham and he knows that, as does Senator Landis from Lincoln. The underlying, underlying issue here is, TIF is a good...TIF is a good thing for communities. TIF is good for the state. TIF is good for redevelopment. But there is that time period. Not only where the state makes it up, but where the school district and the other political subdivisions or entities are affected. Omaha has done a very good job of including OPS in their conversations. And when Westside yelled, Omaha listened. But do we need to have some mechanism in place? We're not...the political subdivisions don't have the

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

Urban Affairs Committee
January 24, 2012

right of veto but they are included in the discussions because they are affected by them. And it isn't just the school districts. It's all of the political subdivisions, the community colleges. When you do these projects, you are postponing increase in valuation. Now the end result is a very large increase, without a doubt. Do I say TIF is broken? No. Do I think that TIF needs to look at who it affects a little bit more closely and maybe gather their input? Yes. And I told the city of Omaha that I'd be happy to work with them and we have already been working with the city of Lincoln. But all of these jurisdictions have to realize that there is some foregone revenue with this. But again it comes down to, should these political subdivisions be included in the discussions, and particularly with the bill that you have in front of you from Senator Mello which increases it for another five years? With that, I'd be happy to answer any questions. [LB918]

SENATOR MCGILL: Well, I appreciate your comments. Any questions? No. Thank you, Senator Cornett. Get better. [LB918]

SENATOR CORNETT: Oh, you know, I'm not truly sick, just stuffy. (Laughter) [LB918]

SENATOR MCGILL: That ends the hearing on LB918, and we'll go on to LB921 and Senator Harr, who has been waiting very patiently here for quite a while. [LB918]

SENATOR HARR: Thank you, Senator McGill and members of the Urban Affairs. I think this is my first time in front of you, so it's rather exciting. I'm not sure if LB921 is nearly as exciting as the previous but, nevertheless, thank you for having me here. I brought LB921 on behalf of the Metropolitan Utility District. It was presented to their board and approved by their board, and so I present it in whole as approved by their board. What LB921 does, it changes provisions within the statute relating to MUD, Metropolitan Utility District. This section repeals requirement that the district obtain a bond of not less than \$10,000 on the president's performance. It also states any employer or officer's salary that exceeds \$150,000, up from \$10,000, has to be approved by the board. So before, just about anyone who was hired, had to be approved by the board, this takes it up to \$150,000. It changes the definition...well, defines permanent employee as employee who has worked for the district more than one year, and removes the section requiring the board to vote unanimously to place every employee in service over one year on the permanent employee list. It also allows the president to remove an employee for cause. However, there is a qualifier that if the employee appeals, there would be three directors who would hear the case and then it would take a two-thirds vote to override that termination. It would also allow the board to approve or establish procedures for this appeal. Section 14-2121 allows the board to create a preference for bidders who own and use vehicles that are fueled by natural gas. Obviously, MUD is quite involved with natural gas and wants to encourage its use, so it allows for a preference. It allows the board to establish its own standards for placing hydrants, fire hydrants based on a national standard. It is currently set in statute that it has to be every 400 feet. And this gets to a question of, what is a regulation...what should be a

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

Urban Affairs Committee
January 24, 2012

regulation and what should be a law? Do we want more flexibility? Is this something that needs to be set in statute? It goes on to require...to repeal the requirement to pay the 2 percent city tax on retail sale of natural gas from the use in vehicles, mainly CNG vehicles. The reason for this is MUD doesn't pay property tax as is a nonprofit, so in turn pays a 2 percent tax on its natural gas. This would repeal it because the idea is that basically makes up for the lost property tax, is this 2 percent tax. And as we all know, CNG, compressed natural gas, is becoming more and more prevalent in the use of cars and is much more efficient and friendlier on the environment. So anything we can do to help our green friends and so we're less addicted to oil, we'd like to encourage. So that's the reason behind that. I am open to questions. However, I do know that Mr. Crouchley, who is, I believe, general counsel for MUD, is present as well and probably could answer the questions probably better than I, but I am open to questions. [LB921]

SENATOR MCGILL: Any questions for Senator Harr? Senator Smith. [LB921]

SENATOR SMITH: Thank you, Senator. Senator Harr, page 4 of the bill, line 12, we talk about the board of directors may define and allow preference to a bidder that owns and operates vehicles fueled by natural gas. If the purpose is to encourage renewables, why not electric vehicles? [LB921]

SENATOR HARR: Well, because there is...that is a very good question. Thank you, Senator Smith. And as near as I can tell, there is another public entity called Omaha Public Power District that sells electricity and this utility would be selling water and gas, and so that would...this specifically would fall under their...nothing that would prevent that. If you would like to add a committee amendment, I would be open to such an amendment as I do see that, as we've seen with the controversy with the Keystone pipeline, we do have to develop alternative forms of energy. Thank you. [LB921]

SENATOR SMITH: Along those lines as well, do you find that that might discourage smaller businesses that may not have a renewable fleet from being able to bid and participate in services to MUD due to the...I guess, the conversion cost of vehicles sometimes that may prohibit some of the smaller businesses from participating? [LB921]

SENATOR HARR: And that's a good question. And, you know, let's pretend MUD were a private entity and not a public utility. A private entity could say, you know what, we want someone who uses our services and I don't think it would be an issue. And so it's just doing for a public entity what are private entities already allowed to do and that's to determine what they think is important as a preference. And if one is to encourage their trade or their industry, I think they should be allowed to. But I'm sure Mr. Crouchley, who is coming after me, can probably, again as I stated earlier, answer better and more eloquently. [LB921]

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

Urban Affairs Committee
January 24, 2012

SENATOR SMITH: Yeah, I'll follow up with those questions to him. Thank you. [LB921]

SENATOR HARR: Thank you, Senator Smith. [LB921]

SENATOR MCGILL: Any other questions? All right, thank you, Senator B. Harr. [LB921]

SENATOR HARR: Thank you, Senator McGill. [LB921]

SENATOR MCGILL: First proponent. [LB921]

DANIEL CROUCHLEY: Senator McGill and members of the committee, my name is Dan Crouchley, D-a-n C-r-o-u-c-h-l-e-y. I'm senior vice president and counsel for the president at MUD. MUD serves 210 gas companies, and 210,000 gas customers, and 200,000 water customers. It's a political subdivision that operates under Section 14-2101 through 2167. The Legislature sets our rules, so that's why we're here on LB921. I'd like to thank Governor Harr...(laughter) or Senator, I promoted... [LB921]

SENATOR CORNETT: That is quite the promotion. (Laughter) [LB921]

DANIEL CROUCHLEY: ...Senator Harr, for bringing this. As he said, some of it's not particularly exciting but maybe some of it is. He did a good job of describing things but I'll describe it a little more. There's a bond requirement for the president or CEO of MUD in the amount of \$10,000. Some years ago there was a similar bond on each board member that was removed by the Legislature. We find that we pay a premium on that and it...there's never been a claim. We have liability for the actions of our president, we're self-insured. We can get directors' and officers' insurance if we wish and we just feel that it's a, a not necessary provision. With regard to the president's salary, the board sets the president's salary. And right now, it states which...compensation shall not be decreased during the incumbency of any appointee. We think that that's lost in history, but I think there was some political issues many, many years ago, and we're talking 1913, in which there was some protection in this manner. The board feels that it can set the salary of the president, it can also reduce the salary of the president. In addition, some effort to do performance-based salary, which could go up, could go down, and they would like that flexibility to do that. With regard to employees, there is language that in our...my memory, and more people than me, that has never been used and that's where the board...the language is the board would vote unanimously to make an employee permanent after a year. That is not done. We don't have a permanent employee list. This seems to be something that is notable in it's not being performed and it doesn't...what the remainder...remaining language would be, that a person who works for a year is a permanent employee without further action by the board. With regard...this is the one that will probably bring some opposition. The termination...the termination of an employee for cause at MUD currently can only be done by the board. It is not like an appeal. It is the president or management of MUD cannot terminate an

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

Urban Affairs Committee
January 24, 2012

employee. The board can and the board terminates employees with a full hearing and by a vote of two-thirds. These hearings are full trials with witnesses, etcetera. This seems to be super, due process beyond the need, a reasonable due process effort. The language as changed would allow the president to terminate employee but then allow an appeal process for the terminated employee. They can have a hearing before a committee of three of the board and the termination can be overruled by two out of three vote. We feel that is fine in terms of due process for the employee. With regard to the preferences on natural gas vehicles, in the bidding process that is, I think Senator Harr stated it well, it's we are in the business of natural gas and there is a desire to promote these to natural gas and to allow certain preference at least. There's no obligation to do it but if the board would choose to do it, it may do it under the language of the proposed LB. The fire hydrant change, that has been there, I think, since 1913. Fire hydrants under any standard are not simply put 400 feet apart. There are national standards that have to do with how far a hydrant is from a building here, for downtown areas, for residential areas, for industrial areas. It's quite a long standard. So this is simply an obsolete section and we'd like to allow the board to choose the standard which is a...there's a 10 State Standard out there. That's what it's called and that's likely the standard that would simply be chosen by the board to be applied. The next one is the 2 percent payment to cities. MUD provides...pays 2 percent to all municipalities in which it operates. Two percent of it's gross revenue goes to the city. That isn't in lieu of (inaudible) tax for property tax. When we're talking about retail sales, and that's what this bill would do, is exempt retail sales of natural gas fuel from the 2 percent tax. This allow natural gas fuel to be sold without the payment of the 2 percent. There is no sales tax on gasoline and diesel. There's fuel taxes, there's sales tax, and it would leave the fuel tax and sales tax on natural gas fuel, level the playing field, and encourage the use of natural gas fuel. That's...I'd ask that the committee advance LB921, and I'd be happy to take any questions. [LB921]

SENATOR MCGILL: Any questions from members of the committee? Senator Smith. [LB921]

SENATOR SMITH: Thank you, Senator McGill. Your response, and you followed up on Senator Harr's response to my question, I know you're in the business of selling natural gas. Why wouldn't you just make a preference for customers of MUD or customers that consume a certain amount of natural gas? Once again, I see there's a, you know, the encouragement here in the bill as to for use of renewables and that's admirable, but because MUD has a fairly broad customer base, it feels to me that it's somewhat discriminatory because there are probably a certain type of companies, size of company that would be able to pay for the conversion costs related to natural gas vehicles. So I'm...you know, is it because, once again, you're trying to encourage the use of renewables? Is it to encourage preference to customers of MUD, or consumers of natural gas? And it's somewhere in there, but it feels to me that it's a little bit...I just can't quite get my head around the language there. It seems a bit, kind of isolating a group of

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

Urban Affairs Committee
January 24, 2012

customers. [LB921]

DANIEL CROUCHLEY: Well, they don't actually have to be customers. The contractor...so all we're talking about is bidding for work. So let's say it's a contractor who is going to build something for us, a building. That's where the preference would be. In that regard, it is...there's no question it's to encourage the development of natural gas as a fuel in natural gas vehicles. In terms of these smaller businesses, first of all, it doesn't have to be applied and I can imagine that there may be types of work where it would not be included simply because they might be too small that it just doesn't make sense to have such an obligation. So it might be larger jobs. On the other hand, there's a plumbing company that's going to shift their fleet of somewhere around 24 trucks to natural gas. I don't think it takes a large entity to convert or to buy a natural gas vehicle. So I don't think it necessarily favors a larger entity if a plumbing company can do it to 21 trucks. I mean, unless you're talking about a company that has five employees, or whatever, but there are probably small jobs that don't require, or we wouldn't put the preference in. [LB921]

SENATOR SMITH: So it would be at the discretion of MUD as to which jobs would be awarded. But, nonetheless, it could give a preference to a company outside of the MUD or the Nebraska territory... [LB921]

DANIEL CROUCHLEY: Yes. [LB921]

SENATOR SMITH: ...over a local company. [LB921]

DANIEL CROUCHLEY: Right, either way. It certainly could and our intent is to promote the use of natural gas. If that's the case, it's a preference for natural gas. [LB921]

SENATOR SMITH: Natural gas vehicles. [LB921]

DANIEL CROUCHLEY: Vehicles...fuel. [LB921]

SENATOR SMITH: Not necessarily the use of natural gas. [LB921]

DANIEL CROUCHLEY: No. That's correct. [LB921]

SENATOR SMITH: Thank you. [LB921]

SENATOR MCGILL: Senator Lambert. [LB921]

SENATOR LAMBERT: Correct me if I'm wrong in my understanding here, but your sale of retail natural gas, that's pointed at the cars that use it, is that correct? [LB921]

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

Urban Affairs Committee
January 24, 2012

DANIEL CROUCHLEY: Yes. Yes. [LB921]

SENATOR LAMBERT: And you want to exempt it from the 2 percent that is paid on that. That natural gas car fills up and I drive down the highways, I'm not paying any gas tax so I'm not supporting the highways I'm driving on, but you want to cut the 2 percent tax that would have been paid on that natural gas that I'm using. Is that correct? Am I getting around this? [LB921]

DANIEL CROUCHLEY: Well, just to be...just flat-out factual, there's two stations in Omaha and one in Lincoln. [LB921]

SENATOR LAMBERT: But you see in your future, they are going to be on every corner, every corner. [LB921]

DANIEL CROUCHLEY: Oh, yeah. Do I see it? Yeah. [LB921]

SENATOR LAMBERT: Yeah, at least one. [LB921]

DANIEL CROUCHLEY: Well, we'd hope so. (Laugh) But right now there's two. We're talking about sales right there. There will be fuel tax and sales tax paid. The taxes that diesel and gasoline would pay are paid there. The idea of removing the 2 percent is to level the playing field because, it's a property...it's in lieu of property tax and this is not a property tax situation. [LB921]

SENATOR LAMBERT: You see my point where I'm coming from. [LB921]

DANIEL CROUCHLEY: I'm not sure I do. [LB921]

SENATOR LAMBERT: Okay, if I pull up and...I pull up to the gas pump I'm paying, ever how many cents, 25-30 cents to the state in tax. I pull up and hook up to the natural gas and fill my car up and I drive down the road and you get your 2 percent exemption, there's nothing coming to the state for that gas that I'm burning driving down, using...tearing up that street as I'm driving down it. [LB921]

DANIEL CROUCHLEY: Well, the fuel tax is coming to the state. The fuel tax that's on gasoline and natural gas, currently is, is coming to the state. [LB921]

SENATOR LAMBERT: Okay and it's parallel... [LB921]

DANIEL CROUCHLEY: Yeah, it's all the same. We pay...by the way, we're talking \$1.87 per gallon. I'll throw that in. [LB921]

SENATOR LAMBERT: Okay. [LB921]

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

Urban Affairs Committee
January 24, 2012

DANIEL CROUCHLEY: That we pay a fuel tax on that. Just like gasoline. [LB921]

SENATOR LAMBERT: Comparable to what gasoline is, same... [LB921]

DANIEL CROUCHLEY: Yeah. I'm not sure how it applies, but obviously the cost is quite a bit lower, but the Department of Revenue makes sure that they get their fuel tax from us. [LB921]

SENATOR LAMBERT: Okay. [LB921]

DANIEL CROUCHLEY: But the only thing would be is that the city of Omaha, because there's two stations in Omaha, would not get 2 percent of that retail sale... [LB921]

SENATOR LAMBERT: Okay. [LB921]

DANIEL CROUCHLEY: ...because the nature of it as a fuel. [LB921]

SENATOR LAMBERT: That clarifies it for me, thank you. I appreciate that. [LB921]

DANIEL CROUCHLEY: Okay. Thank you. [LB921]

SENATOR MCGILL: Senator Cook. [LB921]

SENATOR COOK: Thank you, Madam Chair. Hello. I am wondering what other bidder preferences the MUD board might consider. Is this their very first idea for a bidder preference or is there a rubric where, for example, in some positions like state positions you can weigh Veterans status as part of the process? Is this the only one or are there other ones that might factor in? [LB921]

DANIEL CROUCHLEY: There's...this is the only one that MUD has approached. It's the first idea that MUD has had. The bidders who are residents or do business in the state of Nebraska can have a preference, the equivalent of a preference that might be provided by the state where the bidder came from. So if Iowa wants...has a preference for its people and they come to Nebraska to do business, Nebraska can apply a preference to Nebraska residents that equals the Iowa preference. It's actually a defensive type of--if you're going to do it, we're going to do it. So there is a Nebraska preference for bidders. [LB921]

SENATOR COOK: Okay. [LB921]

SENATOR MCGILL: Any other questions? Thank you very much. [LB921]

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

Urban Affairs Committee
January 24, 2012

DANIEL CROUCHLEY: Thank you. [LB921]

SENATOR MCGILL: Any other proponents for this bill? [LB921]

JOHN DAVIS: Good afternoon, Senator McGill and members of the committee. I understand this is probably a dry topic so I promise I have some papers in front of me, but I promise I will not read them off to you this afternoon. (Laughter) I'll just go use them as a guide. My name is John Davis, J-o-h-n D-a-v-i-s. I am director of operations for the Happy Cab Companies and also we have some other brands of automotive businesses under the I-80 brand. That includes I-80 Auto Body, I-80 Auto Sales, I-80 Auto Auction, and then I-80 Fuel. In approximately 2008, Happy Cab purchased the former Jim Arp Auto Canvas there at 5402 L Street. As many of you may or may not know, that facility was partially vacant when we bought it. So we've, in part, helped revitalize that part of the L Street corridor. Since that time we've created approximately 70 jobs that are operated out of there, as well as we have approximately 200 to 225 independent contractors that also work through or along with that facility there on L Street. We operate all five of the cab companies in Omaha. We...Happy Cab owns Happy, Yellow, and Checker and then have management agreements with Cornhusker Cab and also with Safeway Cab. We also opened this June 1, compressed natural gas, gas station in the state of Nebraska. It's open to the public. That's something that, obviously, I'm sure everyone here is aware that we did it as a joint project with MUD. I am here, obviously, in support of this bill and specifically to the portion that addresses the 2 percent property tax that's currently applied to compressed natural gas and currently right now is being applied as a...basically, to natural gas that's being sold as a automotive fuel, which I think needs to be addressed. As I said, we purchased in 2008 this facility. It actually takes up about 17 acres there along L Street. Converting our cars to compressed natural gas is not something that we did without, obviously, a lot of forethought, doing our due diligence to crunch the numbers and then, again it's public record, that we did that with the support or assistance of a Department of Energy grant that not only helped in funding that project but also in funding the gas station. The main points, I guess, I want to hit home in my testimony here is, you know, again currently the 2 percent is being applied in a situation with my interpretation of the original legislation on this, or is being applied in situations where that fuel was taxed in residential or commercial settings in a home or some type of commercial facility. As...with some of the previous testimony, you've heard that in an automotive situation or as an automotive fuel, CNG currently is already being taxed consistent with the state regs regarding vehicle fuels and that sort of thing. And so this 2 percent on top of that is almost double-dipping, but again it originally was applied in situations where you're talking about a fuel that being used in a residential or commercial setting for, obviously, operating a furnace or hot water heater or that sort of thing. I also don't think that the 2 percent in itself will make it or break it for a company that's looking at either converting a fleet or opening another fuel station or that sort of thing. But in this region of the country it's, for whatever reason, seems like a new technology. Obviously, in the southwest and

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

Urban Affairs Committee
January 24, 2012

on either coast they've really been using CNG for years. And really, I, obviously, with us jumping into this arena, we want to make sure that we are continuing to further develop infrastructure within the state. CNG, obviously, I'm sure we all know, is a domestic product. We know that it is...we have supplies that we're sitting on for at least the next 150 years. Just to correction some of the earlier testimony, CNG is actually \$1.85 a gallon, not \$1.88 anymore. So it's a fuel that's really stable and, obviously, doesn't fluctuate. If it's \$1.85 today, it will probably be \$1.85 two months from now. So it just really doesn't fluctuate like gasoline. And really that's what I have. I certainly am open to any questions if anyone has any questions. If not, then I'll certainly move on. [LB921]

SENATOR MCGILL: Any questions for Mr. Davis? Oh, Senator Lambert. [LB921]

SENATOR LAMBERT: Do you know, Mr. Davis, do you happen to know how much state tax there is on that? [LB921]

JOHN DAVIS: You know, I don't. I would probably defer to MUD on that. [LB921]

SENATOR LAMBERT: Yeah, I can check that out. Thank you. I just thought maybe you would know. [LB921]

SENATOR MCGILL: Yeah, it's a good question. [LB921]

SENATOR LAMBERT: Thank you. [LB921]

SENATOR MCGILL: Senator Cook. [LB921]

SENATOR COOK: Hi. Do the Happy Cabs run on natural gas, compressed natural gas yet? [LB921]

JOHN DAVIS: We are currently in the middle of a 50 cab conversion project. Right now, I've got on the street approximately 22 of our fleet of 200-plus that are currently burning CNG. [LB921]

SENATOR MCGILL: That's great. Any other questions? Senator Smith. [LB921]

SENATOR SMITH: Thank you, Senator McGill. Thank you for coming to testify. So kind of in simple terms here for me is that by exempting the retail sales of gas at your station from this 2 percent, then that would allow you to sell more fuel, that would potentially increase your volume of sales. [LB921]

JOHN DAVIS: I think ultimately it will. I think short-term, obviously, it's one more thing that's an incentive to a company. You know, when I approach a UPS or, you know, metro area transit, because we have buses that drive through our facility every day,

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Transcriber's Office

Urban Affairs Committee
January 24, 2012

they're going out to the West Coast for delivery from the bus plants in North Dakota and Minnesota. And so when I look at those buses every day and, you know, we approximately see about 40 a month that come through, and I wonder, why aren't we doing that locally? UPS uses CNG in their fleets and other markets. You know, why are we not doing that here in Nebraska? It's, you know, the right thing for the environment. It produces a quarter of the greenhouse gases. CNG burns at the same BTUs as gasoline so you don't have kind of the disparity that you have with propane because propane is only about 80 percent as efficient so you didn't get the same fuel economy when you're looking at gasoline gallon equivalents. CNG burns at 125 BTUs which is what gasoline burns at. So it's a great bridge fuel for us. [LB921]

SENATOR SMITH: Thank you. [LB921]

SENATOR MCGILL: Other questions? I don't see any. Thank you very much. [LB921]

JOHN DAVIS: Thank you. [LB921]

SENATOR MCGILL: Any other proponents? Anyone here to testify in opposition? Hello, there. [LB921]

ROBERT O'CONNOR: Good afternoon, Senator McGill, members of the committee. My name is Robert E. O'Connor, Jr., O-C-o-n-n-o-r. I am an attorney in Omaha. I represent IBEW Local 1521 who is the bargaining representative for the 600 of the 825 employees at MUD. I am here today to speak in opposition to various portions of LB921. First, overall, let me say that I believe that the amendments that are offered today remove transparency and remove elected official input. They stop accountability which all seems contrary to what we as citizens are seeking, not only in Nebraska, but nationally from our elected officials. With regard, specifically, to get to some of the facts, 2109, they seek to remove the bond requirement for the president. I would suggest to you that the bond requirement for the president is substantially different than a bond requirement for an elected official. What we have are elected officials who are overseeing the operation of the gas and water company that is done by hired help. It is the obligation of the elected officials to oversee that. Should there be any error in the actions of the president, it would seem to me that we would like all of the protections in place to assure that whatever defalcation may occur, could be repaid. Certainly a bond is appropriate. And quite frankly, a bond in an amount larger than \$10,000 would seem to be appropriate given the size and nature of the business of MUD and the size of the salary paid to its president. With regard to the change in the salary limitation, I would disagree with Mr. Crouchley with regard to how the district currently handles that. In my exposure to board meetings, certainly there are motions made, seconded, and approved on the hiring of employees at MUD as well as what their salaries will be. With regard to the bargaining unit employees, those 600 or so of the 825, those employees do not generally pass across the floor because the collective bargaining agreement

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

Urban Affairs Committee
January 24, 2012

provides for their wages and benefits and so there's really...that has already been preapproved and we're just filling another blank. But certainly, it seems like just about every meeting they're hiring somebody else and that is coming before the board, which I would suggest to you at the \$150,000 level, removes most of the employees of MUD from consideration by the full board with regard to the employees they are charged with overseeing, thus once again removing the transparency and the checks and balances that are necessary for the proper and efficient running of a government. We would suggest to you that that's just not something that really needs to be changed and certainly that increase is far and away going to remove most of the employees. And I would point out to you that this is not a burdensome task for the board of directors with regard to this or with regard to the termination of employees. The board of directors of the metropolitan utilities district meets once a month for approximately an hour and a half. In that time they cover all the business that is necessary to come before it, and certainly in that time they can determine what employees are being hired, and certainly with regard to discharges, they can spend the time to determine whether or not that is, in fact, the appropriate course of action. And just to be clear about that portion of it, with regard to terminations, there have been two terminations that have been considered by the board in the last eight years. Certainly, I would not disagree with Mr. Crouchley that that opportunity is an opportunity for a full and fair hearing, but are we trying to have less full and fair. That doesn't seem to be, once again, to meet with the transparency and checks and balances that we all hold so dear. They inadvertently redefined permanent employee in 2110 to an employee who has worked for more than one year. I would suggest to you that the concept of permanent employee should be well-considered and well-defined with regard to any employee at any political subdivision. They also seek to change the methodology of this hearing process to make it less than the full board and then go to some committee of the board. This legislation seeks to shirk the responsibility of the board to determine that their managers are indeed performing the proper and correct acts. Very simply told to you, the managers of MUD do have the authority and do suspend employees without pay during the consideration of the termination process. And as I said, only two of those terminations have ever ended up before the board in the last eight years. I would also suggest to you that this whole concept of giving them a letter and things like that is already covered by the service letter statute, which is R.R.S. 209...48-209. Let me conclude by just suggesting to you, which is completely unrelated to employment, this whole fire hydrant thing. They're asking for permission to adopt any standard they think is advisable, and I would suggest to you that's the whole purpose of statutes is for the Legislature to set standards upon which various bodies of government are held accountable. I'm surprised that the insurance industry isn't here protesting the lack of 400 feet or the lack of regulations since that's the way all of your homeowners policies read that there's a fire hydrant within 400 feet. If we're going to remove that, I don't know what that does. All that this does is suggest to me to suggest to you that perhaps this is not as well-thought-out as it might be, and perhaps, I've spoken with Senator Harr earlier today, that this might be referred back so that might have an opportunity to offer some

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

Urban Affairs Committee
January 24, 2012

amendments. With that, I thank you for your time. I'm certainly able to answer any questions. [LB921]

SENATOR MCGILL: Thank you, Robert. Are there any questions? I don't see any. Thank you for coming and putting in your two cents. [LB921]

ROBERT O'CONNOR: Thank you. Appreciate your time. [LB921]

SENATOR MCGILL: Are there any more opponents to this legislation? I have one letter in opposition to read into the record from Ronald Wanek on many of the same accounts that Robert just described. Any neutral? Don't see any. Senator Harr to close. [LB921]

SENATOR HARR: Thank you, Senator McGill. Senator Lambert, to answer your question, I will look into the tax. I do know that diesel is taxed higher than gasoline and it has been a burr in my saddle as a diesel driver, so. (Laughter) I will look and see how natural gas is taxed as well. I'm sure us diesel drivers are probably paying a higher burden there too. I want to thank everyone who came and testified today. As Mr. O'Connor said, he pointed out some issues on this bill that I think deserve a little closer attention, and I'm willing to work with him and Mr. Crouchley to ensure that the bill we pass is a good bill that when it does get on the floor, it can pass. But it looks like it needs a little work and I would ask to work with this committee to come up with some amendments. And with that, I would be open to any questions. [LB921]

SENATOR MCGILL: Sounds good. Any questions? No. Thank you, Senator Harr. [LB921]

SENATOR HARR: Thank you. [LB921]

SENATOR MCGILL: That closes the hearing on LB921, and we will go on to LB932 and Senator Bob Krist. [LB921]

SENATOR KRIST: Senator McGill and fellow members of the Urban Affairs Committee, LB932 has to do with voting rights for registered voters of the Sanitary and Improvement Districts. We've had a lot of discussions about SIDs over the last few sessions. It is interesting to me...first of all, let me thank Senator Smith for allowing me to use his legislative assistant. She was very helpful and I appreciate that in the absence of mine. That's in no way should be construed as him agreeing with me. (Laughter) I have here a list of all of the SIDs that are across the state. It is amazing to me when we actually got into the number. You know, when you think, tend to think about SIDs in our larger cities are around our metropolitan area. And as we have talked on the floor in the past couple sessions, the city of Omaha has elected not to annex an SID, hop over an SID, move on. This bill is not...was not brought to me by anyone. This idea is brought to me as a discussion vehicle because there are over 1,040...there are 1,040 SIDs today, 1,040.

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

Urban Affairs Committee
January 24, 2012

How does an SID come into existence. It applies for a building permit with a local municipality. It takes developers' money and the bank to build the SID. Sanitary Improvement Districts have to pay off their utilities as they put them in before they become attractive to be annexed by the local municipality, and including villages and small towns. We have one very close here into the Lincoln area, Palmyra, which has a very nice SID area. The issue comes with, as we've heard in the past few sessions, whenever someone tells me there's taxation without representation, I would tend to think that we need to pay attention to that. The ETJ, the extraterritorial jurisdiction around the Omaha area, as it applies also to the small towns around in Sarpy County, those areas tend...you tend to pay taxes to support the school systems. You tend to pay taxes and service charge taxed separately as an SID, but until you actually become a part of the city, annexed in the city, it is true, you do not pay city taxes. A lot of the Omaha areas, though, are affected by services that have to be provided. Just because the SID on 171st and Maple stops at 171st and Maple and goes into their neighborhood area, it doesn't mean those streets don't have to be maintained around the area. It doesn't mean that those fire hydrants have to be every 400 feet. It doesn't mean that all of that has to...can't happen, or shouldn't happen. I brought this together because I thought in a discussion with the SIDs that taxation without representation should not happen, that we should encourage communities to annex, have a plan. If there's a development made in their area, have a plan to annex over a period of time. So if you look at the language, it says if the county election commissioner or county clerk determines that the registered voters in an SID located in the county are entitled to vote under this act, the commissioner or clerk shall notify the clerk of the city, village, or township. It incorporates that voting...or the potential to vote for the leadership that in some ways is making decisions about your SID. Now, I didn't think there was anything wrong with that. And then over the past few days, you know, I have listened, not to the lobby, but to a few mayors around the local area, to some of my colleagues. And I'm going to tell you that I think that we need to watch out for the SID as a valuable economic development tool. There are 1,040 of them, as I said. We cannot stifle the growth because with the SID comes economic development and with the SID it becomes a less of a burden on the local municipality to allow development and growth in our areas. That is the beauty of the SID, make no mistake. Some of them are more attractive to annex than others. I'm reminded that in the Miracle Hills area, that the city skipped over because they didn't want the lake. They didn't want the liability of the lake. They don't want the liability of a septic system that is a leech pit. But still, those people live in our communities, in our cities, near our municipalities, and I thought it important to give them a vote. The League came back and gave me some interesting statistics as did other folks. If I am a town of 17,000 people, and the SIDs that surround me are 9,000, guess what? They probably have a pretty substantial vote in who is the leadership of the SID. So I'm not going to try to solve a problem that doesn't exist right now. But I'm going to tell you that as we look at the developments of SIDs around our local municipalities, I believe we should start looking to have incorporation plans or annex plans in place almost from the day that that SID is put into place. And I would suggest that I think the mayors in the

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

Urban Affairs Committee
January 24, 2012

local area have convinced me, they intend to. Bellevue has taken a huge step in that particular effort. So is this a solution in search of a problem or a problem in search of a solution? It is my intention to withdraw this bill in the next few days, as soon as I can ask Speaker Flood to put it up. It may come back. I can tell you my worst critic in all this was the Secretary of State's Office who is a bit concerned about the constitutionality of putting this into place. So with that, I would encourage anyone who came a great distance if they want to say something positively or negatively to do so, but rest assured, I'm a man of my word. I will withdraw in the next few days. And with that, I'll close too, if there's nobody here. [LB932]

SENATOR MCGILL: All right, fabulous. We will still go ahead and take proponents of this legislation if there are any in the crowd who want to testify. I am not seeing any right now, so any opponents who would still like to come in and put their two cents in. Ricky, welcome back. [LB932]

RICK CUNNINGHAM: My name is Rick...Ricky Cunningham, R-i-c-k-y C-u-n-n-i-n-g-h-a-m. I am the planning director for the city of Omaha, and the planning department is the lead agency in the city of Omaha when it comes to our annexation program. And so I am here also besides representing the city, I am now carrying the ball for the League of Municipalities to say, thank you, Senator Krist. We did have immense concern about this bill and the impacts that it could have. And as you aptly put out, it is an economic development tool that has been used quite effective in the Omaha area, not necessarily by Omaha but within the Omaha area. It is one that we have consternation on because it does create responsibility on our part to build infrastructure out to a place where we would not build infrastructure if the SID wasn't there. It's kind of thought that, well, the SID does all of the infrastructure, but really when it comes down to arterials and major...major transportation and sewer extensions and so forth, the SID pays for their part. They hook on. We still have to extend those things out there in order for the SID to hook on to something. So it does obligate us to a certain extent to do that. But it is an economic development too, because otherwise if we didn't do that, we couldn't as a city afford to do that...all the infrastructure associated with the SID and that's the beauty of it. We would like to annex many more, especially before 2013 when the Legislature has decided to take away our wheel tax, which is one way that we at least got some money to build that infrastructure in place and maintain it. So we would certainly love to annex more and believe me, I'm aggressive when it comes to that but my finance director is also as aggressive to make sure that we can afford, we can afford to annex. So it's not simply as easy as just saying we're going to annex. We need to be able to afford it. As you may or may not know, housetops do not pay for themselves. There has to be commercial annexation along with those housetops really to balance it out to make it affordable, and certain SIDs have higher debt ratios, a higher debt amount. We cannot afford to take that on as most SIDs out there has a higher tax rate than the city. The reason for that is because their debt rate is higher per capita because that's what it takes to develop it. So having said all that, besides, you know, that we

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

Urban Affairs Committee
January 24, 2012

don't want to lose any more economic development tools, I will say, however, that we have, as you probably, I think, have heard, embarked upon a new environmental element of our master plan and our goal there is not to shut down SID development, but instead to incentivize and catalyze a higher density on a reinvestment within the core of the city. Change our land use assumptions as far as how the city grows. Right now, we're anticipating between 130,000 or so in the next 20 years. Right...previously, the assumed model was 120,000 of those individuals would be outside of our 680 loop. And we are fighting now to say, let's make a small change to that land use assumption. Get some tools in place where we can make that shift from an incentive perspective, not dictating, but change that from 120 outside the loop to 110 and have that other 20 within the city, and that could have a considerable impact on the sustainability. And that's the bottom line. We need that sustainable city and we cannot continue to develop out west and turn our back on the older part of town. So from my bottom of my heart, thank you, (laughter) for deciding to withdraw this and certain...(Laughter) And so from an opposition, this is, you know, hey, thank you very much. But certainly we would love to sit down with you and talk about the challenges that we face as far as annexation and try to come up with ways where we can be more effective in our annexation policy. We still have a couple and those are the ones that really bother me that are surrounded by 75 to 90 percent to 100 percent of the city of Omaha. But we have not been able to justify bringing them in the city at this point and that bothers the heck out of me. We have SIDs out there that are 30 and 40 years old and that bothers me, that they were never intended as a tool to be that old, never intended to be that old. They were intended to be formed, pay the debt, and then become part of the city. And that just has not happened. It's unfortunate, but we certainly would enjoy trying to resolve that issue. I certainly would be a tool that would be helpful to the city of Omaha. Thank you for hearing me and I noticed you didn't put the lights on because you assumed it wasn't going to take 5 minutes. [LB932]

SENATOR MCGILL: Well, thank you, Mr. Cunningham. [LB932]

RICK CUNNINGHAM: But I will tell you that most people will tell you, give me five, I'll take twenty, so. [LB932]

SENATOR MCGILL: I haven't noticed. (Laughter) [LB932]

RICK CUNNINGHAM: I used to teach so...(laughter) And I was a marketer, so what can I say. I'm here to answer any questions, obviously, if there are any questions, but... [LB932]

SENATOR MCGILL: Any questions? I don't see any. Thank you very much. [LB932]

RICK CUNNINGHAM: Thank you. [LB932]

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Transcriber's Office

Urban Affairs Committee
January 24, 2012

SENATOR MCGILL: Is there anyone else here to testify? All right. Seeing none, that will end our hearings for the day. [LB932]