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Revenue Committee  
February 13, 2013

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[LB97 LB153 LB191 LB341 LB571]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 13, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB97, LB341, LB571, LB191, and LB153. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Burke Harr; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: Tom Hansen and Charlie Janssen.

SENATOR HADLEY: I think we're ready to get started. Good afternoon. Welcome to the Revenue Committee. We'll try and have you out of here by 11:00 tonight, that's our goal. We set a record last week so. My name is Galen Hadley. I represent the 37th District, which is Kearney and part of Buffalo County. To my left is Senator Schumacher from Columbus; Senator Pirsch from Omaha; and Senator Sullivan from Cedar Rapids. To my far right is Senator Burke Harr from Omaha; Charlie Janssen, Senator Janssen is not here; Senator Beau McCoy from Omaha; and Senator Hansen will not be with us today. Our committee counsel is Mary Jane Egr Edson. To my right, Bill Lock is our research analyst; and Matt Rathje to my far left is our committee clerk. Our pages are Evan Schmeits and Nate Funk. See them over there? Okay. If you would...I would appreciate turning off your cell phones or put on vibrate while you're in the hearing room. The sign-in sheets, at one time I had one here, yeah, I do, something like this, make sure you have those filled out, come up here, hand them to the committee clerk. That way we can make sure your name is in the transcript correctly as a testifier here. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your sheet to the committee clerk. There are clipboards in the back of the room to sign if you do not wish to testify but would like to indicate your support or opposition to a bill. These sheets would be included in the official record. We will follow the agenda posted at the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it, that's s-p-e-l-l it for the record. If you have handouts, please bring ten; but if you don't have that, we'll be happy to make them for you. We appreciate everybody showing up. We'll try and get it going. I will not use the light system today. I notice we have a lot of people here so I hope you're cognizant of the people behind you in your testimony, but I will not use the light system, as long as it's okay with you if I say to you gently, maybe it's time to wrap up you'll understand. With that, I see Senator Mello is...no, Senator Harr is first, is that right? Or is...

\_\_\_\_\_: No.

SENATOR HARR: He is the Chairman of Appropriations so...

SENATOR HADLEY: He's the Chairman...

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SENATOR HARR: ...we will give all due deference to him.

SENATOR HADLEY: All due deference to Senator Mello. Senator Mello, welcome to Revenue.

SENATOR MELLO: (Exhibit 1) Well, good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. From the urban south Omaha neighborhoods that I represent to small villages in rural Nebraska, vacant and abandoned properties have long been a problem for Nebraska's municipalities. Particularly in older communities, vacant properties can have the effect of depressing property values and straining our already thinly stretched public resources. These abandoned buildings present serious health and safety risks, including the risk of fire, that can serve as a target of criminal activities, including arson, graffiti, and drug trafficking. The foreclosure crisis only further worsened the problem, adding an increased number of homes and businesses to the vacant property rolls. The concept of land banking offers communities an aggressive new set of tools to address vacant properties and urban blight that can result. A land bank is a public authority created to efficiently acquire, hold, manage, and develop abandoned, vacant, and tax foreclosed properties. Although as recently as 2005 most land banks were being operated in older Rust Belt communities, like Cleveland, Ohio, and Flint, Michigan, the land banking concept has grown significantly over the past few years. In the past year, four states have passed enabling legislation to allow the creation of land banks at either the city or the county level. While Nebraska fared much better than most states during the housing crisis, land banks in other states and communities have emerged as a key tool to help stem the decline in property values that affects not just the vacant properties themselves but neighboring properties as well. Last year, Chairman Ben Bernanke of the Federal Reserve recognized the role that land banks could play in helping communities address the large number of low-valued properties currently in the housing market. For an example, the land bank in Cleveland, Ohio, partnered with several major banks to accept the donation of unwanted, foreclosed properties with the banks paying the demolition costs so that the land bank could get those properties back into productive use. As returning members of the committee may recall, I introduced legislation last year which would have enabled any Nebraska municipality to create a land bank, and land banking was the topic of this committee's joint interim study with the Urban Affairs Committee, LR520. Last year's bill, LB1137, was advanced by the Urban Affairs Committee with a committee amendment that made significant changes to the green copy of the bill. These vast majority of changes were made to address issues raised by the lone organization that testified in opposition to the bill last session. The changes were also made at the request of other organizations that brought their concerns to us following the hearing. Using the LB1137 amendment as a starting point, my office worked extensively with the interested parties over the interim to draft the

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language in LB97. In addition to the city of Omaha and Habitat for Humanity, we worked extensively with business organizations in Omaha, including the Greater Omaha Chamber of Commerce and the Omaha Board of Realtors, as well as statewide organizations like the Statewide Property Owners Association, Nebraska Realtors, and the Nebraska Bankers Association. Under LB97, which is limited to Douglas and Sarpy Counties, would allow a municipality to create a land bank by ordinance or a group of municipalities to create a joint land bank through an interlocal agreement. Land banks are governed by an independent board of business sector leaders and the board must include the following representatives: a member representing realtors, a member representing the banking industry, a member representing real estate developers, a member representing the chamber of commerce, a member representing the nonprofit housing sector, and a member representing large-scale landlords. Land banks have a variety of basic powers, including the ability to acquire and dispose of property, hire staff, adopt and amend bylaws, sue and be sued, issue bonds, enter into contracts, and obtain insurance. The land bank would not, however, have eminent domain authority or the ability to levy property taxes. Funding for the land bank's operations could generally come from seven potential sources under the bill: local funding from the municipality, either in the form of direct funding or in-kind services; state and federal grants; philanthropic contributions; proceeds from the sale of real property; temporary rental income; proceeds from the redemption of tax sale certificates; and in Section 11 of the bill, after a property has been transferred from the land bank to private ownership, the land bank can receive 50 percent of the property taxes collected on that property for a five-year period. Sections 16 through 18 of the draft contains some of the most important powers given to a land bank. Under Section 16, a land bank can extinguish existing tax liens on properties it receives, which is essential to getting those properties, whose delinquent taxes exceed fair market value, back into productive use. Sections 17 and 18 allow the land bank to participate in the tax foreclosure process, both by investing in tax sale certificates and purchasing properties at tax foreclosure sales. These sections also provide for an automatically accepted bid by the land bank, which gives the land bank's bid and tax foreclosure proceedings priority over other bids. This is specifically designed to be a limited-use power and the bill requires the land bank board to adopt bylaws spelling out the specific scenarios under which the automatically accepted bid would be utilized. If an automatically accepted bid is given at a foreclosure sale, the bill requires that the land bank pay the full amount of taxes, interest, and costs owed, and written consent to the automatically accepted bid must be given to any existing private lienholders. Both at the hearing on LB1137 last session and while working on LB97 over the interim, the primary question that my office has fielded is the fundamental question of why an additional governmental entity is needed to fill this role as opposed to the nonprofit sector or an existing local government. First, many of the critical powers given to a land bank in LB97, including the ability to extinguish delinquent taxes, can only be given to a political subdivision under our state constitution. Second, land banks are designed to be narrowly focused on the rehabilitation of problem properties, and giving the powers of a land bank to a political

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subdivision that also has the power of eminent domain runs the risk of blurring that important goal. More importantly, the argument has been made that by allowing a land bank to participate in the tax sale certificate process, LB97 is unfair government competition in or even a takeover of a private market. The tax sale certificate market, however, is one that was created by government. The state established this process to ensure that political subdivisions receive property taxes owed to them when the individual property owners failed to pay their taxes. Existing statute already allows other political subdivisions to purchase tax sale certificates within their corporate limits. There's no reason that a land bank should not have similar authority, as long as the full amount of taxes, interest, and costs owed are paid. It's also important to note that a majority of the tax sale certificates are purchased not by real estate companies but by speculators, many of which come from out of state. In 2012, 50 percent of the tax sale certificates in Douglas County were sold to out-of-state companies that have no underlying interest in the properties themselves but are only interested in getting the 14 percent interest on the tax sale certificates in Douglas County. In the lead-up to this afternoon's hearing, my office met with several Omaha-based investment companies who are supportive of the land banking concept but were concerned about the tax sale certificate procedures in the bill. While we were unable to finalize the amendment language in time for this afternoon's hearing, my office will be offering an amendment to the committee that addresses their specific concerns, clarifying the circumstances under which a land bank can utilize the automatically accepted bid procedure. Testifiers following me will provide the committee with an overview of the framework and concepts that we generally agreed to prior to today's hearing. As I stated at the beginning of my testimony, land banking is a growing trend with many states and communities starting to look towards land banks as a potential solution to address problem properties. Four states passed land bank enabling legislation last year: Georgia, Missouri, New York, and Pennsylvania. In three of those states, the legislation was carried by Republican legislators and signed by Republican governors. In fact, many of these bills were passed unanimously or nearly so. Each of the committee members should have received a copy of the book Land Banks and Land Banking, by Professor Frank Alexander of the Emory University School of Law in Atlanta, either prior to the interim study hearing or last week. Professor Alexander, perhaps the country's foremost expert in the field of land banking, drafted the model legislation that was used to craft the initial language in LB97, and I'm pleased that he's able to join us today in support of the bill and to offer feedback and take comments from the committee. I may defer some of the more technical questions that I may not be able to answer to him, but otherwise would be happy to answer any questions the committee may have. [LB97]

SENATOR HADLEY: Are there questions for Senator Mello? Senator Sullivan. [LB97]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Mello. So what's the structure of this land bank? Is it a corporation? Is it an LLC? And what liability do the members have and can you explain some of those details? [LB97]

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SENATOR MELLO: I'll try to explain it without getting too much...into too much detail. That's laid out, I know, in probably the committee's section-by-section overview of the bill. But essentially a land bank, under LB97, has to be created by city ordinance, which essentially makes it a political subdivision within a city, a municipality within Douglas or Sarpy County. So in theory, it's a quasi-governmental entity that's created by, for an example let's say, the city of Omaha, but it's not given the same authorities that a lot of other...or most of the other political subdivisions in Nebraska has. It does not have the ability to use eminent domain. It does not have the ability to levy property taxes. But it does have to abide by open meeting laws, open record laws, in part because it really is a public-private partnership model for it to work. Really, there's no way for a land bank generally to work without the private sector's involvement, and part of the way we drafted LB97, after originally introducing the concept last year, was in working with some of the business organizations in Omaha who had some interest but had some concerns about how this ultimately would operate within the city of Omaha or even within the Douglas-Sarpy County area. We tried to make sure that we followed open meetings, open records laws. But we provided, I think, some more guidelines in regards to who can be members of the board or at least providing designations in regards to making the board, I would say, a more business-focused board of directors that still are appointed by the city council and the mayor but ultimately represent the key industries that are at the table, when you're talking about community redevelopment: the real estate industry, developers, the banking industry, the nonprofit housing corps. As well as we also additionally added more larger-scale landlords, which is, in the urban areas of Douglas-Sarpy County, has a pretty key role in regards to some of the residential housing issues that we currently are trying to address in the bill. It also provides actually at-large member as well to the board, as well as the planning director for the city or their designee as an ex officio member of the board. A representative on behalf of the Metropolitan Area Planning Agency, better known as MAPA, is also an ex officio member of the board, since part of what we're talking about is planning and trying to essentially plot out community development and redevelopment initiatives within the city, as well as one of our last representatives also is a member of the chamber of commerce. It doesn't designate a certain industry but simply a member, someone who is from or affiliated with the chamber of commerce. Once again, we wanted to try to build this public-private partnership model that kind of is modeled a little bit off of the MECA, the Metropolitan Entertainment and Convention Authority in Omaha, but take it a little bit different knowing that really some of the projects that are happening in the Omaha area have been driven in partnership with the chamber of commerce in the city of Omaha in some of the massive redevelopment areas in the eastern part of the city. And so we felt that having them being the board of this new authority would be able to provide, I think, a little bit more synergy amongst what's going on in the metropolitan area. [LB97]

SENATOR SULLIVAN: Thank you. [LB97]

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SENATOR HADLEY: Are there any other questions for Senator Mello? I have...oh, I'm sorry. Senator Schumacher, go ahead. [LB97]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for introducing this, Senator Mello, today. At the core of the problem is a dilapidated piece of property that the taxes haven't been paid on. Is that what we're working from? [LB97]

SENATOR MELLO: Abandoned or vacant properties as well, so not just dilapidated properties but they could be abandoned properties, vacant properties that are essentially causing challenges in regards to doing redevelopment in the eastern part of the city. [LB97]

SENATOR SCHUMACHER: And then is it fair to say that currently what happens is that the taxes aren't paid, a tax sale certificate is issued, either the county sits on that certificate and hatches it for 14 percent interest for three years or so, or a private investor pays that tax and hatches it for... [LB97]

SENATOR MELLO: Uh-huh. [LB97]

SENATOR SCHUMACHER: ...14 percent interest for three or four years? [LB97]

SENATOR MELLO: Correct. [LB97]

SENATOR SCHUMACHER: And then it's foreclosed at some type of foreclosure sale. [LB97]

SENATOR MELLO: Correct. [LB97]

SENATOR SCHUMACHER: Okay. Is the core of the problem then that these things sit for the three or four years while they are being hatched at 14 percent interest? [LB97]

SENATOR MELLO: That's part of the issue. Part of the other issue, and there's others who will testify after me as well, in the sense of some of these properties are languishing. And I know, I don't want to get ahead of the committee, there is a bill Senator Wightman has later in the Revenue Committee in regards to dealing with the process of tax sale certificate and foreclosure process, which has a somewhat unique connection I think to what we're trying to do in LB97. But it's also properties that get caught up in the tax foreclosure process that are languishing, and trying to find ways to see...where ultimately we know where these properties are. We know we have a large number of these properties in the eastern part of Omaha, of finding ways to be able to acquire these properties sooner through the tax...initially through the tax sale certificate process, with the understanding that those are properties that could be purchased at the

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foreclosure sale and ultimately they could be demolished or if they can be rehabbed and sold again and get back on the private market is the main focus. [LB97]

SENATOR SCHUMACHER: Now the...from the time that it's been put up for sale and they have to wait for the three years, it's my understanding that that three-year waiting period and the unreasonably high interest rate of 14 percent was a product of the fact there was a lack of ability to get loans back in the Thirties or whenever these...original law was written, and you didn't want to push somebody out into the street until they had a chance to... [LB97]

SENATOR MELLO: Uh-huh. [LB97]

SENATOR SCHUMACHER: ...to at least make good on it. Now the 14 percent interest, when you have bank loans at 5 percent or less, you'd have to be committable in order not just to pay it off. So why don't we just cut the waiting period down from three years to three months or six months and be done with it? [LB97]

SENATOR MELLO: I think part of the challenge, and that was...you I think remember the issue we...this is an issue that is a difficult one and part of what we talked about during the interim study on land banks back in December. Is in part, our understanding was the history behind the three-year period dealt with, in part, of trying to protect ag land in regards to farm foreclosures that were occurring and providing an ample amount of time to ensure that if a property went into foreclosure, they had an ample amount of time to be able to acquire their property back, instead of a very fast process where the property would be foreclosed or the farm would be foreclosed on and they would lose that farm within a year's time. That, one, that requires a constitutional change in the sense of asking essentially to be changed in regards to that three-year period to a shorter period. [LB97]

SENATOR SCHUMACHER: The three years is constitutional? [LB97]

SENATOR MELLO: Yes. Yes. We identified that before changing that time frame was a constitutional change. [LB97]

SENATOR SCHUMACHER: It's not just statutory. [LB97]

SENATOR MELLO: No. I thought we did...I thought we did address this before at the interim study, because this was an issue that was raised I think by multiple people of, why don't we just look to make the time change? And in part, because it would require a constitutional amendment to ask property owners, essentially, to speed up the time in which their properties could be foreclosed on, which we thought was a very difficult proposition to make, but... [LB97]

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SENATOR SCHUMACHER: Do you maybe have in your notes the section of the constitution that's in? I mean if not, I (inaudible). [LB97]

SENATOR MELLO: I don't have it on me right now, but I'll make sure to follow up... [LB97]

SENATOR SCHUMACHER: Okay. [LB97]

SENATOR MELLO: ...with you afterwards, at least try to follow up with you in the closing if possible. [LB97]

SENATOR SCHUMACHER: Now is this land bank supposed to make money or lose money? [LB97]

SENATOR MELLO: It's not supposed to make money. It's supposed to generate enough revenue, through a variety of means it can, to essentially achieve its intended outcome, which is to demolish properties, to rehab properties, and to get those properties back into the private market in regards to those properties being sold to an interest that could then ultimately generate something productive with that property. [LB97]

SENATOR SCHUMACHER: And to get its operating capital, it issues bonds. [LB97]

SENATOR MELLO: It...actually we give the authority for them to be able to do mortgage-backed bonding, but the reality is, in the research we've done with other land banks across the country, it's...bonding has been used very, very sparingly, in part just because...just because it's not a chosen financing model in parts of the country. But they can do bonding but they ultimately can only do it with mortgage-backed assets. [LB97]

SENATOR SCHUMACHER: Where do they get the money to buy the tax sale certificates? [LB97]

SENATOR MELLO: As I mentioned before, there's several sources of income and revenue that can be generated. They can receive direct revenue or direct contributions or in-kind services from city government. They can apply for grants from the state or federal government. Mostly, though, most land banks have started up with philanthropic contributions to start up the process. I mean, I think you can ask the testifiers after me in regard to some of the community development projects in the Omaha area that have been started almost exclusively, at least the planning and some of the acquisitions, from the philanthropic community and the business community that provides the initial seed money to get things started. That's the similar concept we see in LB97, is that the only way this generally will be able to work is that it's going to require philanthropic support



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from foundations in the business community to focus on acquiring these problem properties, demolish them, get them rehabbed, and be able to sell them and get them into some kind of redevelopment plan. [LB97]

SENATOR SCHUMACHER: Thank you, Senator Mello. [LB97]

SENATOR HADLEY: Senator Mello, I...oh, Senator Pirsch, go ahead. Go ahead. [LB97]

SENATOR PIRSCH: No, (inaudible.) [LB97]

SENATOR HADLEY: No, go. No. [LB97]

SENATOR PIRSCH: Well, I was just going to say, so as you derive these funds from philanthropy and the municipality and through other sources, grants and...and you said again, well, let me clarify this. The land bank would receive 50 percent of the taxes. On how long of a period of time and on which properties? [LB97]

SENATOR MELLO: The bill uses a method, and Dr. Professor Alexander can speak to this a little bit after me as well in the sense of kind of the multigenerational aspect of where land banks have come. We've incorporated in LB97 a concept that's been put into use over the last couple of years which provides a 50 percent turnback of the property taxes on the properties that get sold by the land bank, redirecting 50 percent of those property taxes back to the land bank for them to be able to utilize for further demolition, further rehabilitation of property so that it's a revenue-generating stream. Now, granted, most of these properties are low-value properties at the end of the day. And so it's not going to generate sizeable amounts of revenue for them, but it is a way to provide some revenue back to them for a five-year period so that it can be a self-sustaining revenue model. [LB97]

SENATOR PIRSCH: Okay. And that's what I want. You said five-year period that that's going to...? [LB97]

SENATOR MELLO: Up to a five-year period, they have the ability. Also in the bill which is different from what we've done last year, it provides the land bank the ability to defer accepting that 50 percent property tax if they so choose to. [LB97]

SENATOR PIRSCH: I'm not sure why they would, but under your (inaudible)...but the...well, how would you go about then, so the land bank would be managing certain property, you know, coming into possession of... [LB97]

SENATOR MELLO: Parcels of land. [LB97]

SENATOR PIRSCH: ...parcels of lands. And I would imagine there's an overwhelming

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number of these types of houses that have...so how would... [LB97]

SENATOR MELLO: Challenging parcels? Correct. [LB97]

SENATOR PIRSCH: Challenging parcels. And so how would...is it up to the board to decide the development, you know, kind of policy in terms of let's concentrate our scarce resources in one project or a multiple project? Is that how you envision it? [LB97]

SENATOR MELLO: Ultimately, yes. And I say that in the sense that this is enabling legislation and to some extent it's very unique enabling legislation where we're very prescriptive in regards to putting parameters in regards to what can and cannot be done within this authority. Since it's a new authority in Nebraska, part of, I think, the consensus that we try to build with the variety of business organization was to put more prescriptive measures in place in the bill that would limit some of the authority, some of the powers. As well some of the testifiers who will come after me will provide some more information on some further clarification we're getting in regards to their ability at the tax sale certificate process that we've agreed to in principle and the framework that we're going operate from moving forward. But ultimately, that decision will be left up to the board in regards to their strategic day in, day out operations; of what parcels they want to prioritize. [LB97]

SENATOR PIRSCH: Okay. [LB97]

SENATOR MELLO: No doubt they'll be working with the city of Omaha's planning department, since they'll be an ex officio member, in trying to look at redevelopment plans the city currently has underway, as well as the chamber of commerce who has multiple...three major redevelopment plans also underway, so... [LB97]

SENATOR PIRSCH: Well, that's what I wanted to get at. It's the board ultimately that makes the decision. [LB97]

SENATOR MELLO: Yes. [LB97]

SENATOR PIRSCH: So being that these parcels of land are existing within the greater municipality and, you know, obviously the city planning is going to be an ex officio member, how do you deal with any possible conflicts of vision, so to speak, in terms of, you know, that doesn't fit in with our master plan for this municipality, and yet there's a board who feels that is? I mean do you envision that being a problem or do you think they'll work seamlessly? [LB97]

SENATOR MELLO: I don't. I think, one, I think it was in a general issue that we discussed in regards to some of the preliminary discussions this fall with the variety of stakeholders. And we chose not to specifically say they had to follow one, the city's

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specific master plan or specific plans the city may have, in part because we have the city as...even though they're ex officio, they're members of the board and can explain and walk through, obviously, what the city currently has planned out, whether it's a downtown master development plan or it's a north Omaha or a south Omaha or a Destination Midtown plans. [LB97]

SENATOR PIRSCH: Yeah, that has no... [LB97]

SENATOR MELLO: We're allowing...that's not addressed in the bill in part because we didn't want to limit ultimately what the city and the board may come to an agreement on of what may be the key priorities if this was to come into law. [LB97]

SENATOR PIRSCH: That's not panned out as a problem in the places that have implemented land banks thus far? [LB97]

SENATOR MELLO: We have not...we've not seen that as a problem, in part because some areas may have I think more...some may have more developed master plans or community development plans, some may have less. But it's an issue that was raised. We decided not to incorporate it and be that prescriptive of dictating they can only...they had to follow one plan, because, as we know, sometimes plans do change in regards to whether it's a property that was slated to be residential that gets then changed for commercial, vice versa. We didn't want to limit ultimately something right away before knowing that these plans may change. And we didn't want to put something like that in statute. Ultimately, it's a decision of the board that they could ultimately end up deciding on their own after they would be created. [LB97]

SENATOR PIRSCH: Okay. [LB97]

SENATOR HADLEY: Mine is going to be easy. Actually, when I got on the phone to talk to some people about this, I went to my favorite place, Google, and I noticed that Washtenaw County in Michigan, which is Ann Arbor,... [LB97]

SENATOR MELLO: Uh-huh. [LB97]

SENATOR HADLEY: ...suspended theirs for a year. So you don't have to answer today, but if you could look up. I really can't remember why they did it. [LB97]

SENATOR MELLO: Uh-huh. Uh-huh. [LB97]

SENATOR HADLEY: But if you could look it up and see if, you know, what problems they had... [LB97]

SENATOR MELLO: Okay. [LB97]

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SENATOR HADLEY: ...and to be sure that the problems... [LB97]

SENATOR MELLO: It may be a better question, Senator Hadley, that Professor Alexander,... [LB97]

SENATOR HADLEY: Okay. [LB97]

SENATOR MELLO: ...who will testify after me, he may be able to shed more light on. Otherwise... [LB97]

SENATOR HADLEY: Okay, I just happened to read it... [LB97]

SENATOR MELLO: ...otherwise my office, we can... [LB97]

SENATOR HADLEY: ...but I can't...it had been so long ago that I read it, I can't remember what the... [LB97]

SENATOR MELLO: Okay. [LB97]

SENATOR HADLEY: Thank you, Senator Mello. [LB97]

SENATOR MELLO: Yep, thanks. [LB97]

SENATOR HADLEY: Are you going to stick around for closing? [LB97]

SENATOR MELLO: I will. I will. Thank you. [LB97]

SENATOR HADLEY: Okay. Thank you. Next proponent. [LB97]

FRANK ALEXANDER: Good afternoon, members of the committee, Senator Hadley. My name is Frank Alexander, that's F-r-a-n-k, Alexander is A-l-e-x-a-n-d-e-r. My day job is as a professor, so I'm delighted, Senator, to see a dean and president now be a senator, but I apologize also if I slide into calling you Dean,... [LB97]

SENATOR HADLEY: (Laugh) Yeah. [LB97]

FRANK ALEXANDER: ...because where I live and work, the Dean is the one you always listen to. This is such a joy for me to be back. I was privileged to come out a year ago and testify before the Urban Affairs Committee and Senator McGill on the version of the land bank bill at that time. I think what I'm going to do, in light of your questions, is I'm going to keep my formal testimony very brief so that I can begin to respond to your questions. Each of your questions are excellent. By way of background,

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I've been doing work in the field of land banks and land banking for about 30 years, and I've been doing it most recently since I was last out here to testify. As Senator Mello indicated, I was involved in the drafting of parallel legislation to what you all have for New York, which was signed into law by the governor in July of 2011. Last year it was signed...approved by the legislature and signed into law in Georgia, Missouri, and in Pennsylvania, and in all cases it parallels what's before you all. It differs because of your own state constitutions and your own tax foreclosure systems, but the basic concepts are the same. In all instances what is being created is a special purpose public entity to deal with the property that is dead to the marketplace, either dead because of economic abandonment or dead because the legal system itself has encouraged abandonment. In many cases, it is tax delinquent, multiyear tax delinquent, or taxes now exceed fair market value and nobody will touch it. And partially in response to Senator Schumacher's earlier question to Senator Mello, reform of the tax foreclosure system is a passion of mine. Land banking is an ancillary point. Most tax foreclosure systems in the United States date back at least to the early twentieth century, if not earlier. Until a tax foreclosure system is fully reformed in an efficient, equitable manner, you're still going to have many of the problems. The focus of a land bank is not just the properties that are tax delinquent, because there are properties out there that are vacant, substandard, and abandoned but for which the taxes are not delinquent. You have massive code violations, uncited, unenforced code violations, or you'll have properties which have gone through multigenerations, what I in Georgia we call heir property, where the title is so highly fractured no one will step up and do anything with respect to that property, but some sixth cousin is still paying the nominal taxes on it. So a land bank, yes, will focus on the tax delinquent property as an early sign of abandonment, or sometimes two or three years down the road, but not solely that. A land bank is really designed to be, as Senator Mello suggested, a special purpose public entity that focuses on the worst of the problems. It is to address the properties that the marketplace can't access or has abandoned. There are now somewhere between, depending upon how you counted, 125 to 175 land banks ranging from Syracuse to New Orleans, Baton Rouge up to 35 land banks in Michigan. We've got 15 that have now been created in Georgia, in my home state. What we're seeing is in every state, as Senator Mello indicated, the legislation is simply a way of giving local governments a specific tool. The state enabling legislation sets parameters, but then the locals use it in a way that makes sense. Some land banks in Michigan will only deal with one or two properties per year, with no staff. They will have zero budget and no staff. But the power it gives them is to use their planning and development staff or housing and community development staff to acquire that one piece of property. At the other end of the spectrum, you've got land banks like Cleveland, Ohio, which are receiving now 1,500 to 2,000 parcels a year. In Flint, Michigan, it picks up 1,500 parcels a year. In Atlanta, we work in the Atlanta Land Bank about 70 parcels a year. The reuse of the property is locally determined. In Atlanta, our top priority is affordable housing. In Flint, it's actually green space now. In Buffalo and Rochester, we're using the vacant abandoned property and converting it to public green spaces. Detroit is going to be

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using it to really promote urban agricultural experiments in Detroit. I, personally, am a little skeptical but that's what is their priority. The message I would want to give to you all is, first, appreciation for what you're doing and understanding that this legislation, LB97, is right at the cutting edge of the best legislation in the country. Land banks have been around since the late 1970s, the first one over in St. Louis, but it's what we've learned from doing land banking in the '70s, '80s, and '90s that has allowed us now to come back and say there are municipalities throughout the United States that must deal with the abandoned inventory. I started because of tax foreclosure, but then in 2008 several colleagues and I realized that it wasn't just tax foreclosed inventory; it was the mortgage foreclosed inventory. From the perspective of the neighborhood, they really don't care if it's tax delinquent or mortgage foreclosed. The problem is, is it vacant/abandoned? Is it a threat for fire safety, a threat to the children? Is the city spending money as the property values go down? A study by the Federal Reserve Bank out of Cleveland, of Cuyahoga County, demonstrated that every single vacant, abandoned, and foreclosed piece of property, every piece that is vacant, abandoned, and foreclosed drives down property values of all property within 500 feet by 9.1 percent. So that is what we are now focusing on. Yes, as Senator Mello indicated, land banks in the United States are increasingly receiving donations from major banks, Bank of America being one of the leads here. Fannie Mae did the same thing, transferred low-value assets, defined by Chairman Bernanke as under \$25,000, transferred those properties and said we don't want to foreclose, or we foreclose but we can't resell it, and gave it to the land bank. And in the case of Cleveland, Fannie Mae and B. of A. each paid \$7,500 to the land bank as well as gave them the property to cover the demo costs of that property. The goal is to create a flexible tool to be used by local government to deal with the properties that are hurting the neighborhoods, hurting the tax base, and hurting the city and county overall. One of the things I do want to point out that's in this...what I call the third generation of land bank statutes, which is what you have before you, is the emphasis on interlocal cooperation. In the versions we worked with in the 1980s and '90s, a city had to do it alone. But this bill explicitly references the ability of multiple jurisdictions collectively to form a single land bank. It's not my issue as to whether this applies to Douglas and Sarpy or more, but I can say that in all jurisdictions what I'm seeing now is a degree of intergovernmental collaboration in addressing the problem properties is possible because of the land bank statute. Now they will always be subject to land...local land use planning--Senator Pirsch, your question I believe. This statute does explicitly state, or this legislation, that the land bank is not a planning agency. The land bank's reutilization of the property is and must be in accordance with the municipality's land use plan. Generally speaking, a land bank is not a developer. Its goal is to acquire, clean up, and dispose of the inventory in a way that's consistent with local priorities. I think I will stop there, otherwise, given my day job as a professor, I could talk far too long about nineteenth century tax foreclosure laws. [LB97]

SENATOR HADLEY: Well, Professor, we will assume in 50 minutes you'd be done. Is that...? (Laughter) [LB97]

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FRANK ALEXANDER: Well, my classes right now, Dean Hadley, are 90-minute classes, I'm sorry to say. [LB97]

SENATOR HADLEY: Oh, 90! No, we can't go that far. Are there questions? Senator Sullivan. [LB97]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Mr. Alexander. From your experience with these entities, what's the business motivation for being philanthropic and donating to the...the monies to the bank? [LB97]

FRANK ALEXANDER: Well, to the land bank? [LB97]

SENATOR SULLIVAN: Yes. Right. [LB97]

FRANK ALEXANDER: I think...I'd love to say everyone has a philanthropic motive to always do the right thing, but let me answer it a little bit more straightforwardly and crassly, which is the donations to the land bank really come in two or three different ways. The most recent powerful example is that the housing and...federal Housing and Economic Recovery Act of 2008 that created what we came to know as the Neighborhood Stabilization Program, the NSP Program, that legislation identified land banks and land banking as one of the five eligible uses of NSP funds. Now in most parts of the country, including you all here, you couldn't use it for that purpose. But in Michigan, in Ohio, in Georgia we did. We used the federal funds to acquire the vacant and abandoned REO using NSP dollars. Call that philanthropy if you wish. (Laugh) The second form is when we identify an owner of a piece of property where the taxes exceed fair market value and nobody is going to buy it and pay off those taxes, but the owner doesn't care. The owner lives out of state. The owner wants to get rid of that piece of property. We ask the donor to donate or the owner to donate it to the land bank. The land bank, as under your legislation, has the power to extinguish those delinquent ad valorem taxes and then convey the property to an entity like Habitat. That's been our primary mode of operating in Atlanta from 1991 to 2005, was what I call loosely conduit transfers. We go find out who owns that bad property, the heavily taxed, delinquent property, and if we can resolve title problems, we will take a conveyance into the land bank and then immediately reconvey it back out. The third form of donation, of philanthropy, is when we know that there is a transferee on the back end ready to take the property if they can get clean title, then we will provide for an acquisition by the land bank and then the transferee to pay all of the costs of the demo work, because they want it for their next-door lot or for expansion of their retail facility. [LB97]

SENATOR SULLIVAN: Thank you. [LB97]

FRANK ALEXANDER: Yes, ma'am. [LB97]

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SENATOR HADLEY: Other questions? Senator Pirsch. [LB97]

SENATOR PIRSCH: And thank you. And I appreciate your background that you provide to this area. Do you know why this was...this bill was apparently originally brought last year in Urban Affairs and it's in Revenue now? Do you have any...? [LB97]

FRANK ALEXANDER: No. I apologize, Senator Pirsch, I do not begin to know or understand politics of Nebraska. [LB97]

SENATOR PIRSCH: Well,... [LB97]

FRANK ALEXANDER: So I do not know why. I will have to defer to Senator Mello to answer that later. [LB97]

SENATOR PIRSCH: Yeah, and I'll ask him on closing. I would imagine there's...I was just wondering if there's a tax feature of the bill this year that didn't exist last year that gave this committee jurisdiction. [LB97]

FRANK ALEXANDER: No. No, sir, not to my knowledge. [LB97]

SENATOR PIRSCH: Okay. [LB97]

FRANK ALEXANDER: And I've been watching, at Senator Mello's request, all of the amendments that have been proposed and discussed since it was originally introduced 12 months ago. [LB97]

SENATOR PIRSCH: Okay. And I'll ask that. [LB97]

FRANK ALEXANDER: That's not the trigger. [LB97]

SENATOR PIRSCH: Senator Mello I'm sure will know the background. [LB97]

FRANK ALEXANDER: How bills are assigned in you-all's Legislature, I don't know. [LB97]

SENATOR PIRSCH: Sure. Sure. And I... [LB97]

SENATOR HADLEY: Well, if you figure it out, let me know, will you? [LB97]

FRANK ALEXANDER: (Laugh) Sounds like a faculty meeting, Dean. [LB97]

SENATOR PIRSCH: So by extinguishing the taxes, we're talking about the back taxes.



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Say there's a delinquent owner. So we're talking about back property taxes? [LB97]

FRANK ALEXANDER: Yes, sir. [LB97]

SENATOR PIRSCH: Okay. And so that ordinarily the only effects of that would be felt on the local level, right, not...doesn't have ramifications, ripple effects? I'm trying to get a sense of if there is the extinguishment that will be in the province of this land bank, that wouldn't have any other ramifications except on the local level, right, the municipal... [LB97]

FRANK ALEXANDER: I apologize, I do not know if there is a percentage of your ad valorem tax that is collected by the state. [LB97]

SENATOR PIRSCH: No, and... [LB97]

FRANK ALEXANDER: Most ad valorem taxes, in my experience, are predominantly local, school and local taxes. [LB97]

SENATOR PIRSCH: Yeah, and such it is. So I...let me move on to my next. So if a certain percentage of your...you had indicated the uses typically that you experience in other jurisdictions when you do these land banks include, I think you said, affordable housing is a big one and green space and urban gardens, which are all laudable type of activities. But you derive a certain amount of your revenues from, I think it was, 50 percent of the taxes paid--then getting them back on the rolls--for a period of five years. If you...are there some uses or acquirers of the land then that would limit the flow of those incomes for the five-year period, or how does that work typically in other jurisdictions? Can you just give me a flavor for... [LB97]

FRANK ALEXANDER: Well, and thank you particularly for the last clause there... [LB97]

SENATOR PIRSCH: Yeah. [LB97]

FRANK ALEXANDER: ...because I can give you examples from across the country. [LB97]

SENATOR PIRSCH: Okay. Wonderful. [LB97]

FRANK ALEXANDER: But the most important takeaway is that every state and every locality does it somewhat differently. The five-year, 50 percent tax recapture is a relatively new part of this so we do not have the longitudinal studies to be able to demonstrate the income yet from that. And even the Georgia statute that Governor Perdue signed last summer provides for 75 percent of the taxes to go back for a five-year period. But we don't know what that's going to generate yet, because in the

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city of Atlanta the first 20 major properties that came out of the land bank the city of Atlanta said it wanted for parks and recreation, which meant of course there's no income stream. [LB97]

SENATOR PIRSCH: Well, that's what I was getting at, yeah. [LB97]

FRANK ALEXANDER: So I can't...I'm very reluctant to generalize. Now... [LB97]

SENATOR PIRSCH: You're not, if you pardon the pun, betting the bank on that revenue stream as being a prime... [LB97]

FRANK ALEXANDER: On that revenue stream? Absolutely not. [LB97]

SENATOR PIRSCH: Okay. [LB97]

FRANK ALEXANDER: Absolutely not. But I am betting that if a land bank does a deal, as the Flint land bank did, it undertook the acquisition, renovation of the oldest...what used to be called the General Motors hotel,... [LB97]

SENATOR PIRSCH: Uh-huh. [LB97]

FRANK ALEXANDER: ...the Durant Hotel in Flint, Michigan, unoccupied for 35 years. The land bank acquired that piece of property and then, in a joint venture with a public-private partnership, had it completely renovated. It is now fully occupied, leased up, and sold out, and is generating significant taxes. So that one piece will actually help subsidize a good chunk of the Genesee County Land Bank's operations. But right now we are not creating any land banks in reliance on that income stream as a start-up,... [LB97]

SENATOR PIRSCH: Okay. That helps. [LB97]

FRANK ALEXANDER: ...because that's, at minimum, five years down the road. [LB97]

SENATOR PIRSCH: Yeah, that helps. [LB97]

FRANK ALEXANDER: Yeah. [LB97]

SENATOR PIRSCH: And just finally then, and I think you had briefly mentioned, I wonder if you could just tell me how they interplay then. So there's nothing about the manner in which the language is written in this LB97 that would somehow lead to disharmony between the municipality in which the land bank was located and municipality's (inaudible). [LB97]

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FRANK ALEXANDER: No, yours is actually easier than what I did in Pennsylvania and New York and in Georgia, because yours is created by a single entity. I mean you would have one city creating its land bank and controlling the appointments to the board of that land bank. So under your bill, this is really a single-entity creation. Your mayor and city council, assume they work together, create the land bank and appoint the board. So I don't have interlocal conflicts there. [LB97]

SENATOR PIRSCH: Okay. [LB97]

FRANK ALEXANDER: In other jurisdictions I do, because my preference is to actually mandate that it be interlocal, but that's city-county. Except for Philadelphia, they don't want to do that. But I have not seen anything arise on the land use side. It's when property comes out that there is a huge amount of excitement,... [LB97]

SENATOR PIRSCH: Uh-huh. [LB97]

FRANK ALEXANDER: ...that jockeying for position occurs in...is it this...it's you're going to start in this neighborhood or that neighborhood? And as you were intimating, you know, those are tough decisions. But the legislation doesn't require it to start in a given neighborhood. [LB97]

SENATOR PIRSCH: Thank you. You've been very helpful. [LB97]

SENATOR HADLEY: Are there further questions? Senator Schumacher. [LB97]

SENATOR SCHUMACHER: Thank you, Senator Hadley. On...I think we located the constitutional provision that Senator Mello was referring to which basically says: The right of redemption from all sales of real estate, for nonpayment of taxes or special assessment of any character whatsoever, shall exist in favor of the owners or persons interested in the real estate, for a period of not less than two years from the sale thereof, provided that occupants shall in all cases be served with personal notice before the time of redemption occurs. How does this mechanism get around that provision? [LB97]

FRANK ALEXANDER: It doesn't. [LB97]

SENATOR SCHUMACHER: How are we able to not have it subject to the right of redemption? [LB97]

FRANK ALEXANDER: It doesn't. [LB97]

SENATOR SCHUMACHER: It doesn't. [LB97]

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FRANK ALEXANDER: It doesn't. As you all are one of only a handful of states that writes a redemption period into the constitution. Louisiana has got a three-year right of redemption in the constitution. [LB97]

SENATOR SCHUMACHER: Okay, so... [LB97]

FRANK ALEXANDER: Most states it's not constitutional; it's purely statutory. [LB97]

SENATOR SCHUMACHER: So we still have the same problem with this as we would have if we just short-circuited and said all urban property subject to sale immediately after the two years. [LB97]

FRANK ALEXANDER: And, yes, sir, I would support that. This is what I did for the state of Georgia in '96 when I started working on this narrow issue of tax foreclosure. We created a brand new tax foreclosure system called a judicial in rem tax foreclosure, in and out, 18 months with insurable and marketable title at the back end, whereas our other system, that still continues to exist at local option, is nonjudicial and requires a minimum of 24 to 36 months, followed by a quiet title action, so it is painful and deadly and long. We have moved to that. We don't have a three-year constitutional right of redemption or two-year like you do. This does not change the tax foreclosure laws in the state of Nebraska. [LB97]

SENATOR SCHUMACHER: So... [LB97]

FRANK ALEXANDER: That may well be something you want to put on the agenda, but this, I did not try to do that in this bill. [LB97]

SENATOR SCHUMACHER: So we still got...before anybody knows that they've got good title here, they've got to be at least two years delinquent in the thing. Otherwise, this is no comparative advantage to just shortening up the fuse on a tax sale. [LB97]

FRANK ALEXANDER: You would actually be far better off if you could shorten your right of redemption, I agree, or your fuse. I would have that as my top priority. But I don't agree, Senator Schumacher, that this makes no difference because here is a question, who can control that tax certificate. If what you're referring to is the provisions of Section 17 and 18 of this bill that provide the intervention point of a land bank in the tax foreclosure process, the game is changing here because it allows the land bank to step into the position of acquiring the tax certificate at the first sale and then controlling the timing of enforcement of that. The interest of a private investor in a certificate is not necessarily to serve the common good. It is more likely to maximize return on the investment. The responsibility of a land bank is going to be to serve the common good, so it will take a piece of property to a judicial foreclosure or acquire judicial foreclosure because the neighborhood needs it to and it needs to acquire that property, whereas a

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private investor in a tax sale may say, I'm not going to; taxes exceed FMV so I'll walk away from it and let it recycle for another year or two years. That's the structural change you see here in 17 and 18. [LB97]

SENATOR SCHUMACHER: Now in your testimony you said that the land bank would have the power to extinguish the tax. [LB97]

FRANK ALEXANDER: That is also true, yes, sir. [LB97]

SENATOR SCHUMACHER: If our constitution has a provision saying that the Legislature cannot extinguish property taxes, this doesn't work. [LB97]

FRANK ALEXANDER: The provision in the constitution, as I read it, sir, refers to the termination of the redemption post-sale that no... [LB97]

SENATOR SCHUMACHER: That was the provision I read here. [LB97]

FRANK ALEXANDER: Yes, sir. [LB97]

SENATOR SCHUMACHER: But I'm almost sure that I read, and I haven't found it here today, there's some provision that says the Legislature does not have the authority to extinguish a property tax. [LB97]

FRANK ALEXANDER: And I think you're correct. There is a constitutional provision that creates a limitation on the ability of the Legislature or any local government to extinguish taxes owed by individuals. What is crafted here is the power to extinguish taxes on property that the land bank owns as a public entity. So could the city of Omaha extinguish taxes on property it owns? I believe that is permitted under your constitution. The constitutional provision to which you refer, and I agree is there, is one that drives at the ability of the Legislature to extinguish the taxes of Senator Hadley. [LB97]

SENATOR SCHUMACHER: How can we do indirectly what we cannot do directly? [LB97]

FRANK ALEXANDER: Because the ownership of the property is different. It is taken from the private individual and put in the public sector. If your mind-set is focusing on personal liability, I think you've got a really good argument. But if your mind-set is focusing on ad valorem taxes as in rem liability and a lien upon the property, then I think it is not a difficult question. [LB97]

SENATOR SCHUMACHER: Well, I have to check. I think there's a court case on there that might be...that might clarify that. [LB97]

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FRANK ALEXANDER: I think you're right, but it applies in the context of private individuals, not public sector, publicly owned property. [LB97]

SENATOR SCHUMACHER: But we've created this mechanism that takes it from private, throws it in the public, and then we do it to it and... [LB97]

FRANK ALEXANDER: Yes, sir, we're taking it away. The property is being acquired and transferred out of private sector into public sector. That would push a set, I would suggest, a very interesting different set of questions about local government powers if they're not able to use their property. [LB97]

SENATOR SCHUMACHER: Where the...the local governments cannot, in this state, have any power that's not delegated to them from the Legislature. [LB97]

FRANK ALEXANDER: Granted, Dillon's Rule, I'll go along with you on that. But the question is, would it be...if it's a constitutional doctrine, the Legislature couldn't do it either on state-owned property. And...well, perhaps this is getting too far into a classroom, but I'm happy to go down any of these lines. [LB97]

SENATOR SCHUMACHER: Okay. Well, I don't... [LB97]

FRANK ALEXANDER: It sounds like my class for tomorrow morning. [LB97]

SENATOR SCHUMACHER: I think we're up against our 50 minutes. (Laugh) [LB97]

FRANK ALEXANDER: Yeah. [LB97]

SENATOR HADLEY: Yeah. Okay. Senator Harr. [LB97]

FRANK ALEXANDER: I'll raise these issues with my students in the morning. Senator Harr. [LB97]

SENATOR HARR: Thank you, Professor Alexander, and thanks for coming. And I'm going to bring it...simplify the argument a little bit because I am...the current structure is delinquent, then you get the tax certificates and those pay 14 percent, and then is it at the end of that two years for the first tax certificate or when does the foreclosure occur currently? [LB97]

FRANK ALEXANDER: I think there's no requirement... [LB97]

SENATOR HARR: Okay. [LB97]

FRANK ALEXANDER: ...that it occur at a certain date. It's a minimum. It can't occur any

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earlier than a certain date. [LB97]

SENATOR HARR: Earlier. Okay. So...and I've seen these tax certificate sales go on and it seems like they're just moneymakers for individuals when it's at 14 percent. Now you come in and you have a little different plan. You come in and you say, okay, there's delinquent taxes and how does a land bank become involved? I'm still not clear on that. [LB97]

FRANK ALEXANDER: All right. Let me back up and state perhaps the most important proposition, which is a land bank doesn't ever have to become involved in those. [LB97]

SENATOR HARR: There. [LB97]

FRANK ALEXANDER: It's not mandatory or automatic,... [LB97]

SENATOR HARR: Okay. [LB97]

FRANK ALEXANDER: ...a la Michigan. [LB97]

SENATOR HARR: Yeah. [LB97]

FRANK ALEXANDER: I've never answered your...well, it's not a question. This is entirely permissive. So a land bank presumably will be identifying properties that are tax delinquent... [LB97]

SENATOR HARR: Okay. [LB97]

FRANK ALEXANDER: ...in a target neighborhood. And then will consider, the land bank board, does it want to purchase that tax certificate. And if it buys the tax certificate itself, then it must wait the constitutional or statutory period of time before it forecloses that certificate. [LB97]

SENATOR HARR: Okay. [LB97]

FRANK ALEXANDER: But, yes, then the land bank is the one making the 14 percent rate of return... [LB97]

SENATOR HARR: Okay. [LB97]

FRANK ALEXANDER: ...if it's redeemed. Yes. [LB97]

SENATOR HARR: Okay, so if they don't buy the tax certificate, how does the land bank become involved if they so choose? [LB97]

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FRANK ALEXANDER: At the tax sale itself. [LB97]

SENATOR HARR: At the tax sale. [LB97]

FRANK ALEXANDER: They could buy at the tax sale. [LB97]

SENATOR HARR: So they buy the certificate. I'm still confused of what they do. [LB97]

FRANK ALEXANDER: All right, two different things. One is the sale of the tax lien, a tax certificate, which can ripen into the right to a deed... [LB97]

SENATOR HARR: Yeah. [LB97]

FRANK ALEXANDER: ...or a judicial tax foreclosure. [LB97]

SENATOR HARR: Fair. [LB97]

FRANK ALEXANDER: You've got two statutory provisions here. [LB97]

SENATOR HARR: Yeah. Okay. So they can come in, in either one of those two. [LB97]

FRANK ALEXANDER: Right. Yes, sir. [LB97]

SENATOR HARR: Okay. I think I see it. And then you say we're on the third generation of these type of legislation, and you went in a little bit about what the difference between the second and the third generation are. But what were the changes made from the first? What have we learned and is there anything we should be careful or cognizant of as we go forward so that we don't make some of the mistakes of the past? [LB97]

FRANK ALEXANDER: Wow! I love that question, Senator. What we learned between the first generation, which is really Louisville, Cleveland, St. Louis, and Atlanta, up until 1990, was that we did not give them the ability to clean up the property. They ended up owning it but they didn't have any powers to do the demolition, cleanup, and retransfer out. [LB97]

SENATOR HARR: Okay. [LB97]

FRANK ALEXANDER: So in St. Louis, for example, between 1975 and 1990, they acquired 10,000 parcels. They conveyed 50. It became a bottleneck in St. Louis. And with all due respect to the leadership of St. Louis, it's still that way today. The new Missouri land bank act, like you-all's, is carved out just to be K.C. St. Louis didn't want their (inaudible). So we strengthened the disposition discretion. We also realized from



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the St. Louis experience that it was...the land...St. Louis land bank, called the St. Louis Land Reutilization Corporation, was stuck inside the St. Louis Redevelopment Authority and it became an afterthought. Nobody was watching the land bank. So the LRA, the Redevelopment Authority, in St. Louis is all about building major facilities, athletic facilities, and was not paying attention. Second generation, we pulled it out of redevelopment authorities, and that's still my basic bias, though I didn't follow that in Baton Rouge, because I'm after creating a special purpose entity whose sole mission in life is to take care of the junk, clean it up, and get it back out into the marketplace or other productive use. The other change we made between the first and second generation was beginning to create new internal financing mechanisms, which was the five-year, 50 percent tax recapture under the Michigan act. We had never seen that before. We also, in Michigan, did something that we don't do in your bill, which is we reclassified all land bank properties as Brownfields, so they could be Brownfield-eligible for low-income housing...I mean for Brownfields Tax Credits. Michigan, a lot of the properties are Brownfields, so we did it there. We also, in the second generation, finally realize that with property that's heavily tax delinquent, we were exporting the profits on those tax liens while we kept the problems of the properties. The cities owned the problems but not the properties, and the investors were the ones making the fortune. So in Michigan, there was a complete rewrite of the tax foreclosure law, stopped tax sales entirely, all forms of tax sales, so that if the taxes aren't paid the property is forfeited to the local government, the entire inventory. Now that's not something I had pushed in other jurisdictions, but that's the Michigan scheme. [LB97]

SENATOR HARR: And so you take clear title. [LB97]

FRANK ALEXANDER: Yes, sir. [LB97]

SENATOR HARR: What kind of title is it? Is it a...what kind of title, if a person purchases the property, what type of title is it? [LB97]

FRANK ALEXANDER: To purchase from the land bank or when the land bank buys it? [LB97]

SENATOR HARR: From the land bank. [LB97]

FRANK ALEXANDER: From the land bank it should be a marketable, insurable, fee simple title. [LB97]

SENATOR HARR: Fee simple. [LB97]

FRANK ALEXANDER: Yes, sir. It should be fee simple title. [LB97]

SENATOR HARR: Absolute? Well, yeah. [LB97]

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FRANK ALEXANDER: Yeah, fee simple absolute, if you wish, but yes. [LB97]

SENATOR HARR: Okay. [LB97]

FRANK ALEXANDER: There's some exceptions where, particularly in the civil law jurisdictions in Louisiana, where I've got to deal with some other issues of heir property rights. But generally speaking, my approach in advising land banks is make sure that before you get it in to your inventory you've got an exit strategy... [LB97]

SENATOR HARR: Yeah. [LB97]

FRANK ALEXANDER: ...to get it out and that you're going to be able to get it in and make sure you've got marketable title and insurable title so that when you dispose of it, whether it's the Habitat for Humanity or to a developer... [LB97]

SENATOR HARR: Uh-huh. [LB97]

FRANK ALEXANDER: ...of a restaurant chain or a drug store, that you can deliver marketable title. [LB97]

SENATOR HARR: Okay. Thank you. [LB97]

SENATOR HADLEY: Any other questions? Senator Pirsch. [LB97]

SENATOR PIRSCH: Well, and I'll be brief. I appreciate that there's a lot of moving parts to this and I think you... [LB97]

FRANK ALEXANDER: Yes, sir. [LB97]

SENATOR PIRSCH: ...maybe touched upon this, but I just want to clarify. The need for the creation of this special entity, the land bank, as opposed to the municipality, what they cannot achieve in terms of the goals you had indicated was the interaction with the private sector. Does that give...that form give a specific advantage? [LB97]

FRANK ALEXANDER: Yes, sir. [LB97]

SENATOR PIRSCH: Okay, what...? [LB97]

FRANK ALEXANDER: That is probably the most or the best example of a clear power. I haven't checked but I suspect it's true, I'll defer to you, Senator Schumacher, that most localities, if a city or county in Nebraska owns a piece of property that's surplus property, it can dispose of it but there are very clear statutory procedures it has to go to

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and probably some form of competitive bidding or prequalifying competitive bidding. Land banks don't have to do that. Land banks are governed by being a...(inaudible) this law would allow a land bank to give it to an entity such as Habitat for affordable housing. It has a very broad definition of the consideration to be received upon disposition. So the most important feature there is the ability to dispose of property in a way that is most consistent with public purposes as locally defined. [LB97]

SENATOR PIRSCH: Okay. All right. And other features are the ability to extinguish back taxes of the property. [LB97]

FRANK ALEXANDER: Yeah. There's some things that are... [LB97]

SENATOR PIRSCH: Is that a feature that only comes about because of the creation...? [LB97]

FRANK ALEXANDER: I'd be happy to go on, on another day,... [LB97]

SENATOR PIRSCH: Well, I'm just trying to get a... [LB97]

FRANK ALEXANDER: ...a long list of things that are not in this bill... [LB97]

SENATOR PIRSCH: Yeah. [LB97]

FRANK ALEXANDER: ...that we can't fix, but... [LB97]

SENATOR PIRSCH: Well, no, no, and I don't mean to do that. But I'm just trying to...so the creation of this new entity that hitherto has not existed, and I'm just trying to get a quick laundry list of the things you talked about. One of the things is that you can...that municipalities, if they had jurisdiction over this, could not do the thing that you said with (inaudible) in the private-public partnership. And with respect to the extinguishment of taxes, is there any difference there in what a city or municipality could do? [LB97]

FRANK ALEXANDER: That I do not know... [LB97]

SENATOR PIRSCH: Okay. [LB97]

FRANK ALEXANDER: ...the answer to that one. As to whether your city could extinguish its taxes? I'd be surprised if it could extinguish the taxes of anyone other than the city. [LB97]

SENATOR PIRSCH: Okay. [LB97]

FRANK ALEXANDER: I don't know that the city would have jurisdiction over school

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taxes,... [LB97]

SENATOR PIRSCH: Yeah. [LB97]

FRANK ALEXANDER: ...at least in other states we wouldn't. [LB97]

SENATOR PIRSCH: Is there any other benefit worth mentioning or is that primarily it, that they're looking out for the public? They have a broader mission; they're given the leeway to do the public good in terms of with the private sector. [LB97]

FRANK ALEXANDER: You have a board of directors that is charged with the responsibility of dealing with the problem properties. A city council and a mayor will have a huge set of general purpose responsibilities. This is a special purpose entity whose sole function is to deal with the problem properties in that jurisdiction. [LB97]

SENATOR PIRSCH: Okay. That helps a lot. Thank you. [LB97]

FRANK ALEXANDER: That's the best thing. [LB97]

SENATOR PIRSCH: Yeah. [LB97]

SENATOR HADLEY: Further questions for Professor Alexander? Thank you so much for coming up and visiting us. [LB97]

FRANK ALEXANDER: Thank you very much, Senator Hadley. Thank you, members of the committee. [LB97]

SENATOR HADLEY: Thank you. We'll let you go back to the warm climate. [LB97]

FRANK ALEXANDER: Yes. [LB97]

SENATOR HADLEY: Are there any other proponents who can help us further understand this? [LB97]

AMANDA BREWER: (Exhibit 2) Hello, Senator. My name is Amanda Brewer, A-m-a-n-d-a B-r-e-w-e-r. I serve as the executive director of Habitat for Humanity of Omaha, and I'm here in support of LB97. I see firsthand the things that Frank and Senator Heath Mello are talking about. I've worked in the community of Omaha since 1999 on these issues and I will go ahead and explain some of those things. But first, I want to tell you that I grew up in Norfolk, Nebraska. Twenty years ago, I can remember only one abandoned house in our community. As curious kids, I remember going to the house and exploring it. We were sure it was haunted, so innocent kids doing this. The situation in Omaha is significantly different. Instead of one, there are thousands,

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thousands of unfit, unsafe, condemned houses, and more than 500 that the city of Omaha has deemed need demolition. Like me, curious, innocent children explore these houses too, but what they find is significantly different: gang activity, drug needles, hazardous waste, human waste, and even once, sadly, we found a dead, homeless man. Imagine your kids or your grandkids exploring these houses or having to walk by them on the way to school. Imagine if the house next to your house was an abandoned house. Habitat was so concerned about the issue of blighted properties that we started our own demolition program. We acquire and tear down 40 houses this year, but it is only a drop in the bucket, and many cannot be acquired because the owners can't be found, which is a real issue, or titles can't be cleared. The land bank legislation helps address that. Our supporters have encouraged us to address the root of the problem and this legislation is that solution. To answer your question earlier, Senator Schumacher, you're right, it is. It's a three-year period. I didn't realize the constitution said two years. But what happens, it keeps cycling over and over. There's specific houses I've been looking at for 12 years that are sitting there, and if you pull the title, it goes back to tax sale over and over again. The person who gets it through the tax sale, the tax sale certificate investor, sees the property, sees it's a junk property and chooses not to foreclose, letting it go back through that process. And just to give an idea of what we're facing in our community, the land might be worth \$500; meanwhile, it might cost \$15,000 to tear down the house. There's no market for these properties as it is now. Habitat and our volunteers have done a lot in Omaha, building over 380 houses, and we're in the top ten builders in our city. This land bank would allow us, Habitat, to do more, not just us but others as well. We would build more houses, serve more families, free up the land for reuse, and add it to the tax rolls. But of all these things that Habitat does, today this opportunity to make a change at the root of the problem gives me more hope for our community than all of our other work combined. I hope you will consider moving this bill to the floor. And I would like to invite you all on a personal tour. We're offering a tour of the neighborhoods that I'm talking about this Friday at 9:00. [LB97]

SENATOR HADLEY: Is this picture yours? [LB97]

AMANDA BREWER: It's a picture of a sample of a property that I'm talking about. [LB97]

SENATOR HADLEY: Does it look like there's a satellite TV antenna on top? [LB97]

AMANDA BREWER: Yep, it's a very old satellite and there's nobody living there and they haven't for years. [LB97]

SENATOR HADLEY: I think that's interesting, isn't it? (Laugh) [LB97]

AMANDA BREWER: Yeah, it is. [LB97]

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SENATOR HADLEY: Are there questions? Senator Pirsch. [LB97]

SENATOR PIRSCH: Well, mostly a question. But I just wanted to, first of all, compliment, you know, Habitat for Humanity is one of those organizations just doing really amazing work in Omaha and that we had more of you. Having said that, I'll sit back (inaudible). [LB97]

SENATOR HADLEY: Okay. Senator Schumacher. [LB97]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. You described the process where a tax sale investor buys a tax sale certificate, so he's paid the taxes; then goes out and says, oh my gosh, this is junk, I'm out of here; loses money he paid,... [LB97]

AMANDA BREWER: Correct. [LB97]

SENATOR SCHUMACHER: ...plus loses the 14 percent because he never got it. And let's assume that he's a pretty sloppy investor and he never checked out his property before he bought this. [LB97]

AMANDA BREWER: Right, and many are from out of state, so they don't check them. [LB97]

SENATOR SCHUMACHER: And then...I mean does a different group come in and buy it the second time around without checking it out? [LB97]

AMANDA BREWER: Yes. Yes. [LB97]

SENATOR SCHUMACHER: And that's why it never hits a tax sale. [LB97]

AMANDA BREWER: Yes. [LB97]

SENATOR SCHUMACHER: Now do you...on the ones that do hit the tax sales, where the county attorney is compelled to bring an action and foreclose the taxes, do you guys go in and bid on those? [LB97]

AMANDA BREWER: Yes. We have partnerships where we have acquired some of those properties. If there are no bidders on it at the tax sale certificate process, it eventually goes to the LRC, but... [LB97]

SENATOR SCHUMACHER: To the court sale. And do you get those free and clear? I mean when they come out of the court sale, you've got clean title regardless of the amount of taxes that was originally on them? [LB97]

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AMANDA BREWER: At the very, very end of it, there's a small mechanism for that called Land Reutilization Commission. So unfortunately, they get hung up in the tax sale certificate cycle for many years before they get to that point, but, yes. [LB97]

SENATOR SCHUMACHER: In the end... [LB97]

AMANDA BREWER: If it gets to that point... [LB97]

SENATOR SCHUMACHER: Okay. [LB97]

AMANDA BREWER: ...then that is a possibility. I think we get about four of those a year. [LB97]

SENATOR SCHUMACHER: Okay, so if...would your purposes be served if we simply said, look, we've cut this down to two years, what the constitution says? [LB97]

AMANDA BREWER: No, because the problem is the properties don't have any value and it costs more to acquire them and to own them and tear down maybe a house that's on it, so that people aren't foreclosing on those. [LB97]

SENATOR SCHUMACHER: But if we were to shorten up the fuse to two years and the county attorney would sell them and you'd go in the courthouse and buy them... [LB97]

AMANDA BREWER: That's not how it happens. And I'm not really sure why,... [LB97]

SENATOR SCHUMACHER: Yeah. Okay. [LB97]

AMANDA BREWER: ...but that's not what's happening. It keeps being offered. I think every year the taxes aren't paid, it gets offered again at tax sale certificate, and so a different...it could be a different investor every year. There are others that probably know a little bit more about this than me, but from what I've seen on title searches, that's what I see. It could be different investors. Now there are some investors that are better than others. I'm not saying tax sale certificate investors are necessarily bad companies. There's some great ones and we have some partnerships. But just the way that it's set up, it could be a different investor every year that's buying the right to that tax sale certificate. [LB97]

SENATOR SCHUMACHER: Are these kind of houses that you've given us a picture of, are there whole communities of them? [LB97]

AMANDA BREWER: Yes. [LB97]

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SENATOR SCHUMACHER: Would it be beneficial to clean up the whole community, even if there's one that...you know, if they have a right...this organization have a right of condemnation to clean up a whole block and, if necessary, buy the one straggler piece of property that doesn't fit? [LB97]

AMANDA BREWER: That's what this...this tax sale...this land bank authority doesn't solve all the problems, but it solves a big piece of it. There are hundreds and hundreds and hundreds of properties offered up every year at tax sale certificate time that are junk properties. [LB97]

SENATOR SCHUMACHER: Well, for some reason we don't have a right of eminent domain in here to clean...if 90 percent of the neighborhood is in this condition and would be subject to this land banking, to clean up the 10 percent and so you have a nice big two- or three-block area that you can work with. [LB97]

AMANDA BREWER: I think that's a question for Senator Mello. I actually don't know that answer at all. But I will say that the land bank will help give opportunity to assemble properties because, I mean, I'm seeing it firsthand where, you know, five, eight years ago we got a call from somebody that wanted to donate a parcel of land that was 24 feet by 100 feet. Well, that's not buildable so we didn't take it. Well, six years later the person who owns the property next door calls. And if the land bank is collecting those things, they can start to assemble the properties and it's a lot more organized. Right now, there's really nobody doing that. Habitat is probably doing the most and the city of Omaha is trying to do some of that, but the land bank would have a lot more access to those properties. [LB97]

SENATOR SCHUMACHER: Thank you. [LB97]

SENATOR HADLEY: Ms. Brewer, I wish my memory was better but I remember a news show in the fairly recent past, and I want to say it was either Cleveland, Detroit, Philadelphia, where the city itself was going out and demolishing the houses. Is that...? [LB97]

AMANDA BREWER: Yes. And it is true the city of Omaha does demolish some houses. Habitat for Humanity demolished some of these blighted houses, but that's really it, of the properties that are kind of junk properties and maybe the house and the demolition costs more than the value of the land. The thing with the city demolishing, and they really focus on health and human safety issues,... [LB97]

SENATOR HADLEY: Uh-huh. [LB97]

AMANDA BREWER: ...they don't have ownership of the property. So all it does is slap...it's good, it's good to get rid of it, but it slaps a \$10,000 or \$15,000 lien on the



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property, and that just perpetuates the problem even longer. [LB97]

SENATOR HADLEY: Okay. As I remember this, the news thing, the key was these were homes that people had walked away and the bank literally didn't want them either and... [LB97]

AMANDA BREWER: Yes, and we're seeing that. I've seen two banks that are doing that. They don't want the liability of the property. The person has already walked away. It's really a problem and this is another way that helps solves that. [LB97]

SENATOR HADLEY: Okay. Good. Thank you, Ms. Brewer. We appreciate you coming down. [LB97]

AMANDA BREWER: Okay. Thank you. [LB97]

SENATOR HADLEY: Could I see a show of hands of how many...no, come on up, Mr. Stilmock...a show of hands of other proponents? Okay, please, if you can add something new we'd appreciate it, but there's nothing wrong with saying, I agree with the concept also. Okay? (Laughter) [LB97]

JERRY STILMOCK: (Exhibit 3) That...I appreciate that. Mr. Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska Bankers Association, in support of LB97. With that comment, Senator Hadley, I want to skip to page 2 because I want to add the part that the Nebraska Bankers were interested in. Section 18 of the bill allows a municipal land bank to submit an automatically accepted bid, as you heard, on such real estate in an amount equal to the amount of taxes, interest, and costs associated with the original issuance of the tax sale certificate, notwithstanding that there may be other parties willing to submit a higher bid for their real estate. In order to provide protections for lenders who have taken the affected real estate as security for a loan, Section 18 of the bill requires the municipal land bank to have obtained written consent in order to tender an automatically accepted bid from the holder of a mortgage or a beneficiary or trustee of a trust deed giving rise to the lien against the real estate. These provisions require the municipal land bank, in obtaining written consent, to send the holder of a lien, a bank, against the real estate a notice by certified mail of its intent to make an automatically accepted bid, along with a request that the written consent be given within 30 days. In order to protect the municipal land bank against undue delay in providing or denying written consent, the bill provides that failure of the lienholder to respond within the 30-day time frame is deemed to constitute written consent. So there's a default mechanism once the 30-day notice is sent out, the notice by the land bank, of its intent to submit an automatically accepted bid. Our association has worked with Senator Mello. We appreciate his willingness to include this provision in Section 18. It was one that was agreed upon, worked out. And for the reasons I've stated, we support the legislation and encourage

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your advancement to General File. [LB97]

SENATOR HADLEY: Are there questions for Mr. Stilmock? Thank you, Mr. Stilmock. We appreciate you coming. [LB97]

JERRY STILMOCK: Thank you, sir. [LB97]

SENATOR HADLEY: The next proponent. [LB97]

JAMIE BERGLUND: Good afternoon, members of the Legislature. My name is Jamie Berglund, J-a-m-i-e B-e-r-g-l-u-n-d. I'm the senior director of community development for the Greater Omaha Chamber, and I'm here to discuss some of our efforts in community development and what we think a land bank could do for our city. For nearly a decade, the chamber, in partnership with the community, has facilitated three master plan initiatives in the eastern part of our city, in north Omaha, south Omaha, and in midtown predominantly funded by donations from the private business community. We've made multiple efforts with numerous investors, developers, businesses, and residents to encourage physical redevelopment in these areas. The scale and the complexity of the challenge we face in the 20 square miles that encompass our focus area is significant but not insurmountable if we can create and deploy focus structures and tools and funding mechanisms that will address our redevelopment needs. As part of several studies and market analyses that we've facilitated over the years, most recently a housing market analysis in south Omaha, both nonprofit and private developers have consistently voiced that a lack of available sites is the ongoing top barrier that they face when considering to develop in the eastern part of our community. The deficiency of available land that has clear title, is clear of structures, and is shovel-ready is a major obstacle to redeveloping our community. In addition, over the years countless potential investors, developers, and small businesses have expressed frustration and fear at the prospect of developing or locating in east Omaha, in part due to the lack of assurance that vacant, condemned, and foreclosed properties adjacent to or nearby their property wouldn't also be revitalized. These properties not only accelerate the decay of our neighborhoods but they're also a financial drain on our community. Because they're in tax foreclosure, no taxes are being paid, yet expenses continue to accrue by the public sector and, in some cases, to maintain the surrounding property and secure the structures to prevent vandalism, squatting, and other public health hazards. A land bank, if created, implemented, and managed properly, would give us a much needed resource to address part of the first step of our physical redevelopment challenges. This tool would provide a means for land acquisition, assembly, and site preparation that would act as a catalyst for development, stabilize and raise our tax base, and rebuild our neighborhoods. Over the long term, it has the opportunity to increase revenue because it will bring delinquent properties back to use and on the tax rolls. From the Omaha business community's perspective, we think there will be many positive economic opportunities that will come from this, and that's why we support this bill. I

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appreciate the opportunity to speak. And if you have any questions, I'm happy to answer them. [LB97]

SENATOR HADLEY: Are there any questions for Ms. Berglund? Seeing none, thank you. Next proponent. Please come, sir. Just so you know, as the senators leave, we are also all introducing bills in other committees. So if we get up and leave, it's not because we don't like you. It's just that... (Laugh) Yes, sir. [LB97]

JAMES THELE: (Exhibit 4) Good afternoon, Senators. My name is James Thele, J-a-m-e-s T-h-e-l-e. I'm the assistant planning director for the city of Omaha and responsible for housing community development activities within the city government. I won't bore you with repeating testimony that I made a few months ago regarding the land bank and the need for the land bank. I did have a very short handout and I want to point out a couple of items on that, bullet points at the bottom, and that is the land bank supports economic development for the assembly of land and the development of property. This will create jobs in the construction trades, as well as the consumer industry. That produces revenue for the state of Nebraska. The land bank does not require a state appropriation of funds. The state of Nebraska has responsibilities for the provision of social services. Deteriorated areas demand a lot of social services as a cost to the state. This will reduce the cost to the state of deterioration. Certainly in terms the local government provides tax base increase to all, not just the city of Omaha, the school districts and the other taxing bodies in the city of Omaha, to provide that tax base or bring it back up and, furthermore, to prevent the continued deterioration of that tax base that we see in many older areas of Omaha. It does not require a local tax increase. There may be some initial city funds to assist with the start-up of the land bank, but initially then the land bank should become at some point self-supporting. So I wanted to point those two items out to you. Senator Schumacher, you ask a question regarding redevelopment and the city of Omaha, of course, is like all governmental entities in Nebraska, and I should say nationwide as well, in that the amount of funds we have available is very limited. So we very much appreciate the opportunity to work with other entities to help redevelopment in the area. We work with Habitat for Humanity, Holy Name Housing Corporation, Gesu Housing Corporation, NeighborWorks and so on to go through chamber of commerce in trying to redevelop areas, and so what we would envision is that the land bank, working together with the city of Omaha, would try to assemble that one-block area that you talked about. But there may be a couple of properties they can't acquire, in which case then the city would be willing to work with that house, with the land bank to acquire the balance of the property necessary to have that full one-block area. So the land bank itself does not need the power of eminent domain. It allows it to go through the normal community development process that the cities have the authority to undertake. So it very much keeps the land bank focused on its mission, the city is focused on its mission regarding development, yet we have a good overlap between the two of us. Thank you. I'll be glad to answer any questions. [LB97]

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SENATOR HADLEY: Senator Schumacher. [LB97]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just along that particular point, so then if there was a block with one house left, the city would then, in your opinion, have the authority of eminent domain to take that particular house so you'd have a clean block? [LB97]

JAMES THELE: Yes, under the Nebraska Community Development Law. Now it is a process. You develop a redevelopment plan, pass ordinance of necessity after public hearings and so on. So it does respect the property rights of any individual but it does allow ultimately for the greater good that's necessary. [LB97]

SENATOR SCHUMACHER: Thank you. [LB97]

JAMES THELE: Thank you. [LB97]

SENATOR HADLEY: Further questions? Seeing none, thank you, Mr. Thele. Next proponent. [LB97]

MIKE McMEEKIN: (Exhibit 5) Good afternoon, Senator Hadley and members of the committee. My name is Mike McMeekin and I am here today as a member of the board of directors of Omaha by Design. And with me in the audience is Connie Spellman, who is the executive director of Omaha by Design. I'm also the president of Lamp Rynearson and Associates, an engineering and surveying firm located in Omaha. And the remarks that I'm going to make here today are very much big picture in nature with respect to redevelopment, not focused on the details of this bill, but supportive of redevelopment and also of other bills that you're going to discuss today with respect to redevelopment as well. We'll only testify the one time. Omaha by Design is a very unique nonprofit founded in 2001, whose operational costs are 100 percent funded by the private sector, and our mission is to improve the quality of life in the Omaha area by protecting, enhancing the quality of the built environment and the natural environment. We work in partnership with the city of Omaha and the private sector to develop two plans that have become part of the city's master plan, an urban design element and an environmental element, and we are now focused on strategies that implement those plans, including strategies focused on strengthening the climate for redevelopment. We support LB97 and other legislation related to redevelopment because strong public policy and unique financing tools are necessary to protect the population base and the tax base in the core area of our cities, not only Omaha but other cities throughout Nebraska. And the problem is illustrated by the graphic on the backside of our handout which illustrates population trends in the Omaha area. Within the interstate loop around Omaha there was a drop in population of approximately 2,000 people from 2000 to 2010, and all of the areas that are shaded in pink and red experienced losses in population over this

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time period. Reversing this trend and preserving an increasing population and tax base in cities is crucial to the overall quality of life, which is what our mission is about. If you also look at the graphic, we illustrate the benefits that can occur to cities with more of a focus on redevelopment, and I'll highlight just a few of those. First of all, population growth can be accommodated with minimal consumption of agricultural land. The utilization of existing infrastructure that cities are obligated to maintain will be maximized. The efficiency of providing municipal services is maximized. And again, in both of those cases, over the long term that can reduce property taxes. Redevelopment also creates conditions for operating and maintaining vitally important public transportation systems in a more favorable manner. Urban neighborhoods will be stronger and will be places that residents want to protect. And also our cities will have more of the types of urban environments that are important to attracting and retaining young professionals. So I also support LB97 and the other bills related to redevelopment as a private business owner. To me, it's logical that the stronger that all parts of the city are, the better it is for my business. This is the reason I have been involved with and supported the work of Omaha by Design over the years. Our employees live in all parts of the city and they travel through all parts of the city to get to work and to access shopping and to access recreational activities. So in a nutshell, we believe that redevelopment is about conservation of land, energy, and other resources, and it's about cities operating more efficiently in providing infrastructure and services. And because of the challenges that the private sector faces in order to be successful in redevelopment, tools such as LB97 and the other bills you're going to hear about today are absolutely necessary. On behalf of Omaha by Design, we urge your support and thank you. And I'd be glad to answer any questions. [LB97]

SENATOR SCHUMACHER: Any questions from members of the committee? Senator. [LB97]

SENATOR McCOY: Thank you, Senator Schumacher. Do you mind saying and spelling your name one more time for the record? I know our transcriber office--I'm not sure we got that--would appreciate that. [LB97]

MIKE McMEEKIN: Right. If I went fast, I'm sorry. It's McMeekin, M-c-M-e-e-k-i-n. [LB97]

SENATOR McCOY: Thank you. [LB97]

SENATOR SCHUMACHER: Any other questions? I just have one. [LB97]

MIKE McMEEKIN: Sure. [LB97]

SENATOR SCHUMACHER: When this property is acquired by this land bank and before it turns it back over to private ownership, is there any program whereby the city reserves some easements, right of ways in the event it would ever want to put in

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something like a subway or overhead tram system in through these areas? [LB97]

MIKE McMEEKIN: Senator Schumacher, those are the details that I'm not the person to answer. Our support is the big picture support for redevelopment and what it can do for cities. [LB97]

SENATOR SCHUMACHER: Thank you. Any other questions? Thank you for your testimony, Mr. McMeekin. [LB97]

MIKE McMEEKIN: You're welcome. Uh-huh. [LB97]

SENATOR SCHUMACHER: More proponents. [LB97]

JOE KOHOUT: Senator Schumacher, members of the Revenue Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the United Cities of Sarpy County. It's quite the change from a year ago appearing before the Urban Affairs Committee, now we're in front of Revenue. But one of the things that I would note that the reason for the city's support is I think they were looking at this prospectively. And you just heard from Omaha by Design, and from our cities' perspective, they are looking at this as a potential tool moving forward, and that was the nature of the discussion which they had and the reason for their support. So I don't have any specific questions to answer any about taxes or relinquishment of tax liabilities, but that's the reason for their support. [LB97]

SENATOR SCHUMACHER: Any questions? Senator Pirsch. [LB97]

SENATOR PIRSCH: And so you represent...is it all cities in Sarpy County? [LB97]

JOE KOHOUT: Four of the cities. [LB97]

SENATOR PIRSCH: Yeah. [LB97]

JOE KOHOUT: It's the cities of Gretna, Springfield, La Vista, and Papillion. [LB97]

SENATOR PIRSCH: Not Bellevue though. [LB97]

JOE KOHOUT: No, not Bellevue. [LB97]

SENATOR PIRSCH: Okay. So for the four that you do represent, is this type of...these type of parcels of land, are they are problem or...? [LB97]

JOE KOHOUT: Well, you know, it's kind of interesting, Senator. When you talk about, and we'll be up here later when we start talking about LB, I think it's, 191 and when you

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talk about historic buildings, you know, just because our cities are located away from the city center of Omaha does not mean that they're new. These are municipalities that have existed, La Vista being the newest at 50 years. And so Papillion has some areas of the city, La Vista even recently had an area that it was working towards having to eminent domain and utilize. So they've got areas where parts of the city that are starting to degrade and parts that are...parcels that are suffering this issue. So as they look at it, they're saying, my gosh, this would be a great tool to have moving forward. [LB97]

SENATOR PIRSCH: Thanks. [LB97]

SENATOR SCHUMACHER: Any other questions? Seeing none, thank you, Mr. Kohout. [LB97]

GLORIA AUSTERBERRY: (Exhibit 6) Senators and citizens, my name is Gloria Austerberry, G-l-o-r-i-a, Austerberry, A-u-s-t-e-r-b-e-r-r-y. I'm here today with other members of Omaha Together One Community, OTOC, a broad-based coalition of congregations and community organizations that teaches people of diverse backgrounds how to work together to improve the quality of life for all in Omaha. I'm here to speak on behalf of OTOC in favor of LB97. I'm also a constituent of Senator Harr in District 8. For the last four years, OTOC leaders have worked to survey and assess the condition of hundreds of houses in older Omaha neighborhoods. We've talked to Omaha bankers, real estate brokers, developers, landlords, and affordable housing builders. We've concluded from these conversations that housing in many older neighborhoods in Omaha is deteriorating at an alarming rate. This deterioration undermines the safety of our families and the value of our homes. That's why we work to get the Omaha mayor and city council to strengthen housing code enforcement. In just the last year, the city of Omaha has increased by half a million dollars the funding used to demolish dangerous, abandoned houses for 2013. Omaha hired an additional housing code inspector so that each inspector now has about 400 of the more than 4,000 open housing code violation cases, and Omaha increased the fees charged for reinspection of houses that are violating housing codes. But today we need the help of the Unicameral to pass LB97, creating a land bank for Douglas and Sarpy Counties. We believe the land bank is a necessary additional tool to improve our system of tax sale certificates and foreclosure, with its limitations. This system ties abandoned and tax delinquent properties up in legal limbo for years, while the property deteriorates and blights the surrounding community. We think a land bank could facilitate the redevelopment of affordable housing in older neighborhoods and clear up tax and title situations that cause property to languish and deteriorate for years. When a home went into foreclosure just across the street from our home in the Benson neighborhood, our neighbors' children were of the age where the neighbors feared to let the children play outside for any period of time. And then came the day or the night when a fire truck siren awoke us and our neighbors at midnight as the firefighters were battling the flames. In the morning, we thanked God we had our house unscathed, and life and limb

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together. Illicit activities like prostitution, gang activity, and drug involvement have been seen happening in vacant houses. Vacant houses are magnets for kids and magnets for trouble. Dead animal odors, vermin, fear of walking down the street in broad daylight--who deserves to live in a neighborhood that looks and smells like this? Loss of housing values, loss of Omaha property tax base, with less money in the public coffers to serve local needs, fewer people want to live there, resulting in fewer businesses being able to survive and fewer jobs available for residents in the area. It's a downward cycle that must be stopped. OTOC supports passage of LB97 and will work to ensure that the resulting land bank serves the needs of our communities. We ask the support of this committee and the Nebraska Unicameral. I'd be happy to answer any questions. [LB97]

SENATOR SCHUMACHER: Any questions from the committee for Ms. Austerberry? Seeing none, thank you very much for your testimony. [LB97]

GLORIA AUSTERBERRY: You're welcome. Thank you. [LB97]

SENATOR SCHUMACHER: Next proponent. [LB97]

JUSTIN BRADY: Senator Schumacher and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Realtors Association, as well as a coalition of homebuilders from Lincoln and the metropolitan area, in support of LB97. And with that, I'll try to answer any questions. [LB97]

SENATOR SCHUMACHER: Any questions for Mr. Brady? Seeing none,... [LB97]

JUSTIN BRADY: Thank you. [LB97]

SENATOR SCHUMACHER: ...thank you for your testimony. Next proponent. [LB97]

LYNN REX: Senator Schumacher, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appear before you today in strong support of this measure. I think the reasons have already been outlined to you about how land banking works and its effectiveness. We know that the bill right now is limited just to these two counties, but we know that the municipalities in those counties will really appreciate having this opportunity. I'd be happy to respond to any questions that you might have. [LB97]

SENATOR SCHUMACHER: Any questions from the committee for Ms. Rex? [LB97]

LYNN REX: Thank you. [LB97]



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SENATOR SCHUMACHER: Thank you, Lynn. Next proponent. [LB97]

SCOTT MAKINSTER: (Exhibit 7) Mr. Vice Chair Schumacher, my name is...and members of the committee, my name is Scott Makinster, S-c-o-t-t M-a-k-i-n-s-t-e-r. I'm here today representing U.S. Assets in support of LB97. I'm the managing partner of U.S. Assets, and U.S. Assets is a tax certificate buying company located in Omaha. We've been in business for approximately 20 years and we have about 25 employees, full- and part-time employees in the Omaha area. Prior to today, there was a lot of aspects of the bill that we had issues with, but we'd like to thank Senator Mello for his hard work and his working with us and his consideration to our concerns and make our opposition to the bill now supporters. Deana Walocha, who is also with our firm, will testify after me and discuss those changes which we hope will be brought into the bill, from that standpoint. A couple things that I would like to...and then answer a question, but a couple things is I think there's a lot of demonizing of tax certificate companies for many different reasons. We have tried very hard to be good citizens with our company. We work with Habitat for Humanity and have been for...since 2005. Last year we worked and we have a working agreement with them where Habitat for Humanity identified 54 properties that they would like to own and we've gone out and bought those properties, and we'll go through the foreclosure process. We'll take deed to them and transfer them to Habitat for Humanity. We have also worked in other communities where when it comes time for foreclosure, in not allowing these languishing things that keep going on and on, when we get to that point in time then we'll go to the local municipality and say, do you want these properties? And so from those situations, we're trying to do a lot of times what the land bank is set up to do. We welcome the land bank as something to help because it helps all these communities. The only issue that we had at all was with some of the wording and I think that's all resolved now. So do you have any questions? [LB97]

SENATOR SCHUMACHER: Any questions from members of the committee for Mr. Makinster? I just have a couple. Of the tax sale certificates that you buy, how many are paid off to you? [LB97]

SCOTT MAKINSTER: Probably over 95 percent are redeemed during the redemption process. [LB97]

SENATOR SCHUMACHER: And so that goes back to whoever the original owner was. [LB97]

SCOTT MAKINSTER: Uh-huh. [LB97]

SENATOR SCHUMACHER: And then on that redemption principal, you get your 14 percent interest. [LB97]

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SCOTT MAKINSTER: Correct. [LB97]

SENATOR SCHUMACHER: And of the ones that are not redeemed, what percentage...I guess there's three fates: foreclosure, tax deed, or just abandonment. [LB97]

SCOTT MAKINSTER: We...our firm does the judicial process, so we go to the sheriff's sale in the state of Nebraska. So we try to limit. The only time that we'll end up with a piece of real estate is if we have our...if we've given our minimum bid, which is our principal, interest, and cost, and we'll give that as our minimum bid at the sheriff's sale, and if no one else bids above that number then we have a judgment. And at that point in time then we can confirm, and we have a period of time in which we can confirm or choose not to confirm, and take deed to the property there. [LB97]

SENATOR SCHUMACHER: And you get a sheriff's deed at that point which conveys the property to either you or a purchaser at that sale free and clear of... [LB97]

SCOTT MAKINSTER: Yeah. [LB97]

SENATOR SCHUMACHER: ...any taxes or other liens? [LB97]

SCOTT MAKINSTER: That's correct. Uh-huh. And during this process, when we're doing it, you know, we're paying the subsequent taxes and things of that nature. [LB97]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony today. Next proponent. [LB97]

DEANA WALOCHA: Good afternoon, Senators. My name is Deana Walocha. And as Mr. Makinster said, I am with U.S. Assets. I am in-house counsel there so I do handle all of the tax foreclosures that we do. [LB97]

SENATOR SCHUMACHER: Could you spell your name for the record, please? [LB97]

DEANA WALOCHA: Sure. It's Deana, D-e-a-n-a, Walocha, W-a-l-o-c-h-a. And what was handed out to you was the language that we worked on today with Senator Mello and Mr. Fitzgerald. This is by no means final. This is just something that we've agreed to the spirit of and we will be working on in the next week or so. The reason that we felt this was necessary basically was the automatic bid that the land bank would have. And as we talked with the senator and we talked with other people about this bill, we understood the spirit of it. The spirit of the bill was to get to these properties that are left behind, that the market does leave behind, but we just thought that the way it was written was too broad. And so what we had proposed to the senator is that the board that is creating the policy for these automatic bids be given a little guidance. We

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understand that they do need some room to make decisions that aren't so structured, but we thought these (a) through (j) are elements of a statute that Iowa uses when a city takes abandoned properties there. By all means, they don't have to meet all of them. What they say is "substantially complies with." So we thought that was a good place to start. And we spoke with Senator Mello. We understand that there's certain parcels that perhaps Habitat for Humanity might want, so that's why that's in there. I think the rest of it is pretty clear, if anybody has any questions. [LB97]

SENATOR SCHUMACHER: Any questions from members of the committee? Thank you for your testimony. [LB97]

DEANA WALOCHA: Uh-huh. [LB97]

SENATOR SCHUMACHER: Any other proponents? [LB97]

MARK LAUGHLIN: Good afternoon. Senator, Mark Laughlin, M-a-r-k L-a-u-g-h-l-i-n. I'm also a purchaser of tax liens and basically this is a "me too." I shared concerns with the tax lien process part of it, but I'd like to thank Senator Mello for meeting with us and working with us. And our concerns are addressed in the sheet that has been handed out with the specific language to be worked out later. [LB97]

SENATOR SCHUMACHER: Any questions for Mr. Laughlin? Seeing none, thank you for your testimony. [LB97]

MARK LAUGHLIN: Thank you. [LB97]

SENATOR SCHUMACHER: Any other proponents? Going once, going twice. All right, opponents. [LB97]

PETER KATT: Good afternoon, members of the committee. My name is Peter Katt, P-e-t-e-r K-a-t-t. Like the U.S. Assets folks, I've been an investor and tax lien principal and company in the state of Nebraska that's invested in tax liens for over 20 years. I appeared at the interim hearing. Senator Mello apparently decided there was some group that could participate and I would like to be "me too" on the amendments that maybe could make this bill acceptable. The problem is with the automatic bid. I assume the (a) through (j) has addressed some of those issues. And so I don't know what you want to go into on any of that. As drafted, the statute would unfairly compete with companies that invest in tax liens in the state of Nebraska. I'd like to think our companies, like the others, have done a good service in creating revenue for the state over a long period of time and that we're not part of the problem. The problems that have been identified are not a part of tax lien investors and so I'll leave it at that. I'd be happy to answer any questions. I know the committee has had a lot of questions about particulars on tax liens and how they're foreclosed. I suspect any of that group could

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have answered them. I can answer them as well. [LB97]

SENATOR SCHUMACHER: Any questions for Mr. Katt? Seeing none, thank you for your testimony. [LB97]

PETER KATT: Thank you. [LB97]

SENATOR SCHUMACHER: More opponents. Once, going twice, okay. Neutral testimony. [LB97]

CHRIS CONNOLLY: (Exhibit 8) Mr. Vice Chairman, members of the committee, thank you for your time this afternoon. My name is Chris Connolly, C-h-r-i-s C-o-n-n-o-l-l-y, and I am assistant city attorney for the city of Lincoln. The city is taking a neutral position on this bill, as LB97 is currently limited to cities in the Omaha area. However, I do want to point out some of the advantages that we think a land bank system can bring to all the cities in the state. Lincoln, like Omaha and other cities, constantly deal with dilapidated, blighted, rundown problem properties that depress property values, invite crime, and discourage economic development, to name just a few of the issues. From a budgetary standpoint, these properties can cause problems because we will spend years trying to get the owner to repair or rehab the house, only to find that we must eventually demolish it. We will spend \$15,000 to \$20,000 to push in a house and clear the lot. We then end up with a small lot, typically, that is worth just maybe a few thousand dollars at best. We either hold the lot for many years, hoping that the price will pay for the demolition, or we sell it for a loss. We are not in the business of rehabbing these properties. We have rebuilt on some lots using some limited grant funds, but typically the lots remain cleared and open. The city of Lincoln, like most cities, cannot afford to demolish all of its uninhabitable houses. Further, the private sector has not gotten involved in these houses because they would suffer the same kinds of losses that the city does. By authorizing land banks, cities will be able to work faster and more efficiently to remove problem properties. Less time and fewer tax dollars would be spent disposing of these properties and they would be more quickly returned to the tax rolls, as well as improve the property values and quality of life in the community. The use of revenue bonds, and the other methods that Senator Mello mentioned, instead of taxes creates the capital needed to make this work while not further burdening the taxpayers. Land banks can be successful by assembling and packaging properties for sale, or taking the time, money, and expertise that the city does not have to rehab properties for sale or rent. No entities have stepped forward to do this on a large enough scale to make it work privately. Lincoln has been fortunate in that we do not currently have a large volume of problem properties. As we grow, however, it can be a powerful and useful tool, particularly for economic times that are much more stressful than what we have today. We think land banks can and should be a part of the solution to problem properties. If LB97 is passed, we will watch with great interest how Omaha implements a land bank and learn from its experience. Thank you and I'll be happy to answer any

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questions. [LB97]

SENATOR SCHUMACHER: Senator Pirsch. [LB97]

SENATOR PIRSCH: I was just wondering, was Lancaster included in the bill last year? [LB97]

CHRIS CONNOLLY: No, it was not. [LB97]

SENATOR PIRSCH: Okay. That's all the questions I have. [LB97]

SENATOR SCHUMACHER: Any other questions? I just have one. If this is such a good thing, why not just make it available to all cities? [LB97]

CHRIS CONNOLLY: Well, I suppose that is one possibility. I think there is value in starting small--and I say small, obviously we're starting with the largest city in the state--but I think there's a great amount of value in starting with Omaha and letting it develop and make whatever refinements may be necessary before moving on to other cities. So I do see some value there. [LB97]

SENATOR SCHUMACHER: Thank you. Any other questions? Thank you for your testimony today. Any other neutrals? [LB97]

KENT ROBERT: Senator Schumacher, members of the Revenue Committee, my name is Kent Rogert, R-o-g-e-r-t, and I'm here representing the Statewide Property Owners' Association. Today we are a coalition of residential investment property owners and we are here neutral today, expressing our appreciation to Senator Mello working with us, in where we were opposing a year ago. And he helped put some changes in there and put us on the...put a member of our community on the board of directors. I do...just noticed today, as I was reading on line 5...page 5, lines 4 and 5, I think we have a definitional problem of multifamily residential, which kind of singles it out as maybe being apartments only. So we might want to change that and we'll work with Senator Mello and legal counsel to get that done. [LB97]

SENATOR SCHUMACHER: Any questions for Mr. Rogert? Seeing none, thank you for your testimony. Any other neutrals on LB97? Senator Mello. [LB97]

SENATOR MELLO: I'll be very brief. I know you have two other long hearings afterwards. Vice Chairman Schumacher, members of the committee, I want to thank you for the questions in regards to this concept. To try to answer at least one question before I give my closing remarks, Senator Pirsch asked earlier why is this bill being heard now in the Revenue Committee instead of the Urban Affairs Committee. Last year, when we introduced the original concept of the bill, there were some of the

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questions Senator Schumacher has asked in regards to the constitutionality of what we were trying to do. We had to try to...we had to dot our i's and cross our t's, let's say, before we were able to introduce the bill. And by the time of bill introduction, the bill was about halfway done. And so there were big components of the bill that dealt with tax foreclosure issues, not nearly as much as this year's bill, that we weren't finished yet and so the bill was still in a semi-shell version, so to speak, which ultimately got referenced to Urban Affairs because it dealt with municipalities and less in regards to tax foreclosure issues. The big components of the bill this year not only involved what we introduced last year and what we honed but the tax foreclosure and tax certificate sale component, which falls under the Revenue Committee's jurisdiction. Is why the bill was referenced to the Revenue Committee this year instead of the Urban Affairs Committee, in which I had no qualms in the referencing process because it's ultimately where the bill belongs. I'd say in closing, obviously you heard an awful lot of information about a concept that is new to Nebraska, but I'd argue that it's not completely new. Under state statute we have created in years past a County Land Reutilization Commission in which Douglas County is the only county in the state that has a Land Reutilization Commission, in which part of the land bank under our bill would take over a lot of those responsibilities from that Land Reutilization Commission, in part because, as what Professor Alexander said, in version 1.0 of land banks that's essentially kind of what the County Land Reutilization Commission is. There's no financing mechanism. There's no way really for them to accept any other financing. They are simply a depository of last resort for any and all parcels that go through this process that nobody wants, even after the foreclosure sale, the judicial sale. It's where all the properties essentially end up at. And they're left with, unfortunately, bits and pieces of property that no one could do anything with, and they're still holding those properties today, which we ultimately would be able, under LB97, to help kind of alleviate some of the problems that they have, at least in Douglas County, with this issue and move those properties at least within the city of Omaha's boundaries to the municipal land bank. Lastly, I just want to thank, for the record, all of the groups that you had heard testify today emphasizing this has been a long process. Obviously, many meetings have taken place over the last year, year and a half since we first developed the concept from an interim study two years ago, through the interim study this past interim, and then to the introduction of LB97. And today ultimately I'd like to thank some of the last testifiers who ultimately are tax sale certificate investors who support the concept and supported the concept but had some reservations in regard to some of the language that we had used in regards to the green copy of the bill. Ultimately, I think the framework and agreement we've come to doesn't ultimately change, still, I think the focus of the land bank. It provides I think more guidance and more clarification to the land bank ultimately in regards to the utilization of this power that we give them through the automatic bid process through the tax sale certificates and foreclosure process. But I think it's...ultimately it's a consensus-driven process I've tried to operate within, knowing that there's a lot of interested parties, obviously, when it comes to abandoned and vacant property. And you heard obviously from the city of Omaha. And without stressing too much the fiscal

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note, the lone fiscal note you would see came from the Nebraska Association of County Officials which indicated they thought there would be a greater revenue projection that would come ultimately from Douglas County in the sense of them collecting more property taxes because of this concept. So while it may not have a state impact, ultimately it does help generate more property tax for our local governments, not just the city but the county, Omaha Public Schools and any other school district that resides within the city of Omaha's corporate limits, as well as any other property tax levying authority, for that matter. But I'd be happy to answer any questions. Otherwise, we'll be providing the committee counsel and work with the committee counsel on an amendment that we have forthcoming that addresses the issues you heard today. [LB97]

SENATOR SCHUMACHER: Any questions? Senator Harr. [LB97]

SENATOR HARR: Thank you, Senator Schumacher. I have a couple questions. And maybe you're not the right one to ask this question, but I do want an answer before we vote on it, is the Professor talked about...Alexander, each city kind of does different things with the land. Do we know what Omaha plans to do with this land? [LB97]

SENATOR MELLO: The bill specifically lays out, and I can try to look real quick in the memo we have here in regards to what section it is, it actually dictates in the bill, it sets up some of the specific purposes that the land can be used for. But ultimately, the land, the final determination and the prioritization we listed in the bill of giving priorities to residential use, commercial use, industrial use, and then public use, so to speak, for public parks or green spaces, is the four usable entities or usable purposes. That ultimately is left up to the land bank board to determine what is their number one priority, number two priority, number three priority, so on, so forth, so to speak. [LB97]

SENATOR HARR: So the answer is no. [LB97]

SENATOR MELLO: Well, we actually, no, we lay it...those four priorities we lay out specifically in the bill but... [LB97]

SENATOR HARR: Well, what...I mean of those four priorities, what are you excluding? [LB97]

SENATOR MELLO: Actually, the original green copy of the bill was for nature habitat purposes, I believe was one of the original purposes that we had listed in the green copy of last year's bill. [LB97]

SENATOR HARR: That's public though. [LB97]

SENATOR MELLO: Yes, but, no, actually. I mean a natural habitat area is not the same

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thing, I'd argue, as a public park. So it's not...doesn't serve the same purpose, so to speak, as a public park does. And so we... [LB97]

SENATOR HARR: So is Zorinsky not a public park? [LB97]

SENATOR MELLO: Zorinsky is a public park but it has different aspects. [LB97]

SENATOR HARR: And it's a natural habitat. [LB97]

SENATOR MELLO: It has different aspects of the public park. [LB97]

SENATOR HARR: Okay. So, no is the answer. Okay. Then my next question is, you talked about the Land Reutilization Commission and you said only Douglas County has that. I don't know if that's correct. I think...there is one in Douglas County but I think it applies to more than just Douglas County. [LB97]

SENATOR MELLO: As far as our research shows, it's Douglas County Land Reutilization Commission is the only entity that does anything remotely similar to this. So unless there is a Phelps County Land Reutilization Commission or anything else, we were unable to identify or find... [LB97]

SENATOR HARR: And maybe I wasn't clear in my question though. Does it apply to more than just Douglas County? [LB97]

SENATOR MELLO: At the top of my head, I couldn't tell you. [LB97]

SENATOR HARR: Okay. Well, so if you have a parcel of land that's 8 feet by 10 feet, does that go through the land reutilization or does that go to the land bank? [LB97]

SENATOR MELLO: We've actually changed now any property, under LB97, any property that ultimately, within the city of Omaha's boundaries now that is disposed of or is not disposed through the tax sale foreclosure process, would go to the land bank and not to the County Land Reutilization Commission. [LB97]

SENATOR HARR: And what would they do with an 8-foot by 10-foot parcel? [LB97]

SENATOR MELLO: Well, ideally they have, under the land bank, obviously under LB97 as drafted, the land bank would have significantly more authority and powers than the current County Land Reutilization Commission to acquire other parcels that may be near that. Ultimately also they have staff, in theory, to be able to try to sell that parcel of property, maybe to an adjoining property owner, any way they can define that parcel and get it in more usable format. [LB97]



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SENATOR HARR: But doesn't the Land Reutilization Commission already do that? [LB97]

SENATOR MELLO: No. To some extent, they don't have the resources to do that, Senator Harr. That's part of the challenge of why they have become essentially a deposit of last resort, knowing they have no resources to be able to do any of the activities that ultimately we're trying to do in LB97. [LB97]

SENATOR HARR: Well, I'm going to show my hand a little bit because I buy those 8-by-10 lots sometimes for fun. And what we do is then we go to the adjoining landowner and we ask them, hey, do you want to buy this. And guess what, most of the time they do, and people make money off of that. So it seems as though that land...I mean is that land being purchased right now? [LB97]

SENATOR MELLO: I would...you would probably have to ask that question to Douglas County and they can... [LB97]

SENATOR HARR: Well, let me tell you, it is. It is being... [LB97]

SENATOR MELLO: ...they can provide probably a little bit more information. [LB97]

SENATOR HARR: It is being purchased right now, and I know some of the people who buy, who buy those. And it seems as though there is...for those small parcels, there is something that's going on right now. And I don't know, I haven't been shown a problem with how that's being done with those small parcels. I mean just a comment. But it is for more than just Douglas County as well, for your information. We do...it does go down, as far as I know, in Nebraska City that you can buy those for that purpose. So I guess that was just more of a question. I'm not quite sure how I feel. But thank you. [LB97]

SENATOR SCHUMACHER: Any other questions? Senator Mello, thank you. [LB97]

SENATOR MELLO: Thank you, Senator Schumacher. [LB97]

SENATOR SCHUMACHER: That concludes the hearing on LB97. Senator Wightman, are you here? We'll open the hearing on LB341, changing tax sale procedures. Welcome, Senator Wightman. [LB97]

SENATOR WIGHTMAN: Thank you. Good afternoon, Acting Chair Schumacher and members of the Revenue Committee. For the record, my name is John Wightman. Wightman is spelled W-i-g-h-t-m-a-n. I represent District 36. LB341 is a product of an interim study conducted pursuant to LR514. LR514 called for a comprehensive review of the laws governing the process for the sale of real property for delinquent real property taxes. The local political subdivisions, such as counties and school districts, as

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you know, rely on property tax revenues to fund their operations. To collect these taxes, the county conducts an annual sale of tax certificates to raise the money necessary to operate local governments. The tax certificates represent the power of the county to collect property taxes for local government operations and are a lien on the real estate. Investors are encouraged to purchase tax sale certificates by also earning an attractive interest rate of 14 percent per annum. If the taxes are unpaid for three years, the law provides for the holder of the tax certificates to use the formal judicial process to foreclose on the property to secure title to the property or obtain a treasurer's tax deed to the property. LB370, passed last year, will require additional procedural safeguards for owners who are losing their property under the treasurer's tax deed process. In summary, LB341 is intended to update and streamline the process for the collection of delinquent property taxes and does the following. LB341 eliminates the bid-down process. Under current law, the bidder wins the auction if they pay all of the taxes and bids down the percentage of the ownership of the property. The attractive return on the investment is causing bidders to bid for fractional ownership of the underlying property. This complicates the eventual sale of the property, the process to rehabilitate the property, and the ability to return it back to the property tax rolls. LB341 sets forth a uniform procedure for round robin format sales in all 93 counties if a round robin format is used. LB341 requires bidders to register with the county treasurer prior to participating; requires a corporation organized under another state's laws, such as a foreign corporation, to provide proof that it has an agent whose name is on file with the Nebraska Secretary of State, who can be served with process if a lawsuit is required; and provides a \$25 nonrefundable registration fee. LB341 changes obsolete language such as "sale book." It's replaced by "record." And there are some other obsolete indications of language in there that have been changed. LB341 updates the fees charged for various services performed by treasurers to help cover the cost of the tax sale process, and expressly makes certain fees nonrefundable. LB341 streamlines the treasurer's tax deed process by requiring personal or residential service only on owner-occupied property; eliminates a redundant notice sent by certified mail concerning owner-occupied property but requires additional information to be provided in the initial notice. Notice to owners of all other types of property is given by certified mail upon receipt requested. LB341 requires the sheriff to provide additional information concerning how and to whom the notice of a pending issuance of a treasurer's tax deed was conducted by the sheriff. The requirement applies only to owner-occupied property. LB341 makes other technical and procedural changes to streamline, clarify, and update the process. LB341 makes needed changes to the process used to sell the property. It must be sold to collect delinquent property taxes that fund the operation of local political subdivisions. I would urge the Revenue Committee to advance LB341. We have talked to a couple of people who just came to us today who are proposing amendments, so we haven't had enough chance to review yet but we will do that and probably make some other comment before we...before you act on the bill. But at least one of those...some of those will speak to you today, and we're not suggesting those but we have one, at least, that just came to us about an hour before we got here and we really haven't had much

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opportunity to review it, but it does look like it possibly we could concede that. So if there are any questions, I'd be happy to try to answer them. [LB341]

SENATOR SCHUMACHER: Any questions for Senator Wightman? Senator Sullivan. [LB341]

SENATOR SULLIVAN: Thank you, Senator Schumacher. Thank you, Senator Wightman. I'll admit that I'm not as knowledgeable about this area as I perhaps should be. But could you explain what a round robin format is? [LB341]

SENATOR WIGHTMAN: A round robin format is one...I guess I probably will have to maybe let somebody else... [LB341]

SENATOR SULLIVAN: Okay, that's fine. [LB341]

SENATOR WIGHTMAN: ...or maybe I can get enough information I can cover that on closing. [LB341]

SENATOR SULLIVAN: Sure. Very good. [LB341]

SENATOR SCHUMACHER: Any other? Senator Pirsch. [LB341]

SENATOR PIRSCH: And just tell me if you'd like somebody else to speak to this, but it says you have to register...if you're a bidder, to register with the county treasurer prior to participating in that round robin format. And so how far in advance and how would you register right there on site? And I guess currently you don't need to register, is that...? [LB341]

SENATOR WIGHTMAN: You don't have to register, as I understand it, at the present time. So how far ahead of time, I don't know if we cover that in the bill, but it would have to be probably either earlier the day of the sale or maybe even before the day of the sale. I'd have to again check that and be sure, but. [LB341]

SENATOR PIRSCH: And the rationale for prior registration, what good does...? [LB341]

SENATOR WIGHTMAN: Well, a number of people come in to hear the sales and some of them never bid. Many of them never bid. And so I think the purpose is to...and, of course, this is being...we're here representing the county officials, so... [LB341]

SENATOR PIRSCH: I see. I'll let them... [LB341]

SENATOR WIGHTMAN: And they may be here and testify. I assume they will be, so. [LB341]

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SENATOR PIRSCH: Wonderful. I'll address that with them. [LB341]

SENATOR WIGHTMAN: Okay. [LB341]

SENATOR SCHUMACHER: Any other questions of Senator Wightman? [LB341]

SENATOR WIGHTMAN: Thank you. [LB341]

SENATOR SCHUMACHER: Thank you. Will you be closing? [LB341]

SENATOR WIGHTMAN: I'm intending to stay. [LB341]

SENATOR SCHUMACHER: Thank you. We're ready for proponent testimony on LB341. [LB341]

RICH JAMES: Good afternoon, Senators. I'm Rich James; that's R-i-c-h J-a-m-e-s, and I'm the treasurer of Sarpy County, testifying today in support of LB341. I guess I'll start out with part of the reason I'm supporting this is because it puts into the statutes a procedure most treasurers have used throughout the years, and that's the round robin tax sale as opposed to the bid-down procedure. It's been a very efficient method of using, because everybody basically gets assigned a number; everybody gets an equal opportunity at parcels of land, and then you go through the list. For example, the first person on the list has the opportunity to buy the first parcel that's available; and if they don't want it, then we go down the list and everybody in the room gets a chance to buy that parcel for all the taxes and fees that are due. And once in a while we get the parcels that nobody ever buys, and I think you heard about that for some length before I got here. Those are the parcels that nobody wants and nobody will pay the taxes on them because there's something deficient in those properties. That procedure works relatively well. It causes things to move along relatively conveniently and it gives everybody an opportunity to get their fair share of the parcels that are available, if there's such a thing as a fair share, I suppose. The registration, in my case I require them to register the Friday before the sale. We always have upwards of at least 90 or over 90 people participating, and we ask them to register ahead of time. If they don't register ahead of time, we charge them a fee the day of the sale because we've got to get W-9s, we've got to get all kinds of information from them. If we can get that ahead of time, then it's pretty...even having 90 people sign in takes quite a bit of time, because they've got to sign in who they're representing. Frequently, it's not the person representing themselves; they've representing another agency. So we have them come ahead of time so that we can do it in a timely manner and get the sale started, because we usually have upwards of, between taxes and specials, 2,000 line items that we have to go through in the course of the day. Over the course of the years, I've been doing this for a while and I sometimes feel like I have a Ph.D. in tax sales. They're very

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time....they're very labor intense. The process of selling them, redeeming them, processing them, dealing with the taxpayers, dealing with people who think they want to get into this business because they've heard about it on a midnight show on TV and they think they can make a fortune. It just uses a tremendous amount of labor in the treasurer's office. And every once in a while we get sued for something or another, and then it drags the county attorney's personnel into the process. So some of these fees have not...well, the tax sale issuance fee, for example, has not been changed as long as I can remember it. Meanwhile, most citizens' taxes have gone up and up and up, and the average price of a tax certificate, the taxes that are delinquent, has gone up and up and up; so those folks that are buying these--and we do appreciate what they do and the service they provide--has continued to earn interest at the rate of 14 percent, but the county has never reaped any portion of that. I did what I would say is a cost analysis on this in my office about ten years ago, and I figured it cost us \$25 to \$30 in time and labor to sell each certificate we sold, and that's been ten years since that happened. And as you're well aware, costs have gone up. Other than that, I'd be more than happy to answer any questions you have. I'm in support of LB341 because I think it benefits both parties in this process, both the buyer of the tax certificate as well as the county and the redemption and collection of some of the fees that we...and expenses we incur. [LB341]

SENATOR SCHUMACHER: Any questions for Mr. James? Senator Pirsch. [LB341]

SENATOR PIRSCH: Thanks. Just background. How many times a year do you do this, just...? [LB341]

RICH JAMES: The tax sale itself is the first Monday in March. [LB341]

SENATOR PIRSCH: First Monday in March. [LB341]

RICH JAMES: If there's anything that's not sold at tax sale after the first initial sale of these things, then we can sell any at private sale anytime during the year. So if I don't see something the first week of March, usually we close it out and go to the public. After that, if you show up at my counter and say, hey, I see this parcel is for sale, we'll be happy to sell it to you. [LB341]

SENATOR PIRSCH: Okay. And... [LB341]

RICH JAMES: Although what I usually...oh, excuse me. [LB341]

SENATOR PIRSCH: No, no. Go ahead. [LB341]

RICH JAMES: What I usually advise is somebody walks up a week later and wants to buy something that was not bought by 100 professional tax sale buyers, I advise them

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to make sure they know what they're buying because frequently those are the kind of properties...there's a reason somebody didn't buy them at the tax sale. [LB341]

SENATOR PIRSCH: I see. Not everything is a winner. Okay. And that's very helpful. Do other counties do it electronically? [LB341]

RICH JAMES: I understand that Douglas County does it electronically. [LB341]

SENATOR PIRSCH: Is that a...is it a similar process, or...do you understand how Douglas does it, or not? [LB341]

RICH JAMES: Well, it's on-line. They register on-line. I have not specifically done it. I've talked to the people who are going to provide them the service. Basically, it's got the flavor of eBay, and you bid down parcels of land as required by law now. So you can bid down a potential ownership of a parcel down to whatever fraction you're willing to go down to. [LB341]

SENATOR PIRSCH: In terms of ownership...percentage of...? [LB341]

RICH JAMES: Yeah, potential ownership. If it goes to foreclosure and it actually is foreclosed. [LB341]

SENATOR PIRSCH: So you wouldn't favor that because of the fractionalization that occurs with the ownership? Or would you? [LB341]

RICH JAMES: The process of selling them and bidding down is much more cumbersome and labor intensive, and it takes a lot longer. Douglas has gone electronically. My attorney says I can't do that and so I don't, and. [LB341]

SENATOR PIRSCH: Thank you. [LB341]

SENATOR SCHUMACHER: Any other questions? I've just got a couple questions. It seems like 14 percent interest for a first mortgage, essentially, on a property, 95 percent plus the pay is just really, really, really good interest in this market. It seems also that counties would like to have some more money, and it probably is a fair assumption that you would get plenty of bidders on several levels of tranches of these properties at 7 percent interest. What about the proposition that we give the county board the authority to sell the certificates at what the market will bear--say, 7 percent or 9 percent--and keep the spread between that and 14 percent? [LB341]

RICH JAMES: I would think the county board probably would jump on the opportunity to take that, since most of that money goes to the school district. And I'm not here to represent the school district, but two-thirds of the taxes I collect go to school entities. So

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if you're going to take away that chunk of revenue that goes to all the school entities, primarily, including the county and the fire districts, if you're going to take that away from the school districts, I would suspect one of them might be here to testify against this. [LB341]

SENATOR SCHUMACHER: But they aren't...they wouldn't get getting...they aren't getting the interest now. Once that tax sale certificate is sold, the investor gets the whole 14 percent. [LB341]

RICH JAMES: Oh, after the sale? Correct. Yeah. Oh, yeah. [LB341]

SENATOR SCHUMACHER: Yeah. After the sale the county board will pay the investors 7 percent--and let's say 7 percent is the magic number--and keep 7 percent. [LB341]

RICH JAMES: So the 14 percent is still there. It's just 7 percent going to the investor and 7 percent going to the county? [LB341]

SENATOR SCHUMACHER: We let market forces determine the interest rate. [LB341]

RICH JAMES: I would think the county board would like that. I would guess, having done this for a while, that the investors who invest will not like that. [LB341]

SENATOR SCHUMACHER: But that would be... [LB341]

RICH JAMES: And they'll probably speak on that after me, I'm guessing, so. [LB341]

SENATOR SCHUMACHER: That would be a function of the market, though, wouldn't it? And right now it's not a function of the market. [LB341]

RICH JAMES: Correct. [LB341]

SENATOR SCHUMACHER: Thank you. [LB341]

RICH JAMES: Yeah. [LB341]

SENATOR SCHUMACHER: Any other questions? Seeing none, thank you for your testimony. [LB341]

RICH JAMES: Thank you, Senators. [LB341]

SENATOR SCHUMACHER: Any other proponents? [LB341]

BETH BAZYN FERRELL: Good afternoon, Senator Schumacher and members of the

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committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in support of the bill. We'd like to thank Senator Wightman for his work on this bill and the interim study. I think the previous testifiers have described what the bill does very well. I would like to make a comment on your suggestion, Senator Schumacher. I'd be happy to take that back to our board and have them consider that. With that, I'd be happy to try to answer questions. [LB341]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. Any more proponents? Proceed. [LB341]

RANDY JAMES: Okay. My name is Randy James; first name Randy, R-a-n-d-y, last name James, J-a-m-e-s. I'm here in support of the legislation. I would also like to thank Senator Wightman and his staff for putting together a working group that discussed some of these issues, which led to the current draft of the bill, in which I did participate. I'm an attorney here in the state of Nebraska who is a tax investor for my personal interest as well as representing other investors. I believe that the bill addresses the concerns of the various interested parties, including the county and Senator Wightman's concerns as well as the investors. So to that, I would open it up to questions. [LB341]

SENATOR SCHUMACHER: Any questions for Mr. James? Seeing none, thank you for your testimony. More proponents on LB341? Opponents on LB341? Seeing none, neutral testimony on LB341? [LB341]

MARK LAUGHLIN: Senator, Mark Laughlin, M-a-r-k L-a-u-g-h-l-i-n. Once again, I'm a tax lien investor for Nebraska. I've purchased for about 15 years. I'd like to think I have good relationships with the county officials, including Mr. James, who runs a fantastically efficient sale. He's been great to work with. Just a couple of comments on some of the major things in this bill. One, on the round robin mechanism, that is basically how it works in almost every county; and so I'm in favor of that recognition, because that is the way it works, as Mr. James described it. It snakes around the room. It's fair. Everybody gets the same chance at everything. So I'm 100 percent behind the bidding mechanism, which is, you know, a bid deal in my view. But number two, and the main...and I, by the way, did have a chance to speak with Senator Wightman today and I really appreciate his time and Mr. Keetle's time. The one issue I would ask this body to consider is the fees and why they're being charged and who ultimately pays them. And by that, I mean this: There is a new bidder fee, a per bidder fee, that is in the legislation, and there's also a per certificate fee, which importantly is not refundable, i.e., it doesn't get returned. Here's my point on that. With...it is my...I have some familiarity with how these work in other states, and I would say that it is not the majority position by more than a little. There's usually not bidder fees imposed. There are in some places but not the majority. And number two, I'd say it would be very unusual for any fees that are charged to be nonrefundable. The way that this is...and Mr. James brings up a very



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good point, that it is a...there are costs incurred by the county. And the way that counties around the country, the most usual way that they handle that, is they incorporate that into the certificate fee, into the certificate itself; i.e., it's paid by the property owner who was the delinquent taxpayer in the first place. Why does that matter? Having just been on the heels of LB97, okay, and if this...if your goal is to sell as many of these as you can, okay, to private investors, so to limit the amount of ground that either a land bank or even if there's not a land bank, that the county gets hit with, okay, a \$20 nonrefundable fee may sound like a little deal but it's really not because for the properties that are marginal, the ones that we are looking, they're usually less--the certificates are less. So you've got a \$400 or a \$200 certificate that currently those get bought. They're riskier. But if you put on a \$20 fee that we can't recover, \$20 on a \$200 certificate, which do get bought now, that's 10 percent. And those ain't going to get bought. For sure, 100 percent, guaranteed, it ain't going to happen. And so by putting on that fee, you are basically cutting off at a certain level below which nobody who knows what they're doing is going to buy them. Okay? And I think my...and this is just speculation on my part, but I think that is why the majority view around the country is that these certificate fees, which are not inappropriate, are actually charged and incorporated into the certificate fee themselves. Twenty dollars, it's not a lot. But what that will do is then we will keep buying those ones that are on the margin, and you'll be in line with the way that people do this around the country. And the only...and I would also note in the bill itself, as drafted, there...in the situation where somebody is applying for a deed to try to get the house, that in Section 8 of the bill the...if someone wants...if the owner wants to come in and say, stop, don't take my house, I want to pay you. Okay? In this bill itself, they then in that situation have to pay the \$20 fee; that's right in the bill. And my point is, please consider doing that for all tax lien certificates, because then we will keep buying the smaller ones. And just one question, Senator, that you raised on the interest rates. And this is just for your information, but 14 percent is actually lower than many other places around the country, for example, Mississippi has 18 percent, Wyoming has 18 percent, Iowa has 24 percent, Arizona has 16 percent. And one thing you might be missing is that there are costs associated, costs of investigating these properties, and costs of servicing and keeping track of everything. And so...and I'm not trying to justify anything but I just...since you asked the question, I just wanted to provide that information to you. [LB341]

SENATOR SCHUMACHER: Any questions? I just have one following up there. Suppose we do give the county boards the authority to divide the pool of tax sale certificates into tranches with a AAA tranche and a...you know, almost for certain to be paid--95 percent of them paid off, anyway, from what the testimony has been--at 14 percent interest. And we divide the tranches and we put them for auction interest rates. The...and whatever the investor bids, if the top tranche is worth 5 percent, the county keeps 9 percent interest. And we let the market, all you guys who are bidding on these things, bid on the various tranches and what you'll take the certificate in that tranche at what interest rate. [LB341]

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MARK LAUGHLIN: Well, I think you...the bottom two tranches probably would never be sold. If you're going to force somebody to take everything in the tranche at a certain interest rate, you're going to go down and you're going to...there's isn't going to be anybody who's going to buy them. [LB341]

SENATOR SCHUMACHER: Well, the bottom tranche will still be there are 14 percent. [LB341]

MARK LAUGHLIN: Not if you can't recover your principal, Senator. I mean, 14...you could offer then at 198 percent and there's so many of these...I mean, there...as I think Mr. James referenced, but there are many certificates that don't get sold. That's why we were here on LB97, you know, the ones that keep coming back and keep coming around, because they have no value. And you could give an interest rate of 1,000 percent and I'm not interested nor will anybody who knows what they're doing be interested. And you've got to remember that whenever you start trying to slice and dice things, okay, the whole purpose...there's some funding, the schools rely on it. The counties rely on the money coming in at a certain time the taxes get paid. And, you know, it's, of course, up to this body to set what it is, and I can see you smiling and I understand why, but that's my answer to your question is, the more you slice and dice, you know, it sounds good, but the whole point is you then are going to enlarge the number of liens and the dollars that aren't bought. And then the schools that are there, that are saying we need our money, and the counties that are there saying we're relying on these tax liens...you know, Douglas County gets millions of dollars on the first Monday of every March, and then they disburse that to all the people who are relying on it. And that's part of the reason that the majority of states around the country sell tax liens. And you just start slicing and dicing, and then, you know, you're going to have less and less demand by people because it's not going to be productive. [LB341]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. [LB341]

MARK LAUGHLIN: Thank you, Senator. [LB341]

PETER KATT: Good afternoon, Senator Hadley and members of the committee. My name is Peter Katt, P-e-t-e-r K-a-t-t. I have been a tax lien investor in the state of Nebraska for over 20 years. My company also invests in at least a dozen other states throughout the country. So in terms of the variety of how one deals with the collection of delinquent real estate taxes, I have some experience in other states as well as how Nebraska has done it. I appear in a neutral capacity because in general this proposal improves a significant defect in the current Nebraska statutes dealing with the sale of tax liens. The bid down of fractional interest in real property is a problem in terms of allocating who gets what liens. And that's what this language fixes. That's a good thing.

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Our company participates in the round robin format. I agree Sarpy County does a nice job. Lancaster County has done that in the past. It is a reasonably efficient process that is fair. However, I raise two questions with regard the statute as drafted. It allows that this procedure is optional on the county. And so the question I pose is, what happens if a county treasurer chooses not to use the round robin format? Because I can guarantee you that every investor in every county will be willing to pay for the majority of the liens, the full amount of the taxes and interest. And someone needs to decide who breaks the tie, who gets the liens. How do you allocate those amongst the interested purchasers in the certificate? So I think that's a gap. The other question I'm uncertain of is if you change the current statutory procedure that eliminates all of this dealing with percentage interests, remember, that for about the past three to four to five years, you have investors that have bought bid-down certificates--and I haven't gone through and fully analyzed this; it seems to eliminate that. And the question will be is if they're buying subsequent years' taxes, are they also buying them at the percentage interest that they bid down? There probably needs to be some language in the statute detailing what happens with those people in the interim as you pass through this new statute. I was intrigued from the prior hearing with the expert from Georgia on a significant redo of our statutes. Nebraska statutes are 1884 and there's been very little change and they're very inefficient and very clunky on how we do things. This makes it better. There's probably a lot of things that we could do: the clear authorization in the statutes providing for on-line sales, the technology that is out there. Frequently in most of the other states that we buy in, you buy liens on-line. It's much more efficient. The software companies are out there to provide that service to companies. And like Mr. James indicates, the county attorneys in our state take differences...have differences of opinion as to whether or not they're permitted or not permitted to be able to sell these on-line. It seems to me that's a huge savings to have systems that are set up to be able to do that both on the investor side and the county side. I'd be happy to answer any questions that you may have that I might be able to answer. [LB341]

SENATOR SCHUMACHER: Am I still in charge here? [LB341]

SENATOR HADLEY: Yeah, you're still in charge. [LB341]

SENATOR SCHUMACHER: Any questions from members of the committee? Seeing none, thank you for your testimony. [LB341]

PETER KATT: Thank you. [LB341]

SENATOR SCHUMACHER: Additional...are we on proponents yet? We are on neutral. So okay, we're moving right along. Any more neutrals? [LB341]

DEANA WALOCHA: Senator Schumacher, members of the committee, I'm Deana Walocha, D-e-a-n-a W-a-l-o-c-h-a. I am with U.S. Assets and I am testifying neutrally on

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this bill as well. We believe there are some very good things in here. We did have some questions about the language, specifically in subsection (5) when it dealt with the subsequent taxes as to whether they attach to that. The new language made it...there was a question whether they would attach to the original tax certificate. And Senator Wightman was gracious enough to meet with us earlier today, and we are working on some language that we feel is going to take care of that, because that was not their intention apparently. We do not have a problem with getting rid of the bid down. We don't...it doesn't bother us, but we do go to very many sales that are also round robins, so that's all right too. And we understand the fees. We would actually support the bidder fee, especially if you're going to get rid of the bid down. We think that would be necessary to keep the \$25 bidder registration fee. We did have one issue with the affidavit that has to be filed with it...when...the property concerns and owner occupier. Currently, it says if a false affidavit is filed, it's a Class III felony and it's perjury. Our problem with that is this. Some of those properties, it's impossible to tell whether it's an owner occupier, short of walking up and knocking on the door. And that might not be the safest thing to do. I think there has to be a little more leeway there. I think there should be some intent if it's going to be a felony. To me, the way this reads right now it would be negligence and you still would be charged with a felony. And I would be happy to answer any questions. [LB341]

SENATOR SCHUMACHER: Any questions from members of the committee? Seeing none, thank you for your testimony. Any additional neutral testimony? Going once, going twice. That closes the hearing on LB341. Oh, Senator Wightman, you want to close? [LB341]

SENATOR WIGHTMAN: Thank you. I don't intend to testify much here, but I know there were several questions, and at least I would see if those were answered. I think they were with regard to most of them, so--maybe all of them, so otherwise I would try to answer them. But their answers were probably more complete than mine would be. [LB341]

SENATOR SCHUMACHER: Any further questions for Senator Wightman? Thank you, Senator Wightman, for bringing us this bill. [LB341]

SENATOR HADLEY: With that, we will go to LB571. Senator Harr, we're ready for your opening. [LB571]

SENATOR HARR: Chairman Hadley, members of the Revenue Committee, I'm Senator Burke Harr and I represent Legislative District 8, which is midtown Omaha, Dundee and Benson mainly, and parts around there. I am here to introduce LB571, which establishes the Nebraska Community Enhancement Financing Assistance Act. Let me give you a little history on turnbacks, although I'm not sure it's necessary, but for the record I will do so. In 1999, the Nebraska State Legislature passed the Convention

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Center Facility Financing Assistance Act, as well as the Local Civic, Cultural, and Convention Center Financing Fund. The Legislature found that it would be beneficial to the economic well-being of the people of this state that there be convention and meeting center facilities of appropriate size and quality to host events. The Legislature further found that such facilities may generate new economic activity as well as additional state and local taxes from persons residing both within and outside the state, and it also will create new economic opportunity for residents. The bill allowed a political subdivision that constructed a facility to apply to the state to allow the state to pay back to the political subdivision taxes that would not have been collected but for the economic activity generated by the facility. In other words, this created the Qwest Center, now the CenturyLink Center. And if I can just have a little side, last Saturday I spent the day down there and I had a whing-ding of a time. It was great. We had hockey in the morning. We had hockey...was supposed to be in the afternoon but due to the sun it was more late evening, and that led into Creighton basketball at night. There was also a fund-raiser, Dancing with the Stars, in the Convention Center. That attracted about 1,200 people. Hilton, there was another fund-raiser. So there was a buzz of activity. A large number of North Dakota fans in town. They were wonderful. It reminded me of being a Nebraska fan at a Northwestern game. But the economic vitality that that brought that weekend was great--what the College World Series brings. Outstanding. Creighton basketball has flourished under this bill. And we've had the ability to have many shows, including gun shows, in Omaha as a result. In 2007, LB551 was passed, and added sports arena facility and hotels to the act so that the state financial assistance includes sales tax revenue collected in all three facilities. It also added assistance as state sale tax revenue would be collected from hotels within 200 yards of the facility. So what we did was we created, now instead of the sales tax merely coming from inside, you have now what I call the fried egg. You have an egg yolk and you have the egg white around there. And I use the egg yolk because it's not perfectly round because we run into the river to the east. And again that helped finance the building. LB912, in 2008, extended the distance to 450 yards, and this created the Pinnacle Bank Arena, which I am excited will open next spring...or winter, excuse me. LB779, enacted in 2010, created the Convention Center Facility Financing Assistance Act and Sports Arena Financing Assistance Act. This now extends that area to 600 yards, the turnback zone, and included more checks and balances in the application process. This created the Ralston Arena, which opened successfully last fall. Now what you'll see is the original arena we looked at and we said, gosh, look at this; it's creating all this new economic vitality to this area but it's not helping to pay that fund. So we created, as I said, the egg white. And that was great, because we said--and my LA has heard this joke one too many times--you got a screwdriver on your way to the facility at a bar or a restaurant. Okay? Now we have the Ralston Arena. The Ralston Arena has created new economic vitality as well. There is a Menards that's going in, and that Menards is not directly related to the sports facility; however, they wanted to go into an area where there was economic development and new money being spent. So now you get a different kind of screwdriver before you go into the Ralston Arena. But it's still related

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and it feeds off each other. So we took that idea and we said, how do we take these successful arenas and create projects? A blueprint to do this across the state so that it isn't limited to arenas but that we have new economic development and new better public facilities across our state. And with that in mind, I was also approached by some foundations that said, hey, we've got money. The problem is, we don't...and we have a mission to spend that money across the state, not just in Omaha and not just in Lincoln, but we don't necessarily know how to do that; we are looking for a tool or a vehicle to do that. So getting together with them, we talked and we came up with what has become LB571. I spent a good portion of the interim session examining the policies to make it more attractive, particularly to our young. You know, what we hear here, and all last week, was why don't we change our tax code, because we want to keep our young people here. We've got to keep our young people here. They're the future. Well, this is something you can do to keep the young people here. I can tell you again, looking back at the CenturyLink Center, it's been a huge success for Omaha and it's helped keep young people here. So what we're trying to do is say, okay, different sized towns, what do we need to do? How do we work collaboratively to leverage private dollars with public dollars? The intent of the Community Enhancement Act is to promote and to stimulate local communities to create local private-public partnerships to further the general and economic welfare of a community by establishing projects that revitalize a community. So I'm going to stick to the sales a little bit longer before I go into the details of the bill. Most public-private partnerships, there's a profit motive introduced. And at the end of the day, it's the private that comes out ahead, meaning they make money on the deal. This is a little different public-private partnership in that we say, private, you come in and you're given money. But the political subdivision is the ultimate winner because they're the ones. Cities, counties, community colleges, they're the ones who have to own it while this is going on, and they're the ones who get this at the end. So what we're looking at is we're trying to create a program so that if we want to encourage individuals to...planned giving, we talk about this all the time. Land prices across the state have skyrocketed and it's awesome. We also talk about the fact that we have farmers. The average age of the farmer is a lot older than it was 20, 10, 15 years ago. So what are these farmers? And it takes less farmers than we had. So we're going to have fewer farmers, larger landowners. You have...and part of it is the consolidation of towns because farms are larger. They have these huge homesteads. Now they're passing away or they see their towns dying and they want to have planned giving that they can help their small towns. They want to help small town America. That town has been awesome to them and it's been great for them, and now they're looking for a way to give back to that community. This is a tool to do that. So you have a town that says, small town, large town, who might ever, says you know what we really want to do? Well, look no further than Columbus. Columbus built a pool and it has been phenomenal for Columbus. Matter of fact, my wife takes my two kids there two or three times a year. It's a great economic driver and it brings people together. So let's say that pool didn't exist or let's say another town decided they wanted to do it. They saw what Columbus has done; they want to build a new pool and a swim park, a water park in their community.

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They can go to a foundation, they can go to their community and say, hey, we think this is a great idea. We think we should do this. Great. So now there are other towns that have other ideas. I know when we brought this together, another town wants to be known as a rodeo town, so they want to redo their rodeo arena. Another town wants to do community playhouse. What we do is we say, what do you want to do? Kearney talked about, hey, we want to be a regional center for soccer; we want to have the best soccer fields available. So we say, fine, let's help you be the best soccer field you can. Let's get some private dollars in. Let's get that community buy-in and let's get the philanthropic to buy into this idea. So with that, you have these projects in mind. And, you know, from Gering to Omaha, from South Sioux to Nebraska City, and actually in McCook I've heard of ideas of what works and what they want to do. This is not an Omaha bill. This is not...I've heard the term a "Crossroads" bill; I've heard it's the UNO arena bill. This is not that. This is a tool for every town across the state to use. So what you do is you, prior to applying to the state, a community must take several steps. It must form a public-private partnership agreement. It must be created...which will be owned...which has a project which will be owned by the political subdivision and for the benefit of the community. It must obtain contributions equal to or exceeding the amount of the sales tax revenue being requested. For instance, you could request...if a project costs \$10 million, nothing would stop you from collecting \$6 million and getting \$4 million in sales tax turnback. You can go as low as one-third. And that's the idea is you've got to get to a third, and there is a valid reason for why you have to get to a third. Number one, you're going to a foundation. Whatever you set that lowest dollar at, that's what that foundation is going to give you. They're professional givers and they're going to say, hey, I want the most leverage on my dollar. So if we go to a third, for every \$1 that foundation gives, they're getting \$2 back. That's a great investment for them. But if we keep going lower and lower and lower, you're giving it away for free. And now because what has to step in is because the state is only going to match the amount of the private giving. So instead you're now instead of helping small towns, you're, in essence, taxing or burdening those small towns, because they've got to make up that difference. Now a third, a third, a third, seems reasonable. But once you start getting down lower and lower and lower and lower, you're just...those towns are stealing from themselves. So that's that. The turnback will also...and then a community enhancement plan must be created and there must a turnback zone. So we've talked about this. We have used turnback legislation three times in the state of Nebraska, and with each one of those, what have we had to do? We've had to change the turnback zone and we've had to create new legislation, which is arduous and expensive and difficult. But you have to do it because it's based on the density of what's around that project. Whether it's new projects going in, whether you have a bunch of old ones, a few ones, how do you capture that, the turnback of that project? So what we say is, let's let each project decide. So there's a lot of flexibility and stress points built into this whole concept. So let...you can determine what that turnback zone is. So if you want to build a soccer field over here but your hotels and restaurants that you want are over here close to the interstate, a half-mile, a mile away, but they're definitely the people staying and using

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this are related to that soccer field, your turnback zone is over here. It's not even wise to have it over here because all you're going to capture is the revenue from the increase in people paying for admission--and you may not even pay for admission. So we say you've got to come up with the plan and that plan is then approved or disapproved through the Administrative Procedure Act, which again builds in public input, which I'll get to. So all required approvals and support are in place from the local governments, including pledges of any tax dollars that may be required. So if you give less than half, you've got to have the pledge that we're going to make up that difference from the local municipality. And then you also have to have a city council meeting, if it's a city in this example. And they have to say we approve it. And what do you have there? You have public input. If the public doesn't like this plan or if it's controversial, the project probably has problems. But it will go forward. And then when that is complete, you will apply to the state. When applying to the state, you go in front of a committee of five, one of those being the Governor. You must have the majority...you must have support of the majority of that board of five, but one of those five must also be the Governor. So you've got a control in there so that not just any project goes through. Now let's say this is a controversial project in your town and it's...a city council votes on it 4-3. Chances are, the mayor is going to say...or the...excuse me, the Governor and that board is going to say, you don't have the local support. I'm not sure this is worth the expenditure of local...of state tax dollars if you don't have local buy-in. So this project, this legislation isn't meant for just any old bill. It's got to be special bills. But we give the Governor and this board the discretion to choose which boards are good and which projects are bad...or excuse me, what projects are good and what projects are bad. So there's a built-in check. Now you go to the APA and you get your turnback zone approved. Then we're not done yet. You still have got to place those bonds, because what you do is you say we're going to pay for this project through the turnback of bonds...or excuse me, we're going to pay for this through sales tax. So you've got to place these bonds. You've got to pay for these bonds; you've got to place them. Now it's got to be...you can maybe get a foundation to buy the bonds and they'll buy it on faith, but chances are you're going to try to sell it publicly. If you do that, you've got to have a turnback zone that is viable. Again, the marketplace comes in. You've got to have bond insurance, so the bond insurer is going to make sure and look at this to see is this viable, is this payable. And the beauty is the risk is on the bondholder. It is not on the city, it is not on the state. So if that turnback zone doesn't pay what we want it to, no one is going to buy the bonds and the deal dies there. Or if...well, you can't place it. Or if they are bought, it's the bondholder that's on the hook, not the city and not the state. So that's kind of the overview of this project. It is, as I say, we have...I have a lot more notes, but given the lateness of the hour as it is already almost 4:30, that is an overview of this, and I would entertain any and all questions on it. [LB571]

SENATOR HADLEY: Questions for Senator Harr? Senator Sullivan. [LB571]

SENATOR SULLIVAN: Thank you, Senator Hadley. What's your rationale with the



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makeup of the board that would approve these applicants? [LB571]

SENATOR HARR: The what, excuse me? [LB571]

SENATOR SULLIVAN: The makeup of the board that will approve these applicants. [LB571]

SENATOR HARR: Ahhh, great question. If I had to write this legislation from scratch, that is not the board I would choose. However, to help keep the fiscal note low and because there is familiarity, that is a board that comes from the Convention Center Facility Financing Assistance Act. It doesn't make sense to a certain degree. I would like to see someone from Economic Development on there, and maybe that's something we can talk about in an amendment. But I wanted to...as I said, I want to keep this...I want the money of the project to go towards the project, not towards creating boards. I want this money to go to our communities. We took city and county aid away a couple years ago, and this is way of providing incentives for city and county aid to be renewed somewhat. [LB571]

SENATOR SULLIVAN: Thank you. [LB571]

SENATOR HADLEY: Senator Schumacher. [LB571]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for bringing this, Senator Harr. I'm just trying to put together in my mind what's really going on here, and tell me how close I am to being right or wrong. [LB571]

SENATOR HARR: You always look for the worst. [LB571]

SENATOR SCHUMACHER: I always look for the worst. Hope to find the best. We have a town, and let's, for right now, not talk Omaha or Lincoln, because I think that's an entirely different dynamic than a Broken Bow or a Humphrey or even a Columbus or a community that size. But they decide that they want to build the swimming pool, okay? [LB571]

SENATOR HARR: Okay. [LB571]

SENATOR SCHUMACHER: And they go out and their main street is two blocks long and two blocks wide and that's all it is. That's where the retail in that town is. So functionally, the egg is going to be the whole town. So they want the swimming pool... [LB571]

SENATOR HARR: Actually the swimming pool would be the egg, the yolk. The egg white would be. [LB571]

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SENATOR SCHUMACHER: All right, the egg white. [LB571]

SENATOR HARR: But I get what you're saying. [LB571]

SENATOR SCHUMACHER: Well, at any rate, it's a pretty small pan. [LB571]

SENATOR HARR: Yes. [LB571]

SENATOR SCHUMACHER: Okay. And so they get some money from a charitable organization that you say has got commitments to spend money statewide, and then they go out and they form one of these turnback organizations and they sell some bonds to get some more money, and they go build a pool. And now they've got to pay back the bondholders on that bond. Well, we're presuming now that every new dollar in sales tax revenue that that town gets is due to that swimming pool and not due to the fact that the farmers may be getting \$7 corn and a car dealership moved into town or an implement dealership. And so we pledged...I mean, the causal relationship between that pool and the sales tax revenue isn't there, and they've also pledged any continued growth in their sales tax revenue to this pool. [LB571]

SENATOR HARR: Um-hum. [LB571]

SENATOR SCHUMACHER: How does that work, I mean? [LB571]

SENATOR HARR: Well, and the answer is...how does it work? Yeah, that's a great question. And it's...there's no simple answer so I'm going to jabber on for a little while, so I hope you stick with me. You can't get too greedy when you make your turnback zone. You have to have some causality that says this is related. And if you start getting too greedy, that's when the Governor is going to come in and she's going to say, no, we don't think this is causally related. Now that's part one. Part two is farmers do have more money now, don't they? Isn't it great. But the problem is, they don't always have a place to spend it or a way to spend it. Now what we're trying to do is to draw them into town. So they come in. Before, they may not have; they might have gone into the local watering hole to Sand Creek to go swimming. They've got a little money in their pocket; they're going to come into town and they're going to use the swimming pool. And guess what? While they're in town using the swimming pool, they're going to make a day of it. They're going go ahead and get an ice cream cone. They're going go ahead and maybe buy some groceries that, you know, normally they go to Wisner; now they're coming here to whatever town this is. They're coming to a different town. You're drawing people in who may not be coming here before. Is this picking up some of the natural organic growth, is the underlying assumption of this question. No doubt about it; yes, you are. How do you separate one from the other? You can't necessarily. But what you can do is look at that turnback so...and that is related to that project. And what you hope is that

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there's some causality between the two of them. But it's not perfect and no project is perfect. No legislation is perfect. But again we build in stress points here. If you get too big of an area, it's not going to be approved. And I think you can do a swimming pool. Let's say you have a swimming pool. Nothing begets success like success. So you see money being...or excuse me, a corporation sees money being invested in that town; that town is coming together. You know, they're looking for ways to where they should they grow. They're going to look at a community that's well organized, and they're going to say, well, they've got it together. That's an organization, a community I want to be a part of. So you build a swimming pool. All of sudden, here comes Casey's saying, hey, we want to be a part of that town. Stanton. We want to be a part of Stanton. They've got their act together; they're putting in a swimming pool. Farms are doing great up there. Let's put it right by that new swimming pool because success...it's a great new area and there's a lot of excitement and there's a lot of buzz around that area. Then, all of a sudden, here comes Dairy Sweet, and they say, hey, why don't we come out here? And they come out there. And then Subway says, hey, what's everyone else doing out here? Why don't I come along for the ride too, and I'll bring a Goodrich with me. And so success builds on success builds on success builds on success. There is...and then you say, but now you're coming...and then, all of sudden, you get...I don't know, name another store that moves in there and it has nothing to do with the swimming pool but it's built on that original success. You know, how is a Menards related to the Ralston Arena? It isn't, other than they wanted to be in an area that's successful and where there's new, exciting stuff going on. [LB571]

SENATOR SCHUMACHER: Thank you, Senator. [LB571]

SENATOR HARR: Was that babbling enough? Sometimes I feel like Senator Ashford. [LB571]

SENATOR SCHUMACHER: (Laugh) I don't think you've lived in rural Nebraska. [LB571]

SENATOR HADLEY: I have a couple questions and then we'll get to Senator Pirsch. I guess I'm surprised that you don't have more letters from cities, because it looks to me... [LB571]

SENATOR HARR: I don't have some more what? [LB571]

SENATOR HADLEY: More letters from cities supporting this, because there's no turnback of city sales tax. Is that correct? [LB571]

SENATOR HARR: It's up to the city. They can do that if they choose to. They are not required to. They could do it from property tax. [LB571]

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SENATOR HADLEY: They're not required to. So it's basically the state sales tax we're talking about here, is that correct? [LB571]

SENATOR HARR: Not necessarily. It depends on how you do it. It depends on how you finance the project. You could...if you do a third, you would have a third private, you would have a third state sales tax, and then you'd have a third the local...it could be a community college. It could be a...let's just assume it's a city. The city could find...if you they don't have a local option sales tax it couldn't be a sale tax, so they would have to find a different way to pay for it. But at the end of the day, they own that project because they're overseeing it. If you form one of these nonprofits, which we probably need to go into more detail on to clarify the record of what those are. But let's say a city does it. At the end of the day they own that, and now they've gotten it and it's beautiful for them, because now they're getting this for 33 cents on the dollar. [LB571]

SENATOR HADLEY: I guess...well, another quick question. You mentioned three projects that have turnback so far, is that correct? [LB571]

SENATOR HARR: I believe so, yes. And those are all arenas. [LB571]

SENATOR HADLEY: And they've been really successful, is that...? The Qwest Center has not. I guess...I've not been around a long time, but haven't there been some problems of refinancing and expanding and everything else, because they had problems? Is that a fair statement? [LB571]

SENATOR HARR: Well, I wouldn't say...it returns about 7 percent, which is decent. I mean, would we like to see better? Yes. [LB571]

SENATOR HADLEY: But they haven't...so they haven't had any financing problems over the years? [LB571]

SENATOR HARR: No. You know, they have a different turnback zone than, say, Lincoln does and Ralston does. Theirs is just the smallest of all of them. And, you know, you've got to also remember, they only get 70 cents on the dollar. Well, excuse me, let me restate that. They only get 63 cents on the dollar of turnback dollars because this Legislature agreed that it was 70 percent goes to pay off, 30 percent goes to this fund which we're going to hear from Senator Dubas later that sounds like it might even have too much money in it because we're expanding what projects we can use. And then of that 70 percent, 10 percent of it is then reinvested in north and south Omaha. So it's making a profit even though it's only getting 63 cents back on the dollar as opposed to... [LB571]

SENATOR HADLEY: Okay. I just wanted to be sure. But they have not had...you're saying they have not had...I just need to check because I just had that thought that they

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had had some financial problems at the Qwest Center or whatever the name is now.  
[LB571]

SENATOR HARR: Well, if you recall, we had to create that 70-30. That wasn't a part of the original legislation. What it was, was originally it was just a turnback within the building. And then there was...again, getting in the weeds. I can go into further detail, but. [LB571]

SENATOR HADLEY: Let me ask one last question and then I'll let Senator Pirsch. You know, we did a lot of work to give cities the option of an extra half-cent sales tax. Why wouldn't they just use this? I mean, if they want to be partners in a \$90 million project that's going to cost \$30 million for the city, \$30 million for private, why not the city just go to the voters and say we want to build this arena and we'd like you to pony up, the city...rather than coming to the state to ask for the state's share back? Why doesn't the city just say we'll tax ourselves to do this? [LB571]

SENATOR HARR: Great question. And nothing would stop them from doing that with the one-third portion or even going higher. But the question is, number one, can they afford it? And what I mean by that is a half-cent is a lot less than 5.5 cents. So a project may not be affordable through the half cent, number one. Number two, when investing money, people like certainty. And if you do the half-cent, you know, you get philanthropic money says: Well, wait; do you have the money, don't you have the money? We want to spend the money this year. How's that election going to turn out; how is it not going to turn out? This...as you go along, there's much more certainty along the way, each step of the way. Now, not complete certainty. There shouldn't be. But there is a process that's much smoother for these towns and for these philanthropic organizations, foundations to give that money. Again it's not perfect and we don't want it to be perfect. We have built-in checks and balances and we can go into greater details of what these checks and balances are throughout it. But it's not going to be just...we don't want this to be for every, you know, project in town, hey, we want to build a new park. We want this town to come together and say this is something we really believe in and we're going to go out and we're going to get community dollars, we're going to get state dollars, and we're going to use ours. Again this is a way for...as we see our small towns not dying, but rather, consolidating with the farms, there just isn't the population. So what we are doing as we as legislators are coming out and saying, hey, let's find a way. Let's give these small towns across Nebraska a better tool so they can come together and find a way to build something that makes that town unique. You know, historically, each town is unique because of its cultural background. You know, you have your German towns, you have your Irish towns, and that's great; but that's not going to...now what we need to do is find a way to look at what the histories are of each town and find ways to revitalize or to go in a new direction so that that town is not just merely agrarian-based. Because if you're agrarian-based...if all our small towns are agrarian-based, they're not going to make it. Some will, some won't. We'll have winners

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and losers. But this allows the community that decides, hey, we want to be something more, to decide how they want to do that. [LB571]

SENATOR HADLEY: I guess one then quick last question. Then small towns and everything would be excited about this. The three turnback projects, what's the size of towns of the three turnback projects we've had so far? [LB571]

SENATOR HARR: Yeah, exactly. [LB571]

SENATOR HADLEY: Which ones? [LB571]

SENATOR HARR: Omaha, Ralston, and Lincoln. And that's exactly my point is those were too big. So that's what this is. This is beautiful. [LB571]

SENATOR HADLEY: You know, I just have to say, you know, I keep hearing about how all of this is going to be so great for everybody across Nebraska. And I just...I'm just not sure that's true, but. And the second thing I'll say is that I also have a concern about the tax base of the state of Nebraska. And if we continue to give away the tax base of the state of Nebraska, when teachers come in and want more money for state aid schooling, when we want more money for highways, when we want more money for other things, where are we going to look to? When we give away their growth because of these kinds of...when we're turning back the state tax dollars, the incremental state dollars, that means teachers out there, we're giving your money away; the roads out there, we're giving your money away; health and human services, we're giving your money away. Is that a fair statement? [LB571]

SENATOR HARR: It is a fair, but an incomplete, statement is what I would say. What we are looking for, so...and again I'm going to get in the weeds a little. Last summer, when I worked to build...what do we need to build the population base in Nebraska. This is what we're all about. This is what we're looking to do. This is what LB405 and LB406 is about. We're trying to find a way to make Nebraska more viable. So this is a part of it. So the first thing to be more viable: I would say you have to have an educated work force. We have to have well-educated kids. Once those kids are educated, we've got to have jobs for them. And that's what the Nebraska Advantage Act is meant to do. It's...you know, that's a giveaway. But it...well, it depends on who you talk to, but I think it's... [LB571]

SENATOR HADLEY: No, because the money comes... [LB571]

SENATOR HARR: Back. Exactly. [LB571]

SENATOR HADLEY: The money comes in and then it goes out. [LB571]

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SENATOR HARR: So that's... [LB571]

SENATOR HADLEY: This...the money never comes to the state. It's given back, right? I mean, it's a turnback. [LB571]

SENATOR HADLEY: Okay. So what this does...and let me go through mine and then I'll address your issue. So what this does is we say, okay, we've got...now we've got jobs. But, you know, I'll speak for myself: Where would you rather live, Chicago or Omaha? Omaha versus O'Neill? O'Neill versus a smaller town? So what you've got to do is you've got to have something there to grab those kids to say this is why we want to be here. This is something we can do. So it may be I really love my town because we have a great rodeo every year. I really love my town because we have these great soccer tournaments. I really love my town because, you know what, it has a great water park, or it draws people in to have this water park. So now what you've done is you've drawn or you've kept people here. Because you can have all the jobs in the world, but if don't you have anything to do on the weekends, guess where that money goes? I'll tell you what I did when I moved back to Omaha. Just about every chance I had, I went to Chicago for the weekend. Flights were 39 bucks each way and that's where I spent all my disposable income for a good 5-10 years. So what we're trying to do is we're trying to find a way to capture that and keep that money here and keep those people, those young kids that were begging--begging--for it. That's why we're doing what we're doing. We want to keep these kids here. Now you ask...so that was your tax giveaway base. My argument is you're getting that money flowing. You're reinvesting that money. Now the state may not get the sales tax portion but they're going to get it other ways. They're going to get it in the other businesses around town. Because again, success begets success. Now you asked if this was good for Nebraska; if this was just Omaha, Lincoln, and Ralston Arena legislation? I think we've got to get out of the minds this is arena legislation. This is bigger, better than arena, and smaller at the same time, than arena legislation. We can't judge the success of the Lincoln arena. It hasn't been built. It's not...it's in the construction phase. We can judge the successes of the Qwest Center, the CenturyLink Center. It's been largely successful. Convention? Not nearly what we had all hoped. Some of that is 9/11-related, some of that is we just don't travel the way you used to. But the arena itself has been somewhat successful. But this is great for Nebraska because it gives a way to ignite planned giving from across the state. We heard testimony earlier about Flint, Michigan, with the land banks. And one of the things they did was they created public-private partnerships. Well, who do you think owns that? GM? It's not the private sector. It's owned by the city of Flint. So that's what we're looking to do. I mean, you name it. I...this legislation, it's only limited by an individual's imagination, what they want to do in their own town. It has all kinds, whatever anyone wants to do. Again it's meant to have flexibility in here and to provide a structure, but then not unlimited. There are checks and balances. So you can't just...a small town can't say we want to go and create--I don't know--an ocean park in the middle of the Sandhills. You can't do that because it wouldn't work. First of all, the Governor is going

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to say no; second of all, the bond market is going to say no. You can't place it. So what we do is we give you the flexibility to work with what you think will work in your area, and let those people...let private enterprise help decide what works and what won't work in your area. [LB571]

SENATOR HADLEY: Okay, thank you. Senator Pirsch, you had a question. [LB571]

SENATOR PIRSCH: Oh, just a quick clarification with respect to means of gauging. So you have these projects and then...and you set the boundaries. Each project differs. How long of a...is it just for however long it takes to pay off the project, or...? [LB571]

SENATOR HARR: Good question. It's 20 years. The maximum is 20 years. But you pay that off sooner? It's done and you can't get any more money. [LB571]

SENATOR PIRSCH: Okay. [LB571]

SENATOR HARR: So it's just for the duration of that bond. [LB571]

SENATOR PIRSCH: And then you're looking at, and you kind of alluded to it in the example that Senator Schumacher, about the swimming pool in town, that...the assumption that all increases in the revenues are attributable to that project. But in your definitional part, on page 3, on line 6, it says increase in the state revenue means the amount of state sales tax revenue collected by a nearby retailer. So you're gauging it to...? I mean, how is that nearby retailer... [LB571]

SENATOR HARR: That's that zoning that's set up through the APA. So whatever your...nearby is any retail that's located within, as I used the example earlier, the egg white. Although that egg white may not even be connected to the egg anymore; it may be over here. [LB571]

SENATOR PIRSCH: So if it's a small town, it may be in the next small town over? [LB571]

SENATOR HARR: You can't...no, if you...in the legislation what we do is we limit it, no small town can be a part...it can't be another town. That's limited in the legislation. [LB571]

SENATOR PIRSCH: Okay, thank you. [LB571]

SENATOR HARR: And I want to just quickly touch on something, and that is these nonprofits. These are what we passed in LB902, their existence. It's called a 63-20 corporation and it was founded by an IRS ruling in 1963. These have been around now for 50 years, and these nonprofits are formed by and for the benefit of that political



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subdivision. They cannot exist without the political subdivision's permission. The political subdivision must put four of its five members on that board. There are very clear and stringent IRS regulations that go with these. These are not...these political nonprofits...or these nonprofits are not your United Way, they're not your Catholic charities, they're not your, you name it, as we can traditionally think of the 501(c)(3)s. These are meant, as I say, formed by and for the benefit of the political subdivision. And we use these all across the state. As I...last year, when we were doing LB902, every single district I could find one of these nonprofits, except for in the district of Senator Brasch. So they're used across the state. Community colleges use them, universities use them, cities use them, counties use them. So I want to clarify the record on that. [LB571]

SENATOR HADLEY: Other questions? Seeing none, thank you, Senator Harr. You'll be here for closing? [LB571]

SENATOR HARR: Thank you. Mr. Chairman, I will be here. [LB571]

SENATOR HADLEY: Okay. First proponent. [LB571]

RICK CUNNINGHAM: (Exhibit 9) My name is Rick Cunningham. That's R-i-c-k, Cunningham, C-u-n-n-i-n-g-h-a-m. I'm the planning director of the city of Omaha, Nebraska. I am here representing the mayor as well as the city of Omaha to express our support for LB571, the Community Enhancement Financing Assistance Act being offered by Senator Harr. I wanted to say, first of all, that we have had the privilege of working with him over the summer on the precepts of this bill, and we appreciate his willingness to work with us on it. We feel that it well could be an important bill not just for Omaha but could have lasting impact on the entire state as well as potentially in Omaha. One of the things we think that's at the core of this bill is public-private partnerships. You've hit upon some of that public-private partnership evidence in Omaha, Nebraska. We have done a number of larger projects that have been at the key and the core of public-private partnerships such as the CenturyLink, formerly known as the Qwest. And Senator Hadley, you asked a question: Has it been successful? Yes. Has it been successful as we wanted it to be? No. Will it be more successful in the future? Yes. And we are investing more money to put infrastructure in place to assist it in doing that. In fact, we put 150 more rooms on the city convention hotel in order to create the kind of rooms next to the Convention Center that help it be more viable from a convention perspective. We have a project on the books right now that we are moving forward with, a private project, called the Capitol District, that we put an RFP out, and one of the...probably the only bottom-line foundational thing that they have to do in this development is a 350-room convention hotel to supplement the city's hotel to get us very close to 1,000 rooms within one block of the convention hotel so that there would be a better match between convention room hotels immediately adjacent to the Convention Center itself. So to answer your question, it has been successful, perhaps

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not as successful. It has made profit and we want to make sure that it continues to be successful and produces I would say on all eight cylinders rather than just the arena side but also the convention side. TD Ameritrade is another strong indicator of a public-private partnership in Omaha. The Holland Performing Arts Center is another example. Again, this bill I think...we believe will foster more public-private partnerships not only in the city of Omaha but across the state. At this time, the mayor and others in the city don't have a particular project that we plan to use this on. There may be some projects that we might consider it, depending on how it passes and what are the rules and the game that we have to put together in order to make it work effectively. But we do believe that this would be good not just for Omaha. In fact, probably more beneficial to the rest of the state than Omaha. We certainly could come forward with a bill that we think would be better for Omaha but we haven't done that. We do know that there are some concerns in this bill as far as the commitment made by the private sector that's used to basically incentivize the state's participation. We are aware about the concerns at a number of different communities about the level of that private funding, the control of the application process, and then the eligibility of funding. But we are confident, having worked with Senator Harr that he, working with you, will be able to manage these concerns while maintaining the intent of the bill. So in conclusion, the city of Omaha requests your serious consideration in advancing this bill to the floor and provide your favorable support to the bill in the future. I'm here to answer any questions that you might have. [LB571]

SENATOR HADLEY: Are there questions for Mr. Cunningham? Senator Schumacher. [LB571]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just a brief question. You said you thought this bill could be made better for the city of Omaha. I'm having a real hard time seeing how it has much functionality in the 400 communities under 500 population. What could we do to make this better for Omaha and think of something else that may be better for those communities? [LB571]

RICK CUNNINGHAM: Well, to the extent of what it can be used for would make it make better for the city of Omaha. In working with Senator Harr, we've tried to understand exactly the language and where we might be able to use it. We have a number of different potential redevelopment and reinvestment, what I've called in other committees, "Big Kahuna" projects, of the stature of a TD Ameritrade, of a CenturyLink, of a Hilton Hotel or the Capitol District. We obviously would not be able to use this bill for most of those projects. And because of the size and the limitations of the bill, we see that it might be part of a collaborative funding package that's put together for a larger project or a larger mixed use type of project, and that's where we see we might be able to use it. So we wouldn't be able to use it to do the whole project but there might be a component of a mixed use project that we might be able to use it for. So it's...you know, it basically would be another tool in the tool box, and not the whole tool box, if I can use

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that analogy. It would be a tool that we would have to use collectively with other tools in order to make some of these Big Kahuna projects work. [LB571]

SENATOR SCHUMACHER: Thank you. [LB571]

SENATOR HADLEY: Further questions? Mr. Cunningham, I have just a quick little...a couple quick ones. Senator Harr said that to his knowledge this has no relationship whatsoever to the UNO hockey arena. Is that your understanding also? [LB571]

RICK CUNNINGHAM: I have worked with Senator Harr so I have to believe that that is true. [LB571]

SENATOR HADLEY: Okay. So... [LB571]

RICK CUNNINGHAM: We haven't brought that project to the table for this project. [LB571]

SENATOR HADLEY: I wonder if we might have a statement to that. Because, I'm sorry, there's a lot of rumors going around that this is a project that's going in on Center Street across from Aksarben Village. I'm just telling you what's out there right there. [LB571]

RICK CUNNINGHAM: And I've heard those... [LB571]

SENATOR HADLEY: That this is a very specific project-oriented bill. [LB571]

RICK CUNNINGHAM: I've heard those rumors also. All I can say is that we are engaged with that project since it is in the city of Omaha. It's right across the street from one of our hallmark redevelopments, Aksarben Village; so we have vested concern about how it develops and so forth. To the best of my knowledge, at this point this is a private developer that's partnering with the university. But that's the extent of my knowledge as far as where the funding is coming from. [LB571]

SENATOR HADLEY: Could this be used for that project? [LB571]

RICK CUNNINGHAM: I haven't talked with Senator Harr. I don't believe it's his intent that it could be. But again, I haven't thought through how...based upon how it finally might pass, how it might be used. [LB571]

SENATOR HADLEY: Okay. I just...yeah, I'd like the record just to really reflect that, because I've heard it from numerous people that this is a one-item project and that is a very specific project. [LB571]

RICK CUNNINGHAM: I will tell you that Senator Harr has worked very hard to make

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sure that this legislation can be utilized across the state of Nebraska and is not focused--is not focused--on Omaha or Lincoln only, but is something that could be utilized across the state, and I think that part of that commitment came through on his testimony. I will tell, over months of working with him...because we tried to get him to move, obviously, a little bit further on one side; and I will tell you that he's pretty committed. So that's just been my experience working with him. [LB571]

SENATOR HADLEY: Okay. Senator Pirsch. [LB571]

SENATOR PIRSCH: And tangentially you mentioned that the CenturyLink Center now, they're looking at adding another hotel, is that right, with the...? [LB571]

RICK CUNNINGHAM: That's not part of the CenturyLink. That's...and this will be a public...it will be a public-private...I should say private, mostly private, but public-private partnership to do the Capitol District, and that is where the 350-room hotel would be. [LB571]

SENATOR PIRSCH: That would be within the... [LB571]

RICK CUNNINGHAM: That would be one block...it would...across the street. It's 10th and Capitol. [LB571]

SENATOR PIRSCH: So it would not be in the zone, so to speak, of the...with respect to the other type of financing--the Civic, Cultural...the financing method for the CenturyLink Center. Is that within the...? [LB571]

RICK CUNNINGHAM: You know, I don't...that was all passed before I came back to the city, and I apologize; I do believe right across the street it would technically be within the turnback zone for that...because it's right...I mean, it literally is across the street from the Qwest Center. It is a private...public-private...and when I say public-private, we are anticipating TIF, because it's within our community redevelopment area for downtown. So we are considering TIF investment to do public infrastructure. But as far as whether it would qualify as part of the turnback for the Qwest Center, because it...for example, under this bill, it would not qualify because it's coming more than two years after the Qwest Center opened. [LB571]

SENATOR PIRSCH: Okay. [LB571]

RICK CUNNINGHAM: And I don't know if that's in the bill that actually is providing the turnback for the Qwest Center. I will also say that the city of Omaha did increase our property tax to make sure that we are making principal payments on the Qwest Center. So I think that there is a level of commitment from the city of Omaha and its taxpayers to pick up the mantle of responsibility for, you know, paying off the principal on the

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Qwest Center and not just the state turnback. [LB571]

SENATOR PIRSCH: Yeah. Is that...are there some groups that will only look at convention centers that have 1,000 rooms within a (inaudible)? [LB571]

RICK CUNNINGHAM: Most definitely. Well, that only...that has 1,000 rooms next to it. I've said since I had the pleasure of moving back to Omaha as a planning director, that for most of this time our convention center has been overbuilt compared to our convention rooms within two blocks of the facility itself. And that's the reason why we began discussing, shortly after, you know, I had the opportunity to come back to Omaha, to add the 150 rooms to the Hilton that the hotel was originally designed to add on. And we did do that through a...the city basically did that. But that only gets us up to 600, and that has had a positive impact on our ability to land not only meetings for the Convention Center itself, but also for additional meetings within the city within the hotel itself. But the magic number that I've heard is 1,000; and while we're not getting to 1,000, we're getting to 950. So we're getting pretty close with that new hotel, and hopefully, within the next couple of months, you'll hear that announcement that we're moving forward with the Capitol District, and which is about a \$173 million to a \$200 million investment into the downtown area. [LB571]

SENATOR PIRSCH: All right. Thank you. [LB571]

SENATOR HADLEY: Further questions for Mr. Cunningham? Thank you, Mr. Cunningham. We appreciate you coming down. [LB571]

RICK CUNNINGHAM: Thank you for this opportunity. Please work with Senator Harr to move this bill forward. [LB571]

SENATOR HADLEY: Next proponent. Welcome, Senator Council. [LB571]

BRENDA COUNCIL: Good evening, Senator Hadley. My name is Brenda Council, B-r-e-n-d-a C-o-u-n-c-i-l. I'm a resident of north Omaha and I'm a member of the Empowerment Network, appearing this afternoon in support of LB571. I do want to take this opportunity also to note that out of respect for time I did not come forward and testify in support of LB97. I just hope someone picks up the sheet in the back where my support for that bill has been indicated. [LB571]

SENATOR HADLEY: We will do that. [LB571]

BRENDA COUNCIL: The Empowerment Network facilitated a community-based process to build consensus in north Omaha on a comprehensive 30-year vision for the revitalization of that community. The vision was to center on connecting the rich history of north Omaha to a driving and sustainable future, and to accomplish that it would be

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accelerating the transformation of that area into a great place to live, raise a family, to do business, worship, and to play. The result of this visioning effort was what is known as the village zone plan, which represents over two years of intense work that engaged hundreds of residents of north Omaha, various stakeholders, neighborhood associations, elected officials, economic development specialists, business leaders, and potential financial supporters. The village zone vision and action plan, which was unanimously approved by both the city of Omaha's planning board and its city council, has identified iconic and transformational physical development projects that need to occur within four focus areas of north Omaha, and that those projects would be catalysts to the revitalization of north Omaha. One of those areas of focus is the area of 24th and Lake streets. Twenty-fourth and Lake Street has a rich history of being at the cultural and entertainment heart of north Omaha. People my age and a little older have vivid recollections of all of the clubs where live entertainment was provided within a six- or seven-block radius on either side of 24th and Lake. Some of the nation's best musicians came out of the 24th and Lake area, and there has been a focus on drawing upon that rich history in arts and culture to drive the economic engine for the revitalization of north Omaha. And as a result, the village zone plan that has been approved by the city of Omaha recommends the creation of an arts, culture, and entertainment district in the 24th and Lake Street area. This district is envisioned to include civic and cultural attractions, restaurants, mixed-use buildings, and mixed-income housing. In order to make this village zone vision a reality, however, we need to identify and make available as many financing tools as possible, such as that provided by LB571, for the development of new or the revitalization of existing cultural, educational, and recreational facilities. The patrons of those facilities we envision would provide a market for new and existing restaurants and other retail establishments which would come into that area. It's a little different, Senator Schumacher, in north Omaha than it may be in a small community in central or greater Nebraska. These zones could be easily identified in terms of the possibility for additional development. And what we see as the driving component of the economic engine is that if we are able to provide for these arts and cultural and entertainment facilities--I don't want to use the word "anchor"--but as the anchor to attract people into the community, then there is a market for any existing or new restaurants or retail facilities, much easier to identify any increase in sales tax revenue being directly related to those facilities. I can tell you from the village zone visioning process that I've had the privilege of being involved in since it's inception, that LB571 would enable this community to move forward in terms of some projects that have been identified. But the fact that we need to find a financing mechanism is why it's a 30-year plan. We could accelerate this plan exponentially with this kind of financing tool. Let me give you an example. That area has been known for its performing arts yet we don't have a performing arts facility. Under LB571, we could enter into a public-private partnership utilizing the sales tax turnback opportunities here, the philanthropic community's interest in the performing arts to create a performing arts facility that could then attract people into the community, give rise to more restaurant and retail establishment. And in terms of your question, Senator Hadley, about the loss

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of revenue to the state any time you talk about turning back sales tax. And let me put it in perspective for you, from a north Omaha perspective. When have an area where the unemployment rate is 30 percent, where the poverty rate is 50 percent, it is costing the state of Nebraska a tremendous amount of money to not have the kind of economic engine that the cultural and arts industry can provide. It was reported at a meeting last week that arts in Nebraska currently employs close to 7,000 individuals and generates over \$181 million in income, annually. We believe that through the use of LB571 to develop and take advantage of the history of arts and culture in north Omaha, that we could add to that employment base. We could add to that income generation. And in the long run, the state of Nebraska would benefit tremendously from the kinds of development that could occur under LB571. And for those reasons, I respectfully urge this committee to advance LB571 for full legislative consideration. [LB571]

SENATOR HADLEY: Are there questions for Senator Council? Seeing none, it was great to hear your voice again, Senator Council. Thank you for coming down. [LB571]

BRENDA COUNCIL: And thank you, Senator Hadley, for your time. [LB571]

SENATOR HADLEY: The next proponent. [LB571]

TIM CLARK: (Exhibit 10) Good afternoon, Senators. My name is Tim Clark, T-i-m C-l-a-r-k, 2510 North 24th Street. I'm representing the Love's Jazz and Art Center. And what they're passing around is a postcard of the late Preston Love and Count Basie in 1975 in downtown Omaha at the Paxton Hotel listening to one of Count Basie's recordings. And I represent a possible project. We sit there, right on the corner of 24th and Lake Street. The Love's Jazz and Art Center once was known as a national jazz hub for the city of Omaha. I see the potential, like Brenda Council, in terms of involved with the Empowerment Network and what's going on in terms of the art. I really feel that the art and culture really has a way to create economic development for north Omaha in that area, and in looking at the plans and in looking at what we have on the books to make happen, short term and long term. LB571 I really believe could be a vehicle to help stimulate both private and public partnership, and move up the time line and really trying to get some things happening. As Brenda stated and we all know and hear about the negative things and the challenges that we're faced with, I think...I really think in terms of the original intent of this bill to stimulate the economy, to stimulate a stronger tax base. And north Omaha is just really one example of where I feel that if this bill was advanced and passed, it really can help a blighted area move and really be a part of contributing in a significant way in increasing our tax base but also creating a live, vibrant area for people to live, work, and play. And so on behalf of the Love Jazz and Art Center, I thank you for this opportunity and I ask you give great consideration to advancing this bill. Thank you very much. [LB571]

SENATOR HADLEY: Thank you, Mr. Clark. Any questions? Thank you for coming

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down. We appreciate it very much. Any other proponents? [LB571]

BRETT BAKER: Good afternoon, Senator. My name is Brett, B-r-e-t-t, Baker, B-a-k-e-r. Appreciate the committee members' time on this issue. I'm currently the city administrator for the city of Seward, Nebraska...west. So we go from Omaha and we'll skip on a little bit further west just 20 minutes outside of the Lincoln metro area. We are here as the city of Seward and its administration to support Senator Harr's bill, LB571, and thank him for trying to advance this legislation. We believe that this bill, as he's continued to work on it with us, will represent communities like Seward, and you've heard about the bigger ones. But we think it has applicability for some first-class cities the size of Seward, which we're currently around 7,000, with Concordia University's 2,000-plus residents there. And we are on a progressive growth path, continue to be; and we think this bill would have some possibilities to keep us on that same track. We do understand that you will be getting some neutral testimony from the League of Municipalities coming up, because there are some concerns with the content of this bill and some of the details. But we feel that some of these concerns are shared with our community or our administration also, but we have been very successful with Senator Harr's staff and working through those concerns. So they were very receptive and cooperative with us to this point. Right now, I think at the end of the day, the bottom line remains that this is a great concept bill as we see it and as it's been presented there. And the reason why: Many legislative programs have promoted economic development with a focus on job creation, and we believe that that should be the similar focus on a community's quality of life attributes. So in that same breath there should be some good consideration for Senator Harr's Financing Assistance Act. And, for example, as I stated, we're 20 minutes outside of Lincoln. At this juncture we are in Lincoln's MSA, which is their metro stat area. So a lot of the Lincoln growth is consideration of our small growth out there too. We have to be a little careful when we say that we are a growing bedroom community. I always kind of want to look around and make sure that the chamber, you know, people aren't too close. They do realize that. And we had a labor study recently done that showed that over 60 percent of our residents do leave our city limits on a daily basis, and most of that traffic is inbound, you know, to the Lincoln area; so on Highway 34 and I-180. Many people don't work in Seward. They migrate in, whether it's Concordia University, Tenneco-Walker. And they...but they do rent and they do own homes. They do put kids in schools. We have had increases in sales tax. And our community has invested in education extensively with the opening of a new \$18 million middle school by our sports complex on the north end of town. So with that and taking into account all the continued growth, we think that communities our size, like Seward, will be provided another tool, as you've heard from other proponents, to improve quality of life. One example: We do have and we're currently exploring the possibility of a public-private partnership with a Lincoln development group to build a regional wellness and technology center on a 5-acre tract of abandoned school campus buildings in our downtown district. We feel that after this was vacated last year with the new school, that this project would fit into that, possibly. We'd support that. But it also



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gives wellness opportunities for our city residents, plus it also gives us a regional-type pull for redevelopment opportunities and to help with the deteriorating school campus that we're faced with redeveloping down there in our downtown district. So at the end of the day, the Community Enhancement Financing Assistance Act could make all the difference to us, we feel; and we'd like to answer any questions. And thank you for your time and consideration. [LB571]

SENATOR HADLEY: Are there questions for Mr. Baker? I have one, Mr. Baker, real quick. What is the city sales tax in Seward right now? [LB571]

BRETT BAKER: We're at 1 percent is all. [LB571]

SENATOR HADLEY: One percent. [LB571]

BRETT BAKER: Yeah, on top. [LB571]

SENATOR HADLEY: Well, right now, the bill has written that basically any applicant seeking state assistance shall not utilize any source of municipal revenue for the projects unless they are a coapplicant or that they...a resolution passed by the governing body. Do you think it would be good public policy to require the cities to put their share of the incremental sales tax into the project? [LB571]

BRETT BAKER: That would be a good consideration. Yes. [LB571]

SENATOR HADLEY: And not a maybe, but a requirement in the bill that they have to turn back their incremental sales tax also. [LB571]

BRETT BAKER: At this time, I think, you know, Senator Harr's office would listen to most any options that are out there, and that is a possible... [LB571]

SENATOR HADLEY: Well, I'm concerned about the cities, you know, because you would be committing your incremental sales tax to the project also. [LB571]

BRETT BAKER: To this project. Sure, I understand that. [LB571]

SENATOR HADLEY: Okay. [LB571]

BRETT BAKER: Yes. [LB571]

SENATOR HADLEY: Okay, that answers my question. Thank you, Mr. Baker. [LB571]

BRETT BAKER: Yes, thank you. [LB571]

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SENATOR HADLEY: Further proponents? Opponents? Neutral? Senator Harr, do you wish to...? Neutral? [LB571]

LYNN REX: You've got a letter from us. [LB571]

SENATOR HADLEY: (Exhibits 11 and 12) Letter. Okay, there was a letter? We had numerous letters from different cities and one from the League in the neutral. Senator Harr. [LB571]

SENATOR HARR: Thank you. Thank you, Senator Chairman Hadley. So...and we can talk and there is a neutral letter from the city of Lincoln and I can talk about that point by point. But I don't think that's probably a good use of our time, given the time of day. But what I would like to do is talk to you about that at some point individually, each of you. But what I will say is that this bill helps the League the most. The League is neutral. So therefore, there's a feeling that maybe there's something other than to help small towns. And Senator Hadley brought up the fact that possibly it's UNO. Well, I will tell you, based on my knowledge, that it's not UNO. Well...yeah, it's not UNO, and let me tell you why. And what I can tell you is what's been in the paper, is UNO is being financed through a public-private partnership, but it's really a private partnership. What it is, is that building will be built. It's currently a former football player--I can't think of his name--and David Scott. They're going to build that together. Then they're going to use TIF financing and they say they're going to get some money from the city as well. But it's going to be used through TIF financing and then UNO will lease it from them, and they'll lease it from that private. This bill requires that that building be owned by a public entity. So by its very nature it couldn't be that UNO financing. So not only can I give you my word at this point, as far as I know, to the best of my knowledge, this is not meant for UNO. It's not my intent to use it for UNO. And as it's currently being financed, UNO cannot do that. But that being said, I know at one point UNO looked at this, because they thought it was a great piece of legislation. But given their financing, they could not use this vehicle that we have in front of us today, LB571. You heard Senator Council talk about this is a bill that creates the quality of life, but not just quality of life; it creates jobs. And so for those towns of under 500, this is maybe their last chance, because chances are they're already based on ag. And if they're based on ag, and ag alone, they aren't going to make it. They need to have a tool to help them develop something new, and that's what this is. It's something that it is both an economic tool and a quality of life tool to help build communities across Nebraska. You know, getting back to UNO for just one quick second. I didn't hear anyone from the universities here in support. The reason I put universities and community colleges in there was because I had heard what Broken Bow did; and what they did was, again, phenomenal. And it was the city coming together. They had...they have a facility there, an employer who can hire more people than there are qualified workers. So the city came together with that company, with that community college, and with individuals from the town, and they came together and they created a training facility. And that training facility was owned by the...is owned by

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the city of Broken Bow and it's being used to train...or no, excuse me, it's owned by the community college. It's owned by the community college. It's used to train new workers in that area, and it's helping to create jobs for people in that area. And so that's why I included community colleges and universities, because I thought that was such a great tool that was being brought where everyone is coming together behind a cause. Last week...another example, last week we...I went to the State Fair Board and had a luncheon. And it was amazing talking to these...the town of Grand Island is just ecstatic with what the State Fair has created. And the first year their problem was they sold out their concerts and they had too many buses with senior citizens on them. And the second year their problem was the interstate. The third year it was parking. What that tells you is it's a success. This is when a town has come together and they try to find something to make that town special. They can do it. And this is a tool to provide that so we can have more State Fairs, so we...well, State Fair-type projects. So if small towns can really find something that makes them unique--small towns and large towns alike, actually--but it can build and it can create jobs. It can revitalize and it can turn around this state so that our young people do stay here. And with that I would entertain any possible follow-up questions. [LB571]

SENATOR HADLEY: Senator Harr, just a quick question. A hypothetical situation in Community X. Someone is willing to donate \$20 million to a project. It has a \$40 million total price tag. Does that mean the state, they could get \$20 million of sales tax turnback from the state? And the city...and no other entity would put any money into the project? [LB571]

SENATOR HARR: The answer is yes and no. So the answer is you could then apply to the state for that \$20 million. The state could come back and say hey, city, we want you to have a bite in there. I don't know if they should. But you've got to remember that whatever this project is, the operating cost is being picked up most likely by that city, because this can't be used to pay for the operating cost. And at the end of the day, 20 years later that city owns it. And the useful life of most projects is 20 years, so at that point that city is probably going to have to put some of their own money into it, to reinvest to keep it going. So the answer is: most likely. But it's not as though the city is completely off the hook. [LB571]

SENATOR HADLEY: Okay. [LB571]

SENATOR HARR: I mean, they still have to carry the insurance, they have to carry everything else on that building during that 20-year period. [LB571]

SENATOR HADLEY: And they own it during that 20-year period, the city owns it? [LB571]

SENATOR HARR: Yes, the city, or that 501(c)(3) which is a financing mechanism, the

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63-20 corporation, nonprofit corporation. [LB571]

SENATOR HADLEY: Thank you, Senator Harr. You know, we always like the innovative ways that you bring us, so we appreciate that. [LB571]

SENATOR HARR: I'm still no Senator Schumacher, but thank you. (Laugh) [LB571]

SENATOR HADLEY: Okay. Thank you. Okay, we have a couple more bills. By the way, I don't know whether we're going to go that long, but just a note. At 7:00 they're turning off the water in the building. The restrooms will no longer be usable at 7:00, so I just throw that out there as kind of a club over your head. (Laughter) Okay. Senator Nordquist. [LB571]

SENATOR NORDQUIST: (Exhibits 13, 14, and 15) Thank you, Mr. Chairman and members of the Revenue Committee. Mr. Chairman, I don't want to overstep my bounds but I just want to make sure that your committee knows that you don't get paid overtime here as a legislator by having these late committees every night, so. [LB191]

SENATOR HADLEY: We may get to dust off of those lights here pretty soon. [LB191]

SENATOR NORDQUIST: All right. Yeah, exactly. Thank you, Chairman Hadley and members of the committee. My name is Jeremy Nordquist. I represent District 7 in downtown and south Omaha here today to introduce LB191, which is a bill which will incentivize redevelopment and preservation of historic properties, creating jobs, and driving economic development in both rural and urban communities across our state. This bill is the result of LR553 from this summer, which some of you attended at Metro Community College. And it's also similar to a concept that Senator Cornett introduced previously in the Legislature. Areas and buildings of historic value can be found in every one of our legislative districts. And, too often, these properties are eyesores in our communities when they have the potential to be thriving, valuable places for our community, with commercial spaces or being tourist attractions or housing. LB191 creates a tax credit, a 20 percent tax credit for expenditures up to \$10 million to rehabilitate historically significant properties, and a 10 percent tax credit on expenses above \$10 million. To be eligible for such a credit, the property must either be registered...be listed individually in the National Register of Historic Places, be located within a district that is on the National Register, or be designated by a local ordinance, either individually or as a part of a historic district, and that district...or individually, that ordinance has to be approved by the State Historic Preservation Office. In order to receive the credit, the rehabilitation will have to meet historic standards, either the federal standards or locally adopted standard rehabilitation standards. The credits are transferable, which is necessary to make sure that the credit can be utilized as a financing tool. This credit will only be for income-producing properties, not for owner-occupied single-family residences. All of Nebraska's neighboring states with an

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income tax have implemented very successful historic tax credit programs, and I believe we've distributed a map that shows that it's very much widely used across the entire nation. The methodology in the analysis that has been done on these credits have shown that these projects are very...these credits are very beneficial to redevelopment both in terms of dollars and in jobs. An Iowa Department of Revenue study has shown that every dollar in the state credit has leveraged \$3.77 in federal and private money. They have a 25 percent refundable credit capped at \$20 million in total credits. In Missouri their analysis of their historic credit has shown that each tax credit project is associated with 25 new or retained jobs. And the credit in Kansas has shown to create over 4,000 jobs and generated \$271 million in investment in the historic preservation, generating nearly \$15 million in state and local tax revenues. That Kansas study was over a seven-year period. Ultimately I believe this bill is a jobs bill. It will spur and leverage private investment and revitalize main streets all across our state, and this credit will return the initial investment back to the state by creating a long-term source of economic development in properties that were not previously fulfilling their full potential. This is certainly a win-win for all Nebraskans. We can bring significant economic development to our communities while preserving valuable pieces of Nebraska history. Thank you, Mr. Chairman. [LB191]

SENATOR HADLEY: Are there questions for Senator Nordquist? I guess I have one, and this is something I've discussed. I think I discussed last time. It's on the transferability of the credits. Other states allow this, is that...? [LB191]

SENATOR NORDQUIST: Yeah, it is pretty common. And really it's about...certainly it's for the small developer, if he, you know, has some property that needs a million dollars' worth of renovation, it's about him getting the capital to be able to make that up-front, and that's why the transferability is available. It's important for him because he's not going to be able to come up with the cash he needs without that, so. And usually it's used to go get lending. You have to put 20 percent down but then you can show I'm eligible for this 20 percent credit and then the bank will give you the 80 percent, knowing that you'll pay back when you get fulfilled with that 20 percent credit, but. [LB191]

SENATOR HADLEY: This is really...am I correct, this is really breaking ground for Nebraska because we have never had the transferability of tax credits. [LB191]

SENATOR NORDQUIST: Yeah, I think you're right. You're certainly right on that. Also the piece here that I think is important, in addition to the private developers for nonprofits, a lot of nonprofit organizations will go in and rehab these properties. And if they don't have tax liability, obviously they have to be able to transfer those credits. [LB191]

SENATOR HADLEY: And maybe it's something we can find out, but how many states do allow transferability in credits which... [LB191]

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SENATOR NORDQUIST: I don't know if anyone behind me will have that information, but if not we'll get it. [LB191]

SENATOR HADLEY: Which this would just be another... [LB191]

SENATOR NORDQUIST: Yeah. [LB191]

SENATOR HADLEY: ...another mechanism where ours is... [LB191]

SENATOR NORDQUIST: Yeah, that's right. [LB191]

SENATOR HADLEY: Okay. And I'm not saying it's wrong but, you know, this is a significant change in policy... [LB191]

SENATOR NORDQUIST: That's right. [LB191]

SENATOR HADLEY: ...for the state of Nebraska. [LB191]

SENATOR NORDQUIST: You're absolutely right. [LB191]

SENATOR HADLEY: Senator McCoy. [LB191]

SENATOR McCOY: Thank you, Chairman Hadley, and thank you, Senator Nordquist. It would appear, looking at the fiscal note, that perhaps you'd like to address...it looks like we're talking about a pretty large and substantial hit to the General Fund. Would you care to talk about that? I know you didn't really discuss that in your opening. [LB191]

SENATOR NORDQUIST: Yeah. Yeah, it does show \$5 million a year and \$7 million after that. It's sunsetted in 2020. We did that because I think it's important for any of these tax credits to have a period to stop and take a look at them and evaluate them. It is, you know, a fairly large fiscal note. We did say in the bill, projects done in 2013 and '14 can get...are eligible but they don't get the credit until after January 1, 2015. So the state should realize some benefit of the economic activity starting in '13 and '14, so you can't start your project and capture it right away in '13. We've kind of pushed it back a little bit so the work is being done in '13 and '14 but you can't claim the credit until '15; so we should be able to see...and granted, that's not acknowledged on the fiscal note and we never acknowledge revenue spin-off on fiscal notes. But I do think by having the work done starting in '13 and '14 but the credits not kicking in, the money coming out of the treasury until '15, I think you're going to see some benefit kind of pushing that back. But it is a General Fund impact that we would have to absorb in our budget some way. [LB191]

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SENATOR McCOY: You obviously serve on the Appropriations Committee. I just worry, you know, we don't have an unlimited infinite amount of General Fund dollars. At what point do we determine what our priority bills...when it comes to General Fund dollars, and at what point do we say, in light of many of other programs, some of which you're heavily involved in that we'll be talking about the heavy expenditure of General Fund dollars; at what point do we say, enough is enough, we just don't have the money? [LB191]

SENATOR NORDQUIST: Yeah. No, I think you're right, absolutely on point on choosing priorities. I will say--the Chairman of the Appropriations Committee will probably shoot me if I said this--we will be coming out with the preliminary budget that will have more...you know, more than this much in the bottom line, significantly more. But it will be a discussion of the Legislature, is this a priority over a number of other spending bills out there? If this committee chose to move forward with it, you know, I would do my best to make the case that this is a priority because I do think while it's not acknowledged on the fiscal note and it never is, that this would create additional revenue from economic activity, as has been shown in Iowa, Missouri, and Kansas. [LB191]

SENATOR McCOY: Would that not require us, though, Senator, to look at things in more of a dynamic rather than a static format... [LB191]

SENATOR NORDQUIST: It would be, yeah. [LB191]

SENATOR McCOY: ...which... [LB191]

SENATOR NORDQUIST: We don't do. [LB191]

SENATOR McCOY: ...we really can't do in state government. [LB191]

SENATOR NORDQUIST: That's right. No, I... [LB191]

SENATOR McCOY: We can look at things in a dynamic model on a number of different pieces of legislation that we deal with here in the Legislature, and that would be very difficult to do. We've heard a great number of bills so far in the Revenue Committee this session that spend some General Fund dollars, and we're all going to have some hard decisions to make. And obviously you'll be helping, as a member of the Appropriations Committee, make those decisions with us. [LB191]

SENATOR NORDQUIST: Yeah, yeah. Thank you, Senator. [LB191]

SENATOR HADLEY: I guess I have one more question, Senator Nordquist. You know, going to national meetings we hear quite often we have discussions about moving things from the, quote, Revenue Committee to the Appropriations Committee, because

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if you run it through the Appropriations it's looked at every year instead of passing it one year, and 2020, what, five, six, seven years. Would this be an example of something that could be run...should be run through the Appropriations Committee? Do you set up an appropriation for \$5 million the first year and \$7 million the next year, and you have people apply and they're paid out of that fund to do it, and then the Appropriations Committee would look every year as to the results and what's happening. [LB191]

SENATOR NORDQUIST: Yeah. I would have to think of the impact of the developers. I would just need to...we just want to make sure that when...because the credits are, you can use them over multiple years if you don't have the tax liability, that we wouldn't give someone credit and then not appropriate any money the next year. That would just be the issue. But issues like this... [LB191]

SENATOR HADLEY: I didn't think this through. It just happened to dawn on me that...because we've heard a lot... [LB191]

SENATOR NORDQUIST: It's an interesting concept that on some tax proposals where you could...I don't know if you appropriate a dollar amount to the Department of Revenue and say that's what you're able to give out of... [LB191]

SENATOR HADLEY: Just on a national basis, I've heard, you know, some states talk about this, because it gives more control over the tax credits that you give. [LB191]

SENATOR NORDQUIST: Yeah. [LB191]

SENATOR HADLEY: And I'm not saying we should do it. I just...it was an interesting concept that when you're sitting there at night... [LB191]

SENATOR NORDQUIST: No, it's... [LB191]

SENATOR HADLEY: ...and can't sleep. [LB191]

SENATOR NORDQUIST: Let's kick it around. [LB191]

SENATOR HADLEY: Thank you, Senator Nordquist. [LB191]

SENATOR NORDQUIST: Thank you. I will just mention that I have...I'll give the clerk, I just have one copy of them, but letters from the Homebuilders Association of Lincoln and the Omaha Metropolitan Homebuilders and the Nebraska Realtors Association. [LB191]

SENATOR HADLEY: Will you grace us with a close? [LB191]



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SENATOR NORDQUIST: I'll be here, yeah. I'll see if I need to. Thank you. [LB191]

SENATOR HADLEY: You'll see what it's like in a hardworking committee then, won't you? First proponent. [LB191]

MICHAEL SMITH: (Exhibit 16) Senator Hadley, members of the committee, I'm Michael Smith, M-i-c-h-a-e-l S-m-i-t-h. I'm director/CEO of the Nebraska State Historical Society and also the State Historic Preservation Officer. And I'll keep my remarks very short on behalf of time. If enacted into law, LB191, the Nebraska Job Creation and Main Street Revitalization Act would offer incentives to spur revitalization in both urban and rural communities; offer incentives to the private sector to invest in downtown, older buildings, and neighborhoods; leverage those private investments to the benefit of our communities; and offer potentially important financing for nonprofit organizations. Research conducted for the Nebraska State Historical Society by Rutgers University and the Bureau of Business Research at the University of Nebraska-Lincoln has shown that the rehabilitation of historic properties adds to the property tax rolls in urban and rural areas, stabilizes older and substandard neighborhoods and commercial main streets, creates local jobs in both restoration and business operations, and creates housing without taking additional land from essential agricultural uses. The Nebraska State Historical Society extends its appreciation to the many people, and to Senator Nordquist and others who have worked on this prospect for over two years. We extend our highest support for the opportunities it offers for both economic development and historic preservation throughout Nebraska. I would like to yield this chair to experts in the technical aspects of the tax credits and to community representatives and developers of historic properties who I think can provide more detail and examples that will speak to the benefits and answer any questions that the committee may have. [LB191]

SENATOR HADLEY: Are there questions for Mr. Smith? I have one...just one quick one. Are you satisfied, as director of the State Historical Society, and Historical Preservation Officer, that we have enough safeguards in here that this will be used for truly historic projects that are worthy of using this kind of tax credit for (inaudible)? [LB191]

MICHAEL SMITH: Yes, I do. We have worked on that very hard with everyone who has been working on the development of this. We have plenty of...many discussions in that and good input into that. I am satisfied in that regard. It's a good question. [LB191]

SENATOR HADLEY: Okay. I think that's very important that...I basically see you as a neutral person that doesn't have a, you know...you would look at the projects in terms of the historic value. [LB191]

MICHAEL SMITH: We don't have an economic oar in this but we do have a concern, of

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course, with the history of the communities and the buildings that we'd be looking at.  
[LB191]

SENATOR HADLEY: Okay. Thank you, Mr. Smith. Thank you. Next proponent. [LB191]

DAVID LEVY: (Exhibit 17) My remarks say, good afternoon, Senators; but perhaps good evening is more appropriate. I do thank you for this opportunity and for hanging in here with us. David Levy, D-a-v-i-d L-e-v-y, registered lobbyist with Baird Holm law firm on behalf of Commerce Bank and a large coalition of parties, both from Nebraska and out-of-state, interested in seeing this legislation become law in Nebraska. If passed into law, the Nebraska Job Creation and Main Street Revitalization Act will encourage investment in our historic neighborhoods and districts. These neighborhoods form the core of our cities and towns, but revitalizing them is particularly challenging because it is often more expensive, more constrained, and sometimes less profitable than building new. Nonetheless, it is critically important because these centers bring these communities together, create new job opportunities, encourage tourism, and help stem the flow of people and particularly the flow of young people out of our small towns and out of our state. And I wanted to thank Senator Harr, even though he's not here, for his excellent expression, I thought, during his description of LB571 of some of these principles about why it's important to invest in our cities and towns and in their cores. All of our surrounding states that have state income tax have these types of programs, as Senator Nordquist said and pointed out with the map. But what that means is not only are we losing out on external investment flowing into Nebraska from our neighbors but Nebraska economic development dollars are flowing out of our state into these other states. By not having a state historic tax credit, we also lose out on federal money. When Iowa adopted its program, its receipt of federal historic tax credit money quadrupled. In fact, it went almost five times. On the other hand, when Kansas adopted its program Nebraska fell from 13th among the states to 25th among the states in federal tax credit money received. These programs work in big cities and in small towns. The map of Kansas I passed out confirms that towns all across the state benefit from these programs. One historic rehabilitation project in a small town can provide a significant boost for many years. In fact, some of these programs have been around as long as 30 years, many 10 and 20 years; and empirical data from studies done on those programs, many by the business school at Rutgers University, demonstrates that in only five to seven years' time the state's investment through forgone tax revenue is repaid to the state. So Senator McCoy, you asked about the fiscal note, and I acknowledge that that fiscal note certainly gets one's attention, but that is money that will be back to the state in five to seven years' time, given the existing evidence from all of these other states. And after that time, these projects provide an ongoing...really a windfall to the state through property taxes, income taxes, sales taxes that weren't flowing when those buildings were not in use. Sixty percent of the costs of a historic rehabilitation project are typically labor costs. One historic rehabilitation project touches tens if not hundreds of people and creates significant employment opportunities. A state historic tax credit is

different from existing tax credits, such as the Advantage Act, in one critical way. The Advantage Act requires job creation and investment in tangible property such as machinery. These are great things but they're relatively ephemeral when you compare them to extending the life of an income-producing property from 50 to 100 years. Thus, the investment a state historic tax credit program derives is much longer lasting. And as I said, those benefits then of that investment accrue to the state after the state's investment has been repaid for a much longer time as do those economic development benefits. That key distinction also goes to Senator Hadley's question about transferability and helps explain why a state historic tax credit really must be freely transferable. A state historic tax credit works best when it provides an income stream that can be turned into up-front dollars that the person doing the project can use to help finance the project. By far the best way to monetize that income stream is to transfer the credits to an investor. The person doing the project needs the money at the time they're doing the project to get the financing from the bank to redo the historic building. The income stream from the tax credits over a period of time doesn't give them that up-front dollars. That is a benefit to an investor but they need to monetize that through the investor for it to be most useful. But also a state historic tax credit that's not freely transferable can only be monetized through a complex syndication schemes. Two problems with that. One, they're very expensive and the only developers and projects that can afford them and understand their complexity and deal with that typically are large developers doing large projects, usually in large cities. So if this program is to work in small towns and work for small projects on main streets, it really needs to be freely transferable. The second problem though, if it's not, is there is a substantial loss in the actual credit dollars that go to the project because of the various federal income taxes the members of these syndicates must pay. So as you syndicate these credits and they go from entity to entity to entity and you create these entities in different companies, every time you do that somebody is paying federal income tax on that. At the end of that, in some cases, if it's not done very well, you only get 50 cents of the state's dollar actually going to that historic rehabilitation project. It's my goal in this program, and I would assume that all of you would share that goal, that we want as much of the state's dollar to go to that building and go to that investment as we can get there. If it's not transferable, we're not achieving that goal. The third point on transferability is that if a credit is not transferable, it will not attract investment from outside the state because it will not have utility to out-of-state investors. I often hear the Governor talking about exports. To me, the mirror image of exporting is importing capital from other states. If this program drives investment from out of state, then it's the same as exporting. The credits in Missouri and Kansas are freely transferable and the credits in Iowa and Minnesota are both transferable and refundable, meaning I can go to the state and show them my tax credit certificate and actually get a check from the state. That's not something we have proposed here. And Senator Hadley, I don't have the specific answer to your question of out of the 31 how many of them are transferable, but I can tell you it's the vast majority. I'd be confident in saying it's above 25; almost all of them are transferable. A freely transferable credit ensures the greatest amount of state

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money goes directly to the project and ensures the program has the greatest benefit to the state and to our cities, towns, and districts. And I've done this enough times to be very clear that you ask the questions and I don't get to ask the questions, but I'll say this as a rhetorical statement, if you will. When I think about this transferability issue, beyond the fact this would be the first credit in our state that is transferable, I'd ask you to think about why do we care; why does it matter? The state's dollar is going out. The state is not receiving that income tax payment. Where it's not receiving that income tax payment for me is not nearly as important as where that dollar, the investment that generated the right to that credit, went to. If that's going to a building, to rehabilitate a building on one of our main streets in one of our towns or in the Old Market in Omaha, that's the goal of this program. It's creating jobs, it's creating economic development, it's revitalizing these communities. It's creating diverse places for young people to live and work. Where the tax credit ultimately goes, to me is not nearly as much of a concern. I want to leave you with one last point and then I'll be happy to entertain any questions you may have. Nebraska's population topped one million people in 1890. One hundred twenty years later we haven't made two million. A state historic tax credit program is a proven method that's been around in 30 states around the country, some as long as 30 years, to keep people at home, boost economic development, and make our neighborhoods, towns, and cities vibrant and grow our economy and help our state be healthy. Thank you again for your time and for sticking with us here. I would strongly encourage you to send this out to the full body. I would note that there were seven cointroducers on the bill. So should it get out there, I'd like to think that's evidence that it would do well, and so I would encourage you to do that. [LB191]

SENATOR HADLEY: Senator Pirsch. [LB191]

SENATOR PIRSCH: Thanks. Could you tell me, you said I think this is...there was an influx of money in Iowa, you said--federal money, that is. [LB191]

DAVID LEVY: Right. [LB191]

SENATOR PIRSCH: ...when they passed it. How do they interact, the state with the federal potential of funds? [LB191]

DAVID LEVY: Couple of things on that. It's a great question. In many states to qualify for their state tax credit, historic tax credit, you have to do and meet the same qualifications essentially that you do to get the federal tax credit. And so in a lot of states, if you can get the federal tax credit, you can go get the state tax credit and now you've kind of doubled your money. In drafting this bill and in working on this bill, what we wanted to make sure is that it wasn't just an add-on to the federal credit. If you're getting the federal credit, you should be able to get the state credit as well. And I think that's a good thing because we're leveraging those federal dollars. We ought to be bringing them here instead of having them go to Iowa or Kansas or Missouri. But I

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also...we also didn't want to make that a requirement because there are certain things you have to do to get the federal credit, like be listed on the National Register of Historic Places or within a district that's a National Register district, that we thought would make it not as doable, not as useful for small projects in small towns, where maybe, you know, the city of Broken Bow says, hey, we think our town square is a historic district and the State Historic Preservation Officer agrees with us, but we haven't gone through the process; we don't want to go through the process and jump through all the hoops and be subject to all the constraints if you go get designated as a National Register district. So we wanted to make sure that those two things were not a requirement of one another but we don't want to discourage the federal dollars coming here either. [LB191]

SENATOR HADLEY: Senator Schumacher. [LB191]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Let's just take a real-world scenario here, because we hear all this about the little towns are going to have historic buildings built and life will be wonderful again. A town was 500 population 30 years ago and now is down to 350, 400 population. And like about every other town, is continuing to deteriorate in population as agricultural efficiencies increase. Now there was an old bank building sitting on main street, which then became a grocery store, which is now a storage shed for an irrigation pivot parts. It's a nice historic building. Has old...it went under in the Thirties. It has a nice big "bank" on the front. We've got a limited amount of money to spend and if we want to help that little town, if there is any helping for it, why would we refurbish the face on that old bank building instead of maybe building a 7-Eleven with a gas pump that they now no longer have? This does not seem...it may be great in downtown Omaha where you have some type of interaction. But this does not seem the best way to spend our money or produce long-lasting economic activity, if that's possible, in this town of 350 people. Why do we bother with it? [LB191]

DAVID LEVY: There are a number of safeguards, I would call them, in the bill that I think would ultimately prove that in almost every, if not every, case your hypothetical wouldn't actually come true in terms of being a project then that somebody would try and apply this credit to, for a few reasons. One, the legislation before you requires a certain minimum level of investment in the property, 25 percent of the basis of the property essentially of its assessed value to be a part of the improvement before you're eligible for this credit. So if all somebody is doing is refacing what's now a storage shed, they probably can't qualify anyway. Secondly, one of the things I think that's great about this as an economic development tool is before I get any state money, if I'm the property owner or the person doing this project, I have to find either for myself, my investors, or my banker 80 percent of the money for that project. My banker probably...and we've got a couple here who are going to testify after me and I bet they'll...I suspect they'll back me up on this, they're not going to loan me the money to do that project if I can't show them an income stream that's going to allow me to repay my loan. This is very important is what I call a gap bridging or a gap financing tool to help me get a loan. But I've still

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got to show that banker that I can repay that loan for 60 percent of this project. And if that thing is rented as a shed, my guess is I'm not going to be able to pro forma it at, to show the banker that I should get that loan. So I think it's a fair question but I don't think it arises probably in the course of this statute. If it does, it would be a very atypical thing. [LB191]

SENATOR SCHUMACHER: But as far as the pitch, this is statewide rural communities. What I described is probably 80 percent, maybe more, of the 400 communities under 500 population. And you know, I don't see this, as you just testified, having a whole lot of application in most of those. [LB191]

DAVID LEVY: That may be true. Although I will tell you candidly, I was surprised when I saw the map of Kansas that I handed to you, and it's got a dot in a lot of those counties in western Kansas that don't have many more people, if any more people, per square mile or whatever the case might be, whatever the measurement might be, than a lot of our counties in western Nebraska. They may be even more sparsely populated. So it does have some application. But as that map shows, more of the projects are in the larger and even the medium-sized cities. So I think a city like Columbus or like Kearney, I know Senator McCoy, I think Elkhorn was in your district, may still be in your district. Downtown Elkhorn is another example of a little historic district that's got something going for it and would benefit, I think, and would prosper with the kind of assistance that this type of program would provide. [LB191]

SENATOR HADLEY: I have one question, Mr. Levy. Is there any danger or do other states have any safeguards, for want of a better term, of people flipping these kinds of properties that...? I think we heard a young lady from Council Bluffs, I asked her the question up in Omaha, that she got 65 percent of the total project from different governmental sources. [LB191]

DAVID LEVY: Right. [LB191]

SENATOR HADLEY: So she had about 35 percent in the project and it just...I was thinking last night, well, jiminy Christmas, if I've only got 35 percent in the project, if I can sell it for 60 percent of what was put into it, I've made a pretty good profit. Is there...does this ever happen in these kinds of situations? [LB191]

DAVID LEVY: You know, I recall that. And I knew that bothered you at the time and I've thought about that. I think that was a fairly atypical situation where they had a public building and they had a Council Bluffs community development entity and a variety of ways that they were able to kind of stack those things together. But, you know, I suppose it could happen. I think the other thing, though, that I would point out to you is that even though she might have made a profit in doing that, that renovation is there for the next 50-100 years, and the economic development benefits of that are there for the

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next 50-100 years. So even if she does flip it, and I understand maybe that doesn't feel great if you've authorized this program, I think you're still...you have to look beyond that or would do well to look beyond that to all those benefits. I know it's late. Real quickly, you had asked also about the annual appropriation. I'm sorry, did I answer your question on that one? [LB191]

SENATOR HADLEY: Yes, very much so. [LB191]

DAVID LEVY: Okay. Annual appropriation. Iowa has an annual cap on its historic tax credit program, and the problem with that is it creates a great deal of uncertainty among the developers, because what that means is if that's oversubscribed, they have to do a lottery type system. And the developer doesn't know when they go to do their project and go to put everything together and get their investor, get their financing, if they're going to make the lottery this year or next year or next year or the next year. And so it really...it makes it very difficult to use. If the committee comes to the point where you say, you know, we think this should go out to the full body but we're concerned about the fiscal note and you want to limit it, my suggestion would be to do that by a per-project cap. Then the developer knows what they're going to get. I think a program cap is really a challenge to implement both for the state and for the people doing the projects. [LB191]

SENATOR HADLEY: I don't mean to...I know we're getting late, but I do have one...you raised one other question to me. Let's just say this is...you know, we always pick on Omaha so I'm going to use Lincoln. You know, there's a building in downtown Lincoln that is a historic building and the Marriott Hotel...or the Hilton comes in and says, jeez, that would be a pretty good place for a nice hotel. Would this past credit situation apply to that kind of situation? I mean, if we have unlimited...if they can apply for unlimited credits and they're going to put \$80 million into this, could we be having a pretty hefty tax credit? [LB191]

DAVID LEVY: You could. And we've addressed that so far in the bill that you have before you by reducing the credit for projects, for expenses above \$10 million, to a 10 percent credit. The State Historic Preservation Office has a list of all the projects that have received federal credits, oh, I don't know, maybe in the last ten years; and only the largest four or five of those have been above that \$10 million number. So it doesn't happen very often but it is possible. And the greatest benefit of this is that the first \$10 million, that 20 percent, so that would be a way to safeguard against that is to say, no credit greater than some number. [LB191]

SENATOR HADLEY: Some number. [LB191]

DAVID LEVY: Right. [LB191]

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SENATOR HADLEY: Okay. Thank you, Mr. Levy. We appreciate all your work you've put in on this. [LB191]

DAVID LEVY: Thank you all very much. [LB191]

SENATOR HADLEY: Next proponent. While Mr. Cunningham is walking up here, I'll give my...no, come up, come up. [LB191]

RICK CUNNINGHAM: No, no. It's okay. I was just going to put this over here. [LB191]

SENATOR HADLEY: Oh, okay. I didn't want to scare you away. You know, it's very appropriate to say this is really a great idea and I agree with the previous speakers. So I just throw that out there to people. [LB191]

RICK CUNNINGHAM: (Exhibit 18) Senator Hadley, this is a great idea. No, I'm...my name is Rick Cunningham, spelled R-i-c-k, last name C-u-n-n-i-n-g-h-a-m. I do sit down in this chair with a little bit of trepidation, because you guys are picking on Omaha just about every time I come up here. [LB191]

SENATOR HADLEY: No, I used Lincoln last time. [LB191]

RICK CUNNINGHAM: Oh, okay. But if you pick on Lincoln, it doesn't take but a hop, skip, and a jump to get to Omaha, but anyway. And I'm going to come at this perhaps from a little different perspective, and I did testify last year and I did testify before the joint committee in Omaha. And I want to...and I am not going to read all four pages but I will give you these four pages later, okay, and then you can...and I'm also a marketer so I don't want to give it to you now because I don't want you reading while I'm talking to you because I want you to listen to me. Novel idea. But anyway, let me just say we do support this bill because we do see it would be beneficial across the whole state of Nebraska, maybe not in a town of 350 but certainly enough benefit across the state that it would be beneficial. It certainly would be beneficial in the city of Omaha and I will attempt to tell you why. First of all, from a foundational basis, this scores well with our environmental element that was just recently adopted--well, in 2010--adopted to our master plan. And I just wanted to read just a couple of quotes from the building construction section of our environmental element. "Omaha's built environment has a substantial impact on the city's economy and culture. Maximizing the use and efficiency of existing buildings, promoting the creation of inspiring new places, and providing the tools and resources necessary to make all that possible can help turn this impact into a recruitment strategy for business, industry, and newcomers to the city of Omaha." The second quote is from our goals section for the nonresidential renovation goal under the environmental element. "Take full advantage of the city's building resources and tools to maximize the functional, economic, and cultural value of existing buildings and sites and to improve their environmental performance." So in a word, this bill will help us to further



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meet our goals of our master plan, especially as it relates to a reinvestment in our core area of the city of Omaha, specifically within our 680 loop. But as was pointed out--and he's gone--certainly would be appropriate in the city of Elkhorn...oh, no longer the city of Elkhorn. The area of the city of Omaha known and formerly known as the city of Elkhorn, but anyway. And we are indeed focused on that even with TIF, because we are working with a redevelopment plan right now for the main street of Elkhorn, of old Elkhorn. So as I've indicated, this would serve as an important aspect of meeting and helping us to meet one of our visions, our goals of our environmental element. Just to tell you, give you a sense that we have some opportunities in Omaha, the city has currently 106 designated landmark properties, 4 landmark historic districts, 156 National Register properties, and 15 National Register districts. Now those are already listed. So is there any more? In the past ten years, we've worked with a whole host of people, not only the Nebraska State Historic Preservation Office but others to inventory over 6,584 properties which have yielded 342 additional properties and 18 districts that could be eligible, we believe, for a National Register nomination. In 2010, the planning department identified a short list of historic structures, 25 within the city of Omaha, mostly east of 72nd. And we did that because of developers coming in and asking about historic properties that might be available for development. And so we looked at properties that were listed but that were vacant or underutilized, and we came up with 25 of those properties in and around Omaha. Some of those you may be familiar with: the old Burlington Railroad Station, which is a tremendous asset, very underutilized; the Postal Annex Building across the street; the Standard Oil Building; the Army Quartermaster Depot district; the Vinton Street historic district; the Nicolas Street historic district; and in my community, the Webster Telephone Exchange Building at 22nd and Lake. There are many others that are in that list of 25 but those are ones that you might recognize. We firmly believe that we have great buildings that could be reutilized, renovated, retrofitted; but unfortunately, because of the difficulty of doing that to make the numbers work, basically for investors, this bill would be another opportunity to meet the gap, fill the gap in those projects. I will tell you that we had a great project just recently open, the Park Avenue project that the Urban Village Company did. It was a series of about five buildings, most of them if not all of them historic buildings. I will tell you that in the planning department I have code enforcement and we have had years of code enforcement involvement with a number of different owners of those buildings, and they could never make the money work--tax credit, NIFA, you know, low-income housing tax credits; they could not make it work. If we had had this Nebraska state tax credit, it might have made that project go a lot sooner. Thankfully, it did, and so it's a great project now of nearly 200 market-rate apartments that was developed. And I will tell you that that spurred off another development that's being planned right now just a block and a half away on Park Avenue. Another project that has been sitting around for a while in the city of Omaha was the old Northern Natural Gas Building, which is a historic structure. I can't tell you how many years that building sat idle. And when I moved back to the city of Omaha, you know, I kind of had dreams about that building being redeveloped. You may know that it finally has been redeveloped as a federal tax

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credit project, but it could have moved a lot sooner. And now that building will be nearly 200 new residential units in and near the downtown area. You mentioned the federal...a building that turned into a hotel. I thought you were talking about the Federal Building in downtown Omaha. But that's another historic building, no doubt about it, hands down is a historic building that has sat for years and years, vacant and underutilized, that before that people tried and thought about and dreamed about redevelopment but couldn't make it happen. This bill would have been helpful in that. And another project...another building that sits idle right now that's a national historic structure is the half block of the old Bell...what I call the Bell block. It's the north half. It's a modern...it's a good example, a great example of modern architecture and one of the first in the city of Omaha. It has been sitting vacant for upwards of ten years and because of...not only because of the issues with historic restoration but also it has had asbestos. It's put one person sort of bankrupt. So hopefully...people have looked at it. If this is in place, it might, in fact, spur that project to be redeveloped. So I just give you those examples and I apologize. It went longer than I intended it to go. But I can tell you that in Omaha this would be a tool that we believe would be instrumental in us meeting the vision of our environmental element in reusing buildings instead of them being torn down and taken to the landfills, providing great spaces that young professionals look for and really do have a high demand for in our city, which is an attraction for young folks, the creative class, to move to Omaha, to this state of Nebraska. This would be a great tool to have in the toolbox. [LB191]

SENATOR HADLEY: Any questions for Mr. Cunningham? Seeing none, thank you. Next proponent. [LB191]

DOUGLAS DUEY: Chairman Hadley and other members of the committee, I'm so pleased to be here today. I serve as Nebraska's advisor to the National Trust for Historic Preservation, and I feel honored to be in that position. I think this is my seventh year as an advisor. I've learned a lot through that association. I also serve on the... [LB191]

SENATOR HADLEY: Would you...could we have your first name and spell your last name, sir? [LB191]

DOUGLAS DUEY: Oh, I'm sorry. Yes. Douglas Duey, D-o-u-g-l-a-s D-u-e-y. It's late in the day, Senator. [LB191]

SENATOR HADLEY: Okay. No, you don't have to tell me. (Laugh) [LB191]

DOUGLAS DUEY: I also serve on the advisory board of Nebraska Main Street and Heritage Nebraska's board, and on our local historic preservation board. I decided to footnote this in here. I'm also the president of the Cass County Historical Society, and I'm engaged in these things and particularly on the advisory boards that I serve on partly because I love history and I love the old historic structures that are a part of the fabric of

that history. But the primary reason I continue to serve is because I understand that preservation of historic buildings makes good business sense. It is a tremendous economic stimulation, particularly to local communities like mine. I'm from Plattsburgh. I am president of the Cass County Bank there. And Senator Schumacher, I was thinking about your story about the old bank building that sits in that little town and it's been a variety of things. I started a bank in Eagle in 1974. That little town had a main street but it wasn't paved. It was a mud road. And I looked at that main street and I looked at that forlorn old building that had been empty for 32 years. It had served as a laundromat and an auto repair shop, but its bones were good. And so rather than building a modern structure, I got involved in rebuilding that thing. And actually I put my own sweat and blood into that, and so it served us well. It's been a bank, you know, since then. But honestly, in every little town of 500 or 1,000, you know, you'll find historic structures. Not all of them should be probably preserved because they won't serve an economic purpose. And as a banker, that's what I have to examine. Is the business plan solid? Is it feasible that this restored, preserved old building will generate the kind of income that it will need to pay back, you know, the bank? So that is the acid test. This proposal that you're considering is an economic development tool. It's not an expenditure. In my opinion, it's a solid investment that will return good dividends to the state. Over the past 15 years, the National Trust has tracked rehabilitation tax incentives in 31 states, and they found that these programs--and understand this--create more jobs than manufacturing and create more jobs than new construction. Now as I looked at this study, I was personally shocked. For every million dollars of output towards historic preservation rehab projects, 5.7 more jobs are created than manufacturing and 2 more jobs than new construction. Now how can you argue with that? I mean, if we're looking for job creation, preservation efforts are part of the answer. In Missouri, that translated to a total of 6,871 jobs and \$80 million in state and local tax revenue during the first four years of their tax credit program. These programs leverage the federal investment in our older neighborhoods. Take Kansas, for example. In the 21 years prior to the adoption of a tax credit for rehabilitation, Kansas saw a total of 50 federal tax credit projects or an average of 2.5 per year completed, with an aggregate of \$114 million in investment. Now since Kansas adopted the program, they saw a total of 542 tax credit-incented projects, an average of 68 per year completed, representing an aggregate investment of \$271 million. That is significant--a significant impact once they adopted a state program. Likewise, the Iowa Department of Revenue found that for every dollar invested in the state's historic preservation tax credit program, that leveraged \$3.77 in federal and private dollars for redevelopment projects. These programs generate tax revenue. For commercial projects alone, the Maryland Governor's Task Force on Tax Credit Program reported that for every tax dollar paid out by the state, 34 cents was returned prior to any credit being paid out. [LB191]

SENATOR HADLEY: We need to...we've heard of a lot of states that have done it so we need... [LB191]

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DOUGLAS DUEY: Yes. And you think how can that be? [LB191]

SENATOR HADLEY: Okay, okay. I think we get the point that there's a lot of states that are doing it. [LB191]

DOUGLAS DUEY: Yes. [LB191]

SENATOR HADLEY: So if you want to kind of move along. [LB191]

DOUGLAS DUEY: All right. Okay. Well, the question is, how can that be generated? It's because the tax credit is not awarded until the project is complete. And so the state gains revenue from the taxes paid on materials and labor prior to the building's occupancy. These programs promote sustainable development. Communities that participate in the Nebraska Main Street program, which has been working since 1995, to revitalize downtowns across the state, are eager for a state rehabilitation tax credit to utilize as an additional redevelopment tool. Many rural communities will benefit with their larger city counterparts. I've witnessed this. I've worked with projects in my own community--several; and I will say that without the federal tax credits that they enjoyed, these projects would not have been feasible. Several of the structures were quite large, they were seriously deteriorated, and would have left a huge gap on our main street. And as I mentioned that, you know, the heart of our community and the heart of every community is our main street, and I firmly believe that. Not very many years ago our buildings were in serious disrepair. The sidewalks were deplorable. And through the concerted efforts of the Nebraska Main Street association, the Chamber of Commerce, our public officials that were visionary, and public and private investment, our main street is beautiful and it's thriving and I'm proud of that. And that can happen with other communities as well, but it takes that kind of partnership. So our heart is beating strong again. In summary, I urge you to advance LB191 and just please remember that these programs create more jobs than manufacturing or new construction. And so these short-term investments, in my opinion, should produce long-term dividends for our state. [LB191]

SENATOR HADLEY: Thank you Mr. Duey. Any questions? Thank you. [LB191]

DOUGLAS DUEY: Okay, thank you. [LB191]

SENATOR HADLEY: Could I see the hands of how many proponents are...? Okay. [LB191]

ERVIN PORTIS: I admire your perseverance. [LB191]

SENATOR HADLEY: Well, I think we are...tomorrow we will... [LB191]

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ERVIN PORTIS: You're near the end. [LB191]

SENATOR HADLEY: Tomorrow we will be going to a light system. I think we have learned that we cannot have meetings going late. So if you would give us your name and... [LB191]

ERVIN PORTIS: (Exhibit 19) I certainly understand. I am Ervin, E-r-v-i-n, Portis, P-o-r-t-i-s. I'm the city administrator in Plattsmouth. And Senator Harr, in discussing LB571, you mentioned the value of LB571, particularly to the small towns that have assets that make them special and unique or that are seeking assets that make them special and unique. Plattsmouth is special and unique. We are so because of our large collection, and it's one of the finest collections in the state, of middle and late nineteenth century commercial architecture. Our entire main street district, ten square blocks, is on the National Register of Historic Places as an historic district. We've recently sought or given that additional protection by creating an overlay zoning district for historic preservation. We're certified as a historic...as a certified local government for historic preservation, so we're committed at very strong levels to historic preservation. And in that regard, we have a very, very strong relationship with the State Historic Preservation Office. I'm assuming you can read my letter and you can read all of the rest of this stuff. I really want to...I think it's important to ask, why the state tax credit, if we've already got the federal tax credit? And I can use the experiences of our local businesses. I can offer them or sit down with them and coach them through a variety of incentive programs and projects to make their project work. But when you get to the federal historic tax credit level, that's a very, very daunting endeavor. And after they work through the State Historic Preservation Office, they're really at the mercy of some federal bureaucracy or the federal bureaucracy of the National Park Service, the U.S. Department of Interior. Here's where I see is the greatest advantage of a state tax credit: You're not dealing with nameless, faceless bureaucrats. You're dealing with the folks at the state level. And in my experience, and I think, you know, Plattsmouth has a very, very strong relationship with the SHPO, is you pick up the phone, you call them, you talk through projects. They work with you, they come out and they look at the project. So the business owner really gets to see them and establish that relationship and understand where they're coming from in applying the guidelines. And Senator Hadley, you asked earlier about...from Mr. Smith about making sure that guidelines and we're following the guidelines. Historic preservation has to adhere to guidelines. But at the state level you can work with the SHPO folks and they'll communicate that and work with folks--work with folks. There's a real strong benefit if you're the small businessman in Main Street, Nebraska; Plattsmouth, Nebraska, to having that relationship at the state level. With that, I'm going to assume you can read my letter. You're all really quite intelligent folks and... [LB191]

SENATOR HADLEY: Are there any questions for Mr. Portis? Seeing none, thank you, Mr. Portis. [LB191]

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ERVIN PORTIS: Thank you. [LB191]

SENATOR HADLEY: Next proponent. [LB191]

PERRY POYNER: I am Perry Poyner, P-e-r-r-y P-o-y-n-e-r. I'm an architect in Omaha and I will be brief. I guess I need to say, first of all, that the Nebraska Chapter of the American Institute of Architects is in full support of this bill. I have a firm in Omaha. Over the last 25 years, we've probably done the design of the lion's share of the historic renovations in the state. Most of those have been certified historic 20 percent tax credit projects. The one point that I guess I want to make is the real winner for a state historic tax credit in my mind, and I'm pretty certain of this, is going to be the small and mid-sized communities across the state, and I'll tell you really briefly why. In most of the rehabs that we've designed, have been...they're bigger projects. The small ones that we've done, most of those have been in western Iowa in towns like Woodbine and Red Oak and Dunlap. And as you have heard, Iowa has got a state historic tax credit and that's what's allowing those projects to happen. In contrast, in our 25 years we've done one historic rehab in outstate Nebraska and that was in Hastings a couple years ago, the Farrell Block. And it's a prototypical...you know, it's a two-story, great historic building. We put apartments on the top floor. We put commercial tenants on the ground floor. It turned out great. Financially, it was a struggle for the owners. I don't think they're dying to do another one of those. And so the reason that it's such a struggle in these smaller communities, you know, if you look at construction costs in Omaha and Hastings are going to be about the same. It's going to cost about the same amount of money to rehab one of these buildings. And the smaller buildings are, per square foot, costs more than the big ones that we've done a lot of those in Omaha. But if you...there's a great disparity in the rents that those projects, you know, can...the rents that are paid to those projects. If you took the Farrell Block and dropped it in the Old Market in Omaha, the apartments on the second floor, the rent would be double. The ground, the square footage rental amounts that the ground floor retail would demand are maybe two to three times more. And so...and we're right in the middle of doing a couple smaller projects in downtown Omaha, and I can tell you, you know, the stars have to be aligned for those to work. They're just...they just don't work. So I'm pretty convinced without a state historic tax credit, all these great communities, you know, the Hastings and North Plattes and Kearneys, I think those downtowns are going to continue to deteriorate, so. [LB191]

SENATOR HADLEY: So thank you, Mr. Poyner. [LB191]

PERRY POYNER: Yeah. [LB191]

SENATOR HADLEY: Any questions? Thank you for coming. [LB191]

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PERRY POYNER: All right. [LB191]

SENATOR HADLEY: Great. Next proponent. [LB191]

JOE KOHOUT: Chairman Hadley, members of the Revenue Committee, my name is Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of the United Cities of Sarpy County. Last fall, when the committee held hearings at Metro, you heard from Mayor Black and he explained the strong desire that the city of Papillion would have in renovating certain areas of the city, their historic downtown; thought this would be of benefit. When you talk about Papillion, you actually have a city that actually walks the walk. It's interesting when we meet at Papillion, when it's time for them to build a city hall they didn't go and build a brand-new facility. They renovated the old Sarpy County Courthouse and turned that into their city hall. So if you still ask nicely, they'll take you up to the top floor and show you the old cell, but...jail cell. But other than that, the hour is late. [LB191]

SENATOR HADLEY: Thank you. Thank you, Mr. Kohout. Any questions? Seeing none, thank you. Ms. Rex, how are you? [LB191]

LYNN REX: Fine, thank you. Senator Hadley and members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We strongly support this bill and I think you've heard a number of reasons why this is an excellent bill, and we do think that cities across the state of Nebraska and some villages, too, could use it. And Senator Schumacher, in answer to your issue that you raised earlier, that doesn't mean every older building needs to be renovated but there are a lot of them that have great value that should be. And with that, we'd be happy to respond to any questions. [LB191]

SENATOR HADLEY: Any questions for Ms. Rex? Seeing none, thank you. [LB191]

LYNN REX: Thank you. [LB191]

BILL MUELLER: Chairman Hadley, good evening. [LB191]

SENATOR HADLEY: Hello, Mr. Mueller. [LB191]

BILL MUELLER: Members of the committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of the Eastern Nebraska Development Council and the Nebraska Association of Commercial Property Owners in support of LB191. It was interesting when we met with the proponents and talked about this bill, I was really surprised how many of our Nebraska developers knew exactly what the credits were in surrounding states before we were even briefed on the issue. So developers know what the credits are. That does influence where they do projects. Senator Hadley, we had

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quite a discussion about these credits being transferable. I believe that the original ethanol incentives were transferable, and these as I recall, were tax credits for fuel tax. So they were transferable as I recall. It's late and I'd be happy to answer any questions the committee may have. [LB191]

SENATOR HADLEY: Any questions for Mr. Mueller? Thank you, Mr. Mueller. [LB191]

BILL MUELLER: Thank you. [LB191]

SENATOR HADLEY: Any other proponents? Opponents? Neutral? [LB191]

SENATOR NORDQUIST: I'm not going to take the time. I waive. [LB191]

SENATOR HADLEY: Okay, waiving closing. Thank you. Senator Dubas, thank you for sticking with us. [LB191]

SENATOR DUBAS: Thank you for sticking with it. My name is Senator Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s. I represent Legislative District 34. Over the past several years, the Civic and Community Center Financing Act has received its share of attention. This fund was created in 1999 as a part of the Convention Center Facility Financing Assistance Act. Thirty percent of the sales tax revenues collected in the area around the convention center in Omaha is distributed to the Civic and Community Center Fund for the use in communities throughout greater Nebraska. In 2010, we passed the Sports Facility Financing Act, which will add additional revenue to this Community Center Fund. In 2011, I introduced LB297 to expand the use of the funds to include renovations of civic, convention, cultural centers, and libraries, and for renovations of buildings on the National Register of Historic Places. It also modified the local match requirements. In 2012, LB994 allowed for transfers from this fund to the State Colleges Sport Facilities Cash Fund. All along there's been concern that all of the money that is generated for the funds is not being expended for projects. Senator Harms and I spent last summer meeting with the Department of Economic Development, the League of Municipalities was also a part of those meetings, to determine why more projects weren't being approved. As more money comes into the fund, it's important that we are making our communities aware of its availability and encourage them to take advantage of the program. We went through this program and its requirements in great detail to determine what changes needed to be made yet try to stay true to the original intent of the legislation. LB153 adds to the type of projects and expenses that the fund may be used for to include recreation centers defined as a facility for athletics, fitness, sports activities, or recreation that is owned by the municipality. My hometown of Fullerton has been looking at building a facility such as this. Our current swimming pool is in dire need of repairs or, more likely, replacement, and the community has been looking at plans to build a recreational facility which would include a pool as well as many other amenities, and these types of facilities are very important to our smaller communities if we are



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going to not only retain the population we have there but try to encourage our young people to come back home. This bill also expands the use for upgrades to community centers, including the demolition of substandard and abandoned buildings. This endeavor is quite costly, especially if there are materials in the building that require special handling and disposal. But oftentimes in order to be able to build a new facility, you have to be able to take care of some of these older ones. Engineering and technical studies directly related to the project are included in the allowable expenses. And finally, with the changes proposed to this program and the likelihood of its growth in revenues, I have included the ability for the fund to pay for a half-time employee at DED directly related to the administration of this fund. We carefully evaluated the criteria used for the grant applications. Currently, it's based on attraction and socioeconomic impact. The proposed changes require looking at retention impact, new resident impact, and visitor impact but in no particular order of preference because we heard, as we met with DED, that, you know, we're getting a lot of applications but the ability to...those applications weren't meeting that criteria of bringing visitors from the outside in. You know, they were probably very viable, but because of the criteria we had in statute, it made it difficult for them to approve those applications. So by opening it up a little more, again trying to address those retention issues, new resident issues, and if you look at a recreational facility, you know if it includes basketball courts, tennis, swimming, what have you, that's going to have the ability to attract visitors from surrounding areas, whether there are competitive events going on or what have you. Finally, we have changed the reporting requirements so that the Legislature will have a much more detailed picture as to how the program is working. The department will be required to provide reasons why a full application was not sent to any municipality who submitted a preapplication, the total amount of sales tax revenue generated for the fund, the total amount of the grants applied for, the year-end balance of the fund, and an explanation of the reasons why not all of the funds were committed if there is a balance, the amount of the appropriated funds actually expended, and the department's current budget for administration of the act and the grant summaries. This should be very helpful. As we've discussed this issue on the floor in recent years, it's just been really difficult to get a good handle on the finances of this particular program and the grants and why things...why grants have been denied and what's been going on in that respect. So hopefully with this much more detail, as we look at this program down the road, it will help the Legislature in knowing what we may or may not need to do. I do believe that these changes will allow for more and continued use, and by cooperating with organizations such as the League of Municipalities and the Department of Economic Development, we can educate communities about the fund and encourage its use. While the facility needs of communities across Nebraska may not be the same as our larger municipalities, by making these changes to the program we will be able to use it to support projects that foster the maintenance and growth of cities and villages of all size. So with that, I would be happy to try to answer any questions you may have. [LB153]

SENATOR HADLEY: Senator Dubas, okay. Senator Schumacher. [LB153]

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SENATOR SCHUMACHER: Thank you, Chairman Hadley. Just quickly, this is one fund that works. [LB153]

SENATOR DUBAS: Yes. [LB153]

SENATOR SCHUMACHER: It's simple to administer. The paperwork is minimal. The community involvement in pitching in on the matching is effective. But I do have a question on page 4, line 17, "Expenditures from the fund shall not be limited to the amount appropriated." Can you explain what...how that... [LB153]

SENATOR DUBAS: That's kind of where we ran into some problems, especially last year as we were talking about moving some of these funds for college use. And there just wasn't an understanding of, okay, how much money is actually being generated by the fund, how much is being appropriated into the fund. And it just wasn't real clear that all of the money that's being generated is being actually put into the fund. And so we're trying to clarify here that the money that's actually generated through the sales tax revenues, that 30 percent, should actually come into the fund and it shouldn't be just how much is appropriated into the fund. [LB153]

SENATOR SCHUMACHER: Is that appropriated as in Appropriation Committee? [LB153]

SENATOR DUBAS: I'm probably not explaining it as...because it was very difficult for Senator Harms and I to get our brain wrapped around this too. Because that's what I thought--so the Appropriations Committee is asking for this? And, no, it's just that that amount of money that's being generated isn't being shifted completely into that fund because we were told by some people at DED, well, we could probably fund more projects if we had the money. Well, the money...our understanding was, well, the money was there but it just wasn't being transferred into the actual fund. And I know again I'm not explaining it in the clearest fashion, but, again, it wasn't being explained to us in a way that we could understand either. And so that's why we thought by putting those additional requirements in the reporting, we are going to know how much money has been generated and how much money is being made available for the actual projects. So I... [LB153]

SENATOR SCHUMACHER: Thank you, Senator. [LB153]

SENATOR DUBAS: ...probably made that as clear as mud for you and I will attempt... [LB153]

SENATOR SCHUMACHER: It's clearer than a lot of other things today. (Laugh) [LB153]

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SENATOR DUBAS: But there was just that misunderstanding. There were a lot of numbers being floated around on the floor last year as to how much money was actually there, was it available, was it not available. There was just...there wasn't...it is a good and easy program but there was a little bit of not a lot of transparency in that area. [LB153]

SENATOR HADLEY: Senator Dubas, these recreation centers, would they be used then for the high...or the school systems too? Would this take the place of the schools having to have a gym and recreation centers? [LB153]

SENATOR DUBAS: You know, the facility would be owned by the municipality so my guess is, if a school needed some additional facilities to use, whether it be for tournaments or whatever, there could probably be agreements or arrangements made. But the facility itself will be owned by the city, by the municipality. [LB153]

SENATOR HADLEY: I was just curious as to whether we would suddenly be using sales tax funds to keep schools from having to use their... [LB153]

SENATOR DUBAS: Right. [LB153]

SENATOR HADLEY: ...their levies to...for recreational... [LB153]

SENATOR DUBAS: No, I don't think that's the direction it would go. And again, you know, you'd look at each community. As I said, like my community had plans for a recreational facility. It had a walking court in it, it did have I think a basketball, handball kind of court, had a kitchen and a...you know, they had a lot of different components into the recreation. So again, I would see where schools maybe would be able to contract or, you know, have an agreement with, if they had extra tournaments coming in and needed extra space, but not in place of. [LB153]

SENATOR HADLEY: Just a rhetorical question almost: Do you want to open this whole topic up again on the floor? (Laughter) You don't have to answer that. Any other questions? Senator Harr. [LB153]

SENATOR HARR: Thank you, Chairman Hadley, and thank you, Senator Dubas. The hour is late, but I want to thank you for continuing my argument on LB571 that turnback is good for small towns. How much money is in the fund, to the best of your knowledge? [LB153]

SENATOR DUBAS: Oh gosh, I haven't looked so I couldn't tell you. [LB153]

SENATOR HARR: Can you approximate? [LB153]

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SENATOR DUBAS: I've got some figures here. I think they...think these are estimates about what would come into the fund, and we're looking at like \$1.2 million, \$1.5 million. [LB153]

SENATOR HARR: Okay. [LB153]

SENATOR DUBAS: I've got my white paper somewhere in here in my notebook, but... [LB153]

SENATOR HARR: Okay. [LB153]

SENATOR DUBAS: ...I'm not finding what I'm looking for right now. [LB153]

SENATOR HARR: And let me ask you, nothing would prevent you in this legislation, following up on Senator Hadley's, from a small town saying, hey, we're going to build a rec center and we...municipality owns it but they sublet it to a school district, is there? [LB153]

SENATOR DUBAS: No, there's nothing in the legislation... [LB153]

SENATOR HARR: Okay. [LB153]

SENATOR DUBAS: ...that says they couldn't do it. [LB153]

SENATOR HARR: Thank you. And then, you know, we were talking about turnbacks earlier in here, I don't know if you were in here, and there was some concern because you could do...have a situation where you could get private funding for 50 percent, then you would have this turnback fund that would provide the other 50 percent, and the municipalities would have no, you know, to a certain degree no skin in the game. You don't have a problem with that, do you? If you got the private dollars for 50 percent of it and the other 50 percent came from this turnback fund, you wouldn't have a problem with that, would you? [LB153]

SENATOR DUBAS: In this particular legislation, that would be a problem. [LB153]

SENATOR HARR: Why would that be a problem? [LB153]

SENATOR DUBAS: Because these again are facilities that the municipalities are putting investment into. [LB153]

SENATOR HARR: Yeah, but if you got somebody to donate the 50 percent. So if you got a nice farmer, I don't know, passes away and he says I'm going to give, I really want to help Fullerton, I'm going to pay for the 50 percent, and then the other 50 percent, you

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wouldn't have a problem with that, would you? [LB153]

SENATOR DUBAS: You know, at first blush, no, but I'd want to make sure that I'm understanding what I'm really committing myself to here. [LB153]

SENATOR HARR: Okay. Okay. What don't you understand? [LB153]

SENATOR DUBAS: I just want to make sure I'm understanding how that would or would not impact how this grant is used, I mean if it's flying in the face of how this program was originally set up. Again... [LB153]

SENATOR HARR: Well, no, it's not in the fact that it's...50 percent of the money has to come from somewhere. All it is, is that 50 percent is limited to the state, right? It doesn't say where the other 50 percent comes from, does it? Not to my knowledge. [LB153]

SENATOR DUBAS: Yeah, I don't remember that language... [LB153]

SENATOR HARR: I mean I'm looking at the language. [LB153]

SENATOR DUBAS: ...specifically. No, I... [LB153]

SENATOR HARR: If you look at page 7, line 18, it says, "Financial support." [LB153]

SENATOR DUBAS: Yeah. I'm not remembering that. [LB153]

SENATOR HARR: "Assistance from the fund shall be matched at least equally from local sources." [LB153]

SENATOR DUBAS: Local sources. [LB153]

SENATOR HARR: Doesn't say what those local sources are. "At least fifty percent of the local match must be in cash." [LB153]

SENATOR DUBAS: Uh-huh. [LB153]

SENATOR HARR: "Projects with a higher level of local matching funds shall be preferred as compared to those with a lower level of matching funds." So it's local funds. So you wouldn't have a problem with that, would you? [LB153]

SENATOR DUBAS: You know, the only thing that would...if the, you know, the local municipality, if...depending on if there were any strings attached to that money. I mean if the money is just being... [LB153]

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SENATOR HARR: Fair. [LB153]

SENATOR DUBAS: ...said, okay, here it is. But if the money is being said, okay, I want this, this, and this for my contribution. [LB153]

SENATOR HARR: Fair. I would agree with that. That was great. And then, you know, there's \$1 million, \$1.5 million in there. Wouldn't it be great if we had more money to use; that a community could use its own turnback money instead of relying? You know we hear this, we live in this, you know, we want more from government, we want more from government, yada-yada-yada. Wouldn't it be nice if the small towns could do it themselves instead of relying on big bad Omaha or big bad Lincoln or big bad Ralston to turn back the 30 percent? You could be in control of your own destiny. Wouldn't you prefer that? Wouldn't that be great? Or along with as an option? [LB153]

SENATOR DUBAS: We don't have the resources that Omaha, Lincoln, and the bigger communities have to be able to generate those kinds of dollars. [LB153]

SENATOR HARR: Exactly, because you don't have the population, right? [LB153]

SENATOR DUBAS: Right. [LB153]

SENATOR HARR: Exactly. [LB153]

SENATOR DUBAS: But I would also say that many of the people from my community, my district and surrounding Nebraska frequently travel into Omaha, Lincoln, and other communities to spend their dollars in support of those facilities that are in Omaha and Lincoln and other places. [LB153]

SENATOR HARR: And vice versa, people from Omaha travel to greater Nebraska as well. [LB153]

SENATOR DUBAS: And we would hope through these facilities they would come out more. [LB153]

SENATOR HARR: Yeah, exactly. Yeah, that would help them travel to your towns more, exactly my point. Thank you. [LB153]

SENATOR DUBAS: And that was one of the main points of the original program, that the grants were awarded on attraction,... [LB153]

SENATOR HARR: Yep. [LB153]

SENATOR DUBAS: ...and we just weren't able to generate the kinds of facilities that

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would attract people in large enough numbers to come to our communities. [LB153]

SENATOR HARR: Great. Thank you. Now I do have one technical question. On page 2, excuse me, page 3, line 20, number (2) it says, "It is the intent of the Legislature," well, you can read it, but it says soon...on July 1, 2011, or as soon thereafter as administratively possible the State Treasurer shall transfer \$42,900 from the Civic Center Fund to the Department of Revenue Enforcement Fund. [LB153]

SENATOR DUBAS: And that language is stricken. [LB153]

SENATOR HARR: And that language is stricken. And I guess my question is two-part. Number one, why is that language stricken? And number two, why isn't that relegate...or shown, excuse me, in the fiscal note as a savings to the state? [LB153]

SENATOR DUBAS: This is my bill, I should be able to answer that question, and I'm completely drawing a blank right now. [LB153]

SENATOR HARR: It would seem as though this bill now makes money. I mean it's not as expensive then. [LB153]

SENATOR DUBAS: I'm going to have to follow up and make sure I'm giving you a correct answer on that, Senator Harr. [LB153]

SENATOR HARR: Okay. [LB153]

SENATOR DUBAS: And I will follow up and get back to you tomorrow. [LB153]

SENATOR HARR: Okay. Well, no rush on it. [LB153]

SENATOR DUBAS: No, I need to be able to answer that and I apologize that I am not able to answer that now the way I should. [LB153]

SENATOR HARR: Okay. And I'm not trying to put you on the spot. I'm just trying, because I want to make sure that this...I want to make this as low a fiscal note as possible and if we have \$42,500 that's being saved and the expenditure is only \$35,000, then there's a net savings of \$7,500 that isn't being shown that maybe we...instead of this being a negative fiscal note, it becomes a positive fiscal note. [LB153]

SENATOR DUBAS: Well, there really is no fiscal note. I mean there's no... [LB153]

SENATOR HARR: Well, it's a...there's a small fiscal note on this of \$35,000, so... [LB153]

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SENATOR DUBAS: Okay. Okay, I see where you got it. Yeah, okay. [LB153]

SENATOR HARR: Yeah, so we go from this being a negative to a positive, and so we can sell this. It makes it a lot easier to sell it on the floor if it's a positive. [LB153]

SENATOR DUBAS: Well, and that \$35,000, that comes from allowing them to use a percentage to fund that position. [LB153]

SENATOR HARR: Yeah, exactly, exactly, and I understand that. But I'm saying we've also gotten rid of this \$45,000, \$42,500 expenditure. And then finally, is it...and maybe I wasn't understanding due to the lateness of the hour. Is it your contention that the full 30 percent isn't being appropriated over into the proper fund? [LB153]

SENATOR DUBAS: That's our understanding, that it wasn't always...the whole amount wasn't always available for the... [LB153]

SENATOR HARR: Okay. And part of that is a transparency problem, right? Okay. And so how does this board work currently if you go to apply to this board? Who is this board? [LB153]

SENATOR DUBAS: The applications go to the Department of Economic Development. [LB153]

SENATOR HARR: Okay, and... [LB153]

SENATOR DUBAS: They are the ones that are examining the applications and making the decisions. [LB153]

SENATOR HARR: And is there any public input as far as does it require city council approval for that city to apply? Okay. [LB153]

SENATOR DUBAS: Now, no. [LB153]

SENATOR HARR: Okay. And does it require...is there a hearing in front of the Department of Economic Development with your application? [LB153]

SENATOR DUBAS: No, you send in a preapplication and they evaluate it. If it's worthy enough, then they invite you to submit a full application. [LB153]

SENATOR HARR: Okay. And that's not necessarily in the public, is it? [LB153]

SENATOR DUBAS: No. [LB153]



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SENATOR HARR: Okay. It would be nice if we did have public hearings though. You'd agree with that? [LB153]

SENATOR DUBAS: I don't know. I'd have to think about that one. I mean this is a... [LB153]

SENATOR HARR: If you're for more transparency, a public hearing is a public hearing so we know... [LB153]

SENATOR DUBAS: I mean it's a grant application. It has to meet certain criteria... [LB153]

SENATOR HARR: Yeah. [LB153]

SENATOR DUBAS: ...and, you know, the department... [LB153]

SENATOR HARR: But at some point there has to be a judgment. You know, the idea is eventually that it's so successful that we're going to have more projects than we do money, and so I think there should be "opency," open and transparency where there is an open meeting, where there is notice that goes out that says, hey, we're having this. It would be (A) nice I think to have the city council approve it so that we know the community is behind it and then (B) have an open...and they can comment. People can comment at that city council hearing. And then you have a hearing down in Lincoln and there's a public notice in your town that says, hey, if you support this, come on down. Because if the whole town of Fullerton shows up and nobody from Wolbach shows up, and you got the same two people applying for money, I can tell you where the money is going. So if we want "opency" and transparency and we want public input to show where public dollars are going, that would seem to me the preferable path. Would you agree with me? [LB153]

SENATOR DUBAS: Well, it would just seem you're making your decision based on who has the ability to generate the most traffic in to support or oppose a particular application. [LB153]

SENATOR HARR: As opposed to now where it's arbitrary, we don't know? [LB153]

SENATOR DUBAS: I would disagree that it's arbitrary. I think the criteria for what the grants are, and the grants are spelled out as far as... [LB153]

SENATOR HARR: Well, fair. [LB153]

SENATOR DUBAS: ...how much money goes... [LB153]

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SENATOR HARR: Yeah. [LB153]

SENATOR DUBAS: ...based on population size. [LB153]

SENATOR HARR: But... [LB153]

SENATOR DUBAS: You have to meet certain criteria. [LB153]

SENATOR HARR: But all things being equal, now we know which town really supports the project or not. If the town shows up, we know, or even just the mayor or a couple city council people, versus another town, all things being equal, now we got a tiebreaker. It's those who showed up, who took an interest in this, who went to their city council meeting, city council voted on it, and now they're here. [LB153]

SENATOR DUBAS: I guess I would say that effort went into the application process. You're involving the community. You're getting input from people as you're putting that application together. You've got to be able to show through that application that you've got, you know, you've got the match money, you've got all of those things. [LB153]

SENATOR HARR: But again, no public...not necessarily any public meetings. And if we're for "opency" and transparency, we probably want open meetings. [LB153]

SENATOR DUBAS: Well, you and I are just probably not going to see eye to eye on this, Senator Harr. [LB153]

SENATOR HARR: Okay. No, if you're against public meetings and for transparency, I get that. That's cool. (Laugh) [LB153]

SENATOR HADLEY: I think we could move on, Senator Harr. This is not a court of law and we don't badger witnesses here. [LB153]

SENATOR HARR: Oh, I apologize if you felt I was badgering. [LB153]

SENATOR HADLEY: This is not a court of law. We don't badger people. Senator Dubas, just to let you know, when we were talking about the transfer of payment, that was a one-time payment... [LB153]

SENATOR DUBAS: Thank you. [LB153]

SENATOR HADLEY: ...and that's why it was stricken. [LB153]

SENATOR DUBAS: Thank you. [LB153]

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SENATOR HADLEY: So that's why it's not in the...that's why it's not in the fiscal note. [LB153]

SENATOR DUBAS: I knew there...my mind just...my mind just went blank on that. [LB153]

SENATOR HADLEY: Yeah. It was a one-time payment. Any other questions for Senator Dubas? Next proponent. [LB153]

LYNN REX: Senator Hadley, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. This is an extremely important bill and we'd like to just talk to you just for a couple minutes here. [LB153]

SENATOR HADLEY: Okay. [LB153]

LYNN REX: Because, first of all, we really appreciate the fact that Senator Dubas and Senator Harms took a special interest in this particular area when there was some concern last year. You may remember that Senator Lavon Heidemann was successful in taking some funds, and I want to refer you to language on page... [LB153]

SENATOR HADLEY: Is that Lieutenant Governor Lavon Heidemann? [LB153]

LYNN REX: Yes, it is. Yes, sir, it is. [LB153]

SENATOR HADLEY: Okay. [LB153]

LYNN REX: And congratulations to him. The state of Nebraska should also be thankful for that I think. On page 3, lines 17 to 19, this talks about transfers to the Department of Revenue Enforcement Fund and then to the State Colleges Sport Facilities Cash Fund, which was created, and that was language and the League was opposing that at the time. And the reason why we were is because Gary Krumland, who's our assistant director and legal counsel, had talked to Gary Hamer over at the Department of Economic Development, and we said, how, you know, what's in the...how much, how many funds, how many dollars are there, what kind of funds are we talking about? And many, many cities over the years have been told, well, there's just not enough money in the fund, and so that was really a concern. And our concern was this was a...this fund was put together as an opportunity for other municipalities across the state of Nebraska to have to do some things in their municipalities and in even the very small ones, because those senators from outside of Lincoln and Omaha voted to allow what was then the Qwest Center bill to go through. And so this was a critical part of all of this and these funds were going to that. Now the 30 percent, this fund from the beginning, there were some years where the monies all went out, other years where not so much, and so there's a concern. And in fact, a few years ago you may remember that Senator Dubas,

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Senator Mello, and others were questioning why DED did not get those funds out. Director Cathy Lang did a really great job in having some meetings this summer with us and I learned something I didn't know and I learned this also during the floor debate and with Fiscal Office relative to what funds are there versus what funds are appropriated. Because the League of Nebraska Municipalities put together a handout telling senators, please don't vote for transferring funds out of this for the state college recreation centers and their sports funds, because this is money that should be going for municipalities and we're concerned about the lack of funds. And then the Fiscal Office and Jeanne Glenn was kind enough to come up to the Rotunda because the state colleges and their lobbyists were saying there's plenty of money here, and our numbers didn't match at all. So what we found out is that there actually are...there are more funds there than what DED requests. I always assumed, incorrectly, that when the Legislature passed the bill saying that 30 percent goes to the Local Civic, Cultural Fund, that's where the money went. Well, it goes to that fund, but the Department of Economic Development then makes a request for an appropriation. They weren't requesting all the funds that were there. So there were still funds there. So I guess this falls under the category of Senator Lavon Heidemann last year was right in what his funding numbers were and we were right based on what DED told us, based on what their appropriate...what they had requested from the appropriation. Now DED told us this summer that the reason why they didn't request all of that is because, and I'm paraphrasing here, but essentially because they didn't think that, you know, that maybe all those funds could be used by municipalities or they didn't think those projects met the test. And therefore, I want to refer to you to critical language here, which is on page 6 of the bill, striking language on lines 21 to 25 and also lines 1 to 3 on page 7. When you look on lines 21 to 25...and again, I'm not criticizing DED staff. I think that when you read what they...the way they were interpreting this...and this does not go to the appropriation issue. I still don't really quite understand how that turned out the way that it did other than to tell you there's money that goes into a fund and they only ask for certain of those funds to be appropriated to them. And so...and maybe Senator Dubas, if I'm misstating this, can clarify that in her closing, but I'm almost confident that's what they told Senator Harms and us this summer, which was much to my surprise. That being said, the DED staff very correctly stated that the reason why so many of these applications were denied...because last year, as an example, the numbers we were given is that roughly 80...they had 80 applications. Twenty-five of the 80 were told those can kind of move forward; you may not get funded but you're in the ballpark here so, you know, keep working on it. And 1 was actually funded out of the 80. DED staff said, well, the reason is you have to look at the lines on page 6, 21 to 25, and basically this is an attraction impact, "The department shall evaluate all applications for grants of assistance based on the following criteria, which are listed in no particular," well, new language, "which are listed in no particular order." But the order that we had here in current law and still is in current law is, "Attraction impact. Funding decisions by the department shall be based in part on the likelihood of the project attracting new civic or community activity to Nebraska from outside of Nebraska." And then you read that with what is always the

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most important word in all of it. We look on page 8, line 3. And again, with all the other requirements, "and," so that is conjunctive. So they're saying, okay, you have to have attraction impact. So most of these applications going in, yes, it was extremely important for that locality. It's extremely important. And Richard Baier and I, when he was director of DED, had this discussion when he said, you know, I don't think these funds ought to be going to put a new roof on a little community hall in a small village or a city of the second class. And I said, I strongly disagree with you because in that community, that is just as important to that community as the Qwest Center is, now CenturyLink, is to Omaha. That's where they have the wedding receptions. That's where you go after funerals. That is their civic center. That's an important building. So we think that's extremely important. So bottom line is that's when Senator Dubas and Senator Harms said, okay, well, then we need to really revise how this is worded because, quite frankly, and there's nothing wrong with saying that an attraction impact may not be there, but you'll notice that what Senator Dubas has done here, which I think is extremely important, if you look on line 7, the new qualifications, not in any order of preference here, are retention impact, new resident impact, visitor impact, which is kind of...I'm reading on page 7. These are the new elements here. Line 4, retention impact; line 10, resident impact; line 13, visitor impact, which is...and again she says from inside and outside the state. That's one thing to be considered. And of course, she continues to have the language of financial support on line 18, the readiness, and of course she's leaving a project location, on page 8, line 2, and then project planning on line 4 and with the conjunctive word "and." But the point being that those are all elements to be considered, as opposed to what DED said they were reading this as, and I...one needs to take their interpretation with...the way in which they intended it, which is they thought that's what the Legislature meant. You know, it's got to be funded. You got to attract people from...are you attracting people from Kansas and South Dakota? No, not if you're putting a roof on a little hall in a city. Maybe it's Schuyler, Nebraska, which is one of our bigger cities actually, but Genoa or Palmyra or someplace else. So bottom line is the intent of this bill from the very beginning was to enable these smaller municipalities and first-class cities too. (Inaudible) the Grand Island center, the Heartland Center was the first application that was \$500,000. In the first few years, frankly, they didn't have a lot of money because the Qwest Center was just beginning to roll in. And then you may remember, I believe the bill number was LB551, that then there was issues dealing with what the Qwest Center had to provide to the state Department of Revenue and...because they had to provide addresses showing where people were from. We couldn't provide that so the Legislature very correctly just took that out. So when that basically was taken out, then you could show the throwback sales tax monies going in. And of course, then the funds to the 30 percent civic fund were obviously increasing then and they will continue to increase. But I think this is an extremely important bill. There are 530 cities and villages in the state of Nebraska. You've got Lincoln as a city of the first...well, primary-class city; Omaha the only metropolitan-class city; 30 cities of the first class, population 5,000, up; and the rest of them are all cities of the second class and village, below 5,000. Extremely important bill for us and I know the hour is late and I

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really appreciate you taking time. [LB153]

SENATOR HADLEY: Senator Sullivan, please. [LB153]

SENATOR SULLIVAN: Thank you, Senator Hadley. And thank you. Quickly, I'd like your interpretation, because I think you're familiar with a bill that I have introduced that was heard before the Urban Affairs Committee that would allow communities to use their LB840 funds for relocation incentives. Based on what you have identified, for example, number (2) on page 7, new resident impact, could they use their LB840 funds as matching funds? [LB153]

LYNN REX: Well, and the answer to that, Senator, is it depends how they drafted their LB840 plan. [LB153]

SENATOR SULLIVAN: Right. [LB153]

LYNN REX: We have requested a meeting with the Attorney General's Office and this is...I think I have a call in to your office... [LB153]

SENATOR SULLIVAN: Yes. Yes. [LB153]

LYNN REX: ...to share with you that we'd like to have you involved in that. [LB153]

SENATOR SULLIVAN: But conceivably if that's...even if they... [LB153]

LYNN REX: But if they have a fund that's been voter approved,... [LB153]

SENATOR SULLIVAN: Yes. [LB153]

LYNN REX: ...then...well, all LB840 plans have to be voter approved, number one. [LB153]

SENATOR SULLIVAN: Right. [LB153]

LYNN REX: But also this is the question that's being posed to the Attorney General's Office and that is if... [LB153]

SENATOR SULLIVAN: Well, I know that, but I mean... [LB153]

LYNN REX: Okay. [LB153]

SENATOR SULLIVAN: ...all I...all... [LB153]

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LYNN REX: The short answer to your question is, once they have something voter approved... [LB153]

SENATOR SULLIVAN: Yes. That's my question. [LB153]

LYNN REX: ...under your bill, then, yes, they could, they could actually leverage these funds together. [LB153]

SENATOR SULLIVAN: Okay. [LB153]

LYNN REX: Yes, they could. [LB153]

SENATOR SULLIVAN: That's all I need to know. [LB153]

LYNN REX: Yes. [LB153]

SENATOR HADLEY: Ms. Rex, I have a quick question. I guess I had just assumed this was a bill to allow recreation centers, but it's truly a bigger bill because it gives direction to DED as to what the intent of the Legislature is in being able to use these funds. Is that a correct statement? [LB153]

LYNN REX: Yes, it is. And I think in addition, Senator Dubas and Senator Harms asked DED staff, and the DED staff was extremely cooperative, well, so how much staff time do you need; what are you talking about here; how much staff time do you need? And that's when they decided to put in the amount of a half-time to...so they could be fully funded. We don't expect DED to... [LB153]

SENATOR HADLEY: Eat the... [LB153]

LYNN REX: ...try to figure out some way to deal with that cost. But I think it's extremely important to, because some years I think DED interpreted it differently because all the money went out. And perhaps it was just then that they thought that all those projects at that time did attract people from other states, and certainly the Heartland Center in Grand Island would certainly qualify for that, but we didn't think some of the other projects did. So there's been so much confusion across the state with municipalities filling out these grants and we've been telling cities, please fill out the grants, please do it, DED has been trying to be helpful to them. And in addition, one of the issues that Senator Harms asked and Senator Dubas asked DED staff is, well, if you get in a grant and you're being denied, are you informed as to why you're denied? No, you're not. And so the question was, okay, perhaps you should be...it should be...a city should be advised as to why you're being told no. In other words, what's the reason? Is there a reason here? And DED staff, again, extremely cooperative with us this summer. I really appreciate that. And this bill is a much bigger bill. I think having recreation centers, I

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don't know specifically why Senator Dubas put that in. I can tell you municipalities all across the state would have a need for that. And, Senator, yes, they would partner with schools and, yes, they would partner with others. In fact, that's being done right... [LB153]

SENATOR HADLEY: Which is what we hope happens. [LB153]

LYNN REX: Yes, that's what you want to have happen. In fact, the Seward city administrator was here a little bit earlier today and testified in support of LB571 and one of the things that they're looking at is a project that would be owned by the city, but that would actually be partnered with Concordia College, and I'm sure the high schools and others will be involved in that too. So...but we do think this is an extremely important bill so basically that 30 percent. And the reason why those of you who do not live in Omaha, Nebraska, when that bill passed, the reason why some of you voted for...well, your predecessors voted for that bill was so that some of those funds could go out across the state of Nebraska. This bill would facilitate that and what the true intent of the Legislature was at that time. I'm not being critical of DED staff. I'm just saying that their interpretation was kind of a surprise to us in terms of how they really were reading this. And then secondly, the most surprising thing I think was when we were trying to deal with the issue of having funds diverted to the state colleges. And I know Senator Harms feels very strongly about that. He said, I voted for that and I continue voting for that, and I appreciate that. That being said, that's when we found out, no, there's a lot more money there; it's just that it was not being requested by DED. [LB153]

SENATOR HADLEY: Good. Senator Harr. [LB153]

SENATOR HARR: Thank you. And I'm going to use some Socratic questioning on you,... [LB153]

LYNN REX: Okay. [LB153]

SENATOR HARR: ...professorial. So let me ask you a question. First of all, how much money do you think, if this passes, will be in there? [LB153]

LYNN REX: We've asked DED that. I think that they are probably the ones who could best give a projection. We really don't know. I mean I can contact them tomorrow and tell you how much is there, but I think you're looking...I mean you're looking at millions ultimately. [LB153]

SENATOR HARR: Okay. [LB153]

LYNN REX: I mean there have been millions in there that were given out over the years. I mean they have...and I will get you a copy tomorrow, and I thought I had it with me so I



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apologize that I do not. DED puts out an excellent report every year about how much money was in and how much money went out. And of course, we thought that was the full story. The rest of the story is, there's other money there but it's in a fund. I don't know where that fund actually is, if it's in Department of Revenue or where that fund is actually. [LB153]

SENATOR HARR: That was going to be my follow-up question. Is it in a lockbox or do we...so my question is, years past, we didn't get the whole 30 percent appropriated. Is that what you're saying? Correct? [LB153]

LYNN REX: Well, certainly this summer they told us that they have not always asked for the full appropriation. [LB153]

SENATOR HARR: Okay. [LB153]

LYNN REX: But what I don't know, and it's a good question, is which years they did and which years they didn't. [LB153]

SENATOR HARR: So for the years we didn't get the full 30 percent, can we go back and take that money? Is that what the intent of this language here on page 4, line 17, "Expenditures from the fund shall not be limited to the amount appropriated," is that why that's there? [LB153]

LYNN REX: That would be my understanding. [LB153]

SENATOR HARR: Okay. So the goal is... [LB153]

LYNN REX: Senator Dubas is nodding her head yes, for the record. [LB153]

SENATOR HARR: If that 30 percent wasn't fully appropriated to this fund, we want to be able to claw back and grab some of that money. [LB153]

LYNN REX: And let me just suggest this. My understanding is, from the DED staff with whom we met this summer, is that those funds, they simply didn't...they didn't request an appropriation for all the funds because maybe they didn't think that there would be enough projects coming in that would qualify. That's what I believe they said. That being said, I'm not suggesting that the funds, wherever they are, the other funds, have been diverted for some other reason. In fact, they told us, no, it is in the Local Civic, Cultural Fund, and Jeanne Glenn is the one I would probably talk to from the Fiscal Office. She said those funds are, quote, in the fund. But see, that's why Senator Lavon Heidemann knew what the real numbers were but we didn't and never did, apparently. [LB153]

SENATOR HARR: So the answer is, yes, that you would be able to claw back some of

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that money that hasn't been appropriated in the past. Is that right? [LB153]

LYNN REX: I would think that would...I would think that's true. [LB153]

SENATOR HARR: That's what we're trying to do. [LB153]

LYNN REX: Well, I believe that all the funds should...I believe...let me say this: yes, in answer to that question. [LB153]

SENATOR HARR: Okay. [LB153]

LYNN REX: And secondly, those funds whereas DED did not think that anybody could meet the standards, and maybe they're right with their interpretation,... [LB153]

SENATOR HARR: Okay. [LB153]

LYNN REX: ...the standards that were outlined before with an attraction... [LB153]

SENATOR HARR: Yeah. [LB153]

LYNN REX: ...impact and all of this. Clearly the way that Senator Dubas has drafted this bill, with Senator Harms's input as well,... [LB153]

SENATOR HARR: Yeah. [LB153]

LYNN REX: ...the way that she's outlined this, cities across this state will be able to have qualifying projects. [LB153]

SENATOR HARR: Okay. And I understand that. And that's fine. I have no problem with that. And I am ignorant. If you can, and I know the hour is late, but if you can explain to me the state fund or state college, how does that work? What is that? [LB153]

LYNN REX: Okay. Here's what happened. And again, if you look on page 3, there are a couple places here where it's noted. Let me see if I can find the other one here. There are two places in the bill where it notes the funding that will be going to the state colleges. [LB153]

SENATOR HARR: Yeah, but how much is that funding? [LB153]

LYNN REX: For example, here it is, here it is. Okay, so if you look on page 4, line 19--thank you, whoever said that--page 4, line 19:... [LB153]

SENATOR HARR: Okay. [LB153]

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LYNN REX: ...the State Treasurer shall transfer \$250,000 from the Civic and Community Center Financing Fund to the State Colleges Sport Facilities Cash Fund on October 1 of 2012, 2013, and 2014. Then, "Commencing October 1, 2015," and that's because they think that's when...because that's when then the Lincoln arena is on-line, the Ralston arena is already on-line, "and every year thereafter, the State Treasurer shall transfer four hundred thousand," to that fund. Well, that's the language that the League was opposing last year, again... [LB153]

SENATOR HARR: Yeah. [LB153]

LYNN REX: ...because of the concern, we had cities being turned down. We had cities being told there's not enough money. So we said, oh my gosh, you know, not that state colleges don't deserve to have their facilities renovated, but please don't use these funds. That was never intended for that. This is something that should be out of the state General Fund, not out of the Local Civic, Cultural Fund, which is intended for other municipalities across the state. But again, Lavon Heidemann prevailed in that and I respect that. [LB153]

SENATOR HARR: Well, and I appreciate the Lieutenant Governor, but, you know, now we're down a new path here with this, and this is what I'm getting at, is "the State Treasurer shall transfer." If you look at the rest of this legislation, and I was going to get to it with you, is when we look at the Civic and Community Center Financing Act, the sports finance, all those,... [LB153]

LYNN REX: Yes. [LB153]

SENATOR HARR: ...what they say is, it is the intent of the Legislature that, and it goes on to explain what it is. And the reasoning they do that is because a prior Legislature cannot bind a future legislation. And yet that's exactly what this does, it binds future legislations to pass in 2014 and 2015, \$250,000 and \$400,000. How does that mesh, because I don't understand? Because where I was going is I was going to ask you, why don't you just change this to it is the intent of the Legislature that X, because that's how we've done it in the past. [LB153]

LYNN REX: Uh-huh. [LB153]

SENATOR HARR: And when I was working on LB571, I was told we couldn't use the language "shall" for the very reason it's unconstitutional, you can't bind. Do you know how they're able to use the word "shall" here, and in other places we don't, because of the constitutionality issue? [LB153]

LYNN REX: I do not. [LB153]

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SENATOR HARR: Or is this unconstitutional? [LB153]

LYNN REX: I do not, because I always thought that there was a constitutional issue as well, so I don't know. [LB153]

SENATOR HARR: And maybe this is something we need to look up to see if this is even constitutional. Maybe I need to write a letter to the AG and ask. So I want to thank you for bringing this whole bill and for your dissertation, although it's not written, it's oral, on why we're doing this. And I, too, was like Senator Hadley where I thought this was mainly just adding rec. It's much more. [LB153]

LYNN REX: Uh-huh. [LB153]

SENATOR HARR: It's much more important. And I think this is very important. Again, I'm a big supporter of turnback for small towns across Nebraska. So thank you very much. [LB153]

LYNN REX: And we appreciate everything you've done to help cities across the state of Nebraska, but this is extremely important for us. [LB153]

SENATOR HADLEY: Any other questions for Ms. Rex? Thank you for staying so late. [LB153]

LYNN REX: Thank you very much, and I will get you the report that DED puts out every year. It's an excellent report. [LB153]

SENATOR HADLEY: I remember seeing that report and... [LB153]

LYNN REX: Yes, it's an excellent report. [LB153]

SENATOR HADLEY: Okay. Thank you. [LB153]

LYNN REX: But thank you very much. And thanks to Senator Dubas for doing this and Senator Harms for their leadership, but... [LB153]

SENATOR HADLEY: Okay. [LB153]

LYNN REX: ...for her for doing this. Really appreciate it. Thank you. [LB153]

SENATOR HADLEY: Any other proponents? Opponents? [LB153]

LYNN REX: If I may be so bold, Senator, there were several municipalities that were

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here to testify on this that had to leave because they've got council meetings tonight, and so I apologize that they're not here. But we'll get letters of support from them so that you'll have those as well. [LB153]

SENATOR HADLEY: Very good. [LB153]

LYNN REX: I apologize. [LB153]

SENATOR HADLEY: Thank you, Ms. Rex. Opponents? Neutral? [LB153]

ANDY POLLOCK: (Exhibit 20) Senator Hadley, members of the committee, my name is Andy Pollock, A-n-d-y, Pollock, P-o-l-l-o-c-k, and I'm here as a registered lobbyist on behalf of the Nebraska Travel Association, which represents travel groups and interests across the state. I pledge to keep my comments brief. I would do my best to talk as fast as Lynn Rex, but I just absolutely am unable to and I can't even think as fast as she does talk at this hour. We, I would say, support very much...the reason we're neutral is because we support part of the bill strongly, and we have some concerns about another part of the bill. The part we support is the part that requires some more transparency and some more reporting from the Department of Economic Development on how these monies are being used, why they're being approved, why they're not being approved, etcetera. You heard more of that from the two previous testifiers. We support that part wholeheartedly. Our concern is getting away from the original intent of this act, the Civic and Community Center Financing Act, as it was originally drafted. It's been expanded to include libraries. Now we're trying to include recreation centers. As somebody who grew up in Ogallala, which had a rec center, I appreciate the value of that and we certainly don't want to suggest we don't think that's not an important addition to the committee...or to the communities that it serves. But it does stray, we believe, somewhat from the original intent of this law. And some of the new criteria I think that you see in the legislation, too, create the same concerns. Are we really focusing on attracting visitors? Do they need to be from outside the state? I think that's maybe a little bit silly. From our standpoint, certainly that needs to be expanded, but in terms of expanding the criteria to talk about retaining residents and attracting residents, maybe that's a little bit beyond the scope of the original law. Back to the DED requirements, we think that they will help you the Legislature understand, and, frankly, all of us, whether these funds are being doled out correctly, whether they're being too stingy, not stingy enough. And I think with a little bit of time and those reports, you'll get a better handle on should we be looking at questions about expanding the purpose of this act, but we think at this point that's a little premature. That concludes my testimony. [LB153]

SENATOR HADLEY: Any questions? Thank you. [LB153]

ANDY POLLOCK: Thank you. [LB153]

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SENATOR HADLEY: Anybody else in the neutral? Senator Dubas waives closing. (See also Exhibit 21.) With that, we can go into Exec if we do it quickly. [LB153]