[LB208 LB404 LB529 LR29CA]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 12, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB208, LB404, LB529, and LR29CA. Senators present: Amanda McGill, Chairperson; John Murante, Vice Chairperson; Brad Ashford; Colby Coash; Russ Karpisek; and Bob Krist. Senators absent: Scott Lautenbaugh.

SENATOR McGILL: All right, folks. We can get started. We've got enough senators here with us now. Welcome to the Urban Affairs Committee. This is our last hearing of session, which is awesome. Thank you for not introducing many bills in this committee. (Laughter)

SENATOR MURANTE: I'm so upset.

SENATOR McGILL: This gives us more time to work over the ones that have been brought here. Don't look so shocked, Senator Harr.

SENATOR KRIST: If you need help in Revenue, we'd be happy to come in and help you.

SENATOR McGILL: Yep. Maybe this should just become a Judiciary day to help us get through those bills. Anyway, thank you for coming. If you plan to testify, we have forms at the doorways for you to fill out and bring up here. Make sure you print. And also when you come up and introduce yourself to spell your name for the record. Silence your cell phones right now so that those aren't disruptive to the record either or to the people who are testifying. In terms of the other senators here today, we have Senator Bob Krist from the Omaha area; Senator John Murante...

SENATOR MURANTE: Nailed it.

SENATOR McGILL: ...from the Gretna area; Laurie Holman, who is our research analyst; and then to my left we have Senator Colby Coash from Lincoln; and Katie over there as our committee clerk; and Evan is our page today. So if you have handouts, just pass them to him as you come up here. And with that, we will open the hearing with LB208 and Senator Harr. [LB208]

SENATOR HARR: (Exhibit 1) Chairman McGill, members of the Urban Affairs Committee, I'm Burke Harr. I represent Legislative 8 which is located in midtown Omaha. I'm introducing LB208 on behalf of the Metropolitan Utilities District or MUD. I would like to note that there have been some changes to the bill after it was introduced. I had drafted an amendment to address those changes and I think we've already passed those around. Current statute requires the president of MUD to be bonded and requires the district to pay the cost of that bond. LB208 eliminates the requirement that the district obtain a bond of not less than $10,000 on the president's performance. The current statute does not allow for the president's salary to be decreased. The board is the one who sets that salary. We are arguing that they should be allowed to reduce it if they see necessary. Part of the reason is so that we can have performance-based salaries. The amendment that I passed around reinstates stricken language found on page 3, line 1 of the green copy. With the amendment, the amount of money will remain at $10,000, so there is no change in the law. LB208 removes the language that an employee must be placed on the permanent employees by a unanimous vote of the full board of directors as it relates to removal. It continues to allow the board to remove an employee by two-thirds vote of the board when there's cause. And what this does is just requires a vote of the board. After a year, there's...in other part of statute says if you're an employee for a year, you're an automatic permanent. This just eliminates the need for a vote. And, lastly, the current statute allows the district to install regular fire hydrants 400 feet apart in municipalities. LB208 allows the board to establish it's own standards for placing the hydrants as long as such rules do not violate any rules and regulations adopted and promulgated by the Department of Health and Human Services. With that, I would ask you to please advance LB208, and I'd be open to any questions you may have. [LB208]

SENATOR McGILL: Thank you, Senator Harr. Any questions? Senator Krist. [LB208]

SENATOR KRIST: If you could just paraphrase the big change from last year to this year with the subject matter. [LB208]

SENATOR HARR: Good question. So there are a couple of changes. First of all, we kept the language at $10,000 which that didn't do last year. The 400 feet is the same as last year. And then the elimination of the bond I believe was in the old one. And also the performance-based salaries was in the old one. So I think that's the only change. Now you ask why. And then if you recall last year, it just got lost in the mix. It was a short year and so we're bringing it this year hopefully. This year we also, I believe you'll hear there are not as many opponents as there were last year. There has been some work to eliminate some of the more controversial language. [LB208]

SENATOR KRIST: Okay. And can I, one follow? [LB208]

SENATOR McGILL: Yeah, please. [LB208]

SENATOR KRIST: Thank you, Chair. And are you...you said there is going to be some testimony in opposition. [LB208]

SENATOR HARR: Yes. [LB208]

SENATOR KRIST: Have they come to you and worked the issues or... [LB208]

SENATOR HARR: Yes. [LB208]

SENATOR KRIST: ...as much as possible? [LB208]

SENATOR HARR: Everyone has been very up-front and helpful on this. Yes. I'm not sure if there will be anyone in opposition as a matter of fact. [LB208]

SENATOR KRIST: Thank you. [LB208]

SENATOR HARR: Thank you. [LB208]

SENATOR McGILL: We look forward to the surprise. Any other questions? Thank you, Senator Harr. [LB208]

SENATOR HARR: Thank you very much. Appreciate it. [LB208]

SENATOR McGILL: We will take first proponents. And Senator Russ Karpisek has joined us from Wilber. Thank you. [LB208]

SENATOR KARPISEK: Sorry I'm late. [LB208]

SENATOR McGILL: That's okay. [LB208]

SENATOR KRIST: Brad's on his way. [LB208]

SENATOR McGILL: Okay. [LB208]

SENATOR KRIST: Sure. [LB208]

SENATOR McGILL: Scott is not going to be with us today, so. Welcome. [LB208]

RICK KUBAT: Hello, Senator McGill, members of the Urban Affairs Committee. My name is Rick Kubat, R-i-c-k K-u-b-a-t. I am a new employee of the Metropolitan Utilities District. I'm a government affairs attorney. I've been told to be very brief today to try and get off on a good start with you folks. (Laughter) [LB208]

SENATOR McGILL: Good advice. [LB208]

RICK KUBAT: I want to thank Senator Harr for introducing LB208. MUD is a gas and water utility in Omaha and surrounding communities in Douglas, Washington, Sarpy, and Saunders County. We have approximately 210,000 gas customers, 200,000 water customers. The reason why we're here today is because MUD is a political subdivision. We're operating under chapter 14-2101 through 2157. The purpose of LB208 is really to update and remove some obsolete language, some of which is roughly 100 years old. There's four aspects to Senator Harr's bill relating to the president's bond requirement, president's salary, permanent employees, and fire hydrants. Really quick on each one of those four, chapter 14-2109(5) requires our president to carry a meager $10,000 bond. We are self-insured. We have an insurance policy in place if our president were to be sued. To my knowledge, our president hasn't been successfully sued. Really what this does is it requires us to pay a premium when we already have a insurance policy in place. It seems to be redundant. I did some checking. I do not believe our counterpart at the Omaha Public Power District, I do not believe Mr. Gates is required to be bonded. We're just requesting that that bond requirement be taken away. I believe that that happened sometime towards the turn of the century. The second aspect is the president's salary. Chapter 14-2109(6), we would ask that language be stricken that says that compensation can't be decreased while the president is serving in office. Again, what this would ultimately do is give the board more discretion. Under the current law, I believe there's an argument that if an increase in salary occurs, if the board deemed fit they could no longer lower that salary. This would allow the board to lower the president's salary if they felt that such was necessary. The third point is a very simplistic issue, and that relates to permanent employees. Right now, chapter 14-2110 requires the board to vote unanimously to place all employees with one year of service on a permanent employee list. We just want to simplify it by making that automatic. In other words, you serve one year, you're automatically considered to be a permanent employee. The last aspect of Senator Harr's bill relates to fire hydrants, and that's under chapter 14-2126. Again, this statute, along with all the other points that I've spoke to you about, only applies to MUD. That statute requires MUD to place fire hydrants approximately 400 feet apart on the street. This language came into being in 1913. I got on-line and started looking at what fire trucks looked like in 1913. (Laugh) I think you had some steam-driven, maybe even horse-driven. And I think it was right around the time that the Model T was coming out, so you may have had some gas-powered engine. The most important aspect is I believe, and I'm not certain, but I believe what they were basing that on was the amount of hose that you could carry on a truck. Those trucks were, you know, a tenth of the size of the fire trucks that you see today. It was probably also likely based on some water pressure in the system. National standards tells utilities where to place fire hydrants. They look at such issues as urban density, whether in your residential or commercial area. As I understand it, right now the Department of Health and Human Services looks at this issue for all other utilities and what they have applied. They've applied a national standard known as the recommended standards for water works. What we're asking for is to be treated like other utilities in the state of Nebraska as it relates to that issue. All of that being said, I'll go ahead and do my very best to answer any questions that you may have. [LB208]

SENATOR McGILL: All right. Thank you. Any questions? Senator Krist. [LB208]

SENATOR KRIST: Fourteen-two-ten says no regular appointee or employee of a Metropolitan Utilities District except the individual appointed in 14-2109, which we've already talked about, "has been placed in service consecutively for more than one year," and then it basically removes the restriction or the need to vote on whether that employee becomes permanent. Does that apply to all employees including those in the union? [LB208]

RICK KUBAT: It's my understanding that it does. In other words, one year of service, you're considered to be a permanent employee. [LB208]

SENATOR KRIST: And there's no conflict with the union contract at this point? [LB208]

RICK KUBAT: Unfortunately I can't speak to that specific issue. [LB208]

SENATOR KRIST: I'm sure somebody is here can talk to it. [LB208]

RICK KUBAT: I'm not in the know, but there may be others that are present down here today that would be able to answer that one. [LB208]

SENATOR KRIST: Okay. And then the distance between the waterworks is good justification. Do you...does MUD service any parts of the state that don't have jurisdictional zoning authorities? [LB208]

RICK KUBAT: And if I believe I understand your question, I mean, we exist in the municipalities themselves such as the city of Omaha or some other areas will have additional zoning requirements that are in existence within their city ordinances as it relates to hydrant placement. [LB208]

SENATOR KRIST: Okay. Could you get an answer for me for that and feed it back to us, please? I'd like to know, of the areas that you serve are there any that don't have zoning jurisdiction boards or permitting processes or whatever is out there, because to be treated like the rest of the state I think that might be a concern. But we'll figure it out. Thank you. [LB208]

RICK KUBAT: I'll definitely get back to you on that one, Senator. [LB208]

SENATOR KRIST: Thank you, Chair. [LB208]

SENATOR McGILL: All right. Other questions? No. Thank you very much. [LB208]

RICK KUBAT: Thank you. Thank you for your time. [LB208]

SENATOR McGILL: I think you did all right for your first time visiting us. [LB208]

RICK KUBAT: Thanks. Little nervous today. Thanks. [LB208]

SENATOR McGILL: Understandable, but we don't bite. [LB208]

SENATOR KRIST: B-plus. [LB208]

SENATOR McGILL: (Laugh) Any other proponents? Oh, no, that is not a testifier. Okay. Any other proponents? He had me...oh, are you just getting a form, sir? [LB208]

ROBERT E. O'CONNER, JR.: Yes, ma'am. [LB208]

SENATOR McGILL: Oh, okay. We can have you fill it out as soon as you're done. That's okay. [LB208]

ROBERT E. O'CONNER, JR.: "Okie doke." Madam Chairman, members of the committee, my name is Robert E. O'Conner, Jr. I am an attorney from Omaha. I represent IBEW Local 1521. Senator Krist, to answer your question, the answer is no it does not conflict. Employees under the collective bargaining agreement are probationary for a year anyway, so it would actually dovetail. [LB208]

SENATOR KRIST: Thank you. [LB208]

ROBERT E. O'CONNER, JR.: And with the amendments that have been made to the bill as presented to you this afternoon, last year we made a lot of noise and we were unhappy. This year we are not making noise and we are not unhappy, so. [LB208]

SENATOR McGILL: You're making positive noise. [LB208]

ROBERT E. O'CONNER, JR.: We're making positive noises which is why I'm here on the proponent side today. [LB208]

SENATOR KRIST: If I had a bell I would ring it. (Laughter) [LB208]

ROBERT E. O'CONNER, JR.: That's all I have unless you have some questions. [LB208]

SENATOR McGILL: Any questions? I think you answered the one question we had, so thank you very much. [LB208]

ROBERT E. O'CONNER, JR.: And I'll fill this out for you. [LB208]

SENATOR McGILL: Thank you, yes. And just bring it up to Katie then when you're done. [LB208]

ROBERT E. O'CONNER, JR.: Thank you. All right. You bet. [LB208]

SENATOR McGILL: Other proponents. Any opponents? Anyone here neutral? Well, Senator Harr, anything you'd like to close with? [LB208]

SENATOR HARR: Just quickly. This bill was, as stated, brought to me by MUD, and you heard Mr. Kubat's testimony that he is a new employee. I've known Mr. Kubat for a long time, longer than I'd like to admit. But what I would say is I brought this on the merits in spite of Mr. Kubat. (Laughter) So thank you. [LB208]

SENATOR McGILL: Oh dear! All right. Thanks. And I do have one letter of support to read into the record from Ronald Wanek. (Exhibit 15) And with that, we will move on to the next bill which is mine, so Senator Murante. [LB208]

SENATOR MURANTE: Thank you, Chairman McGill, Chairwoman McGill. [LB404]

SENATOR McGILL: You were keeping the chair warm for me. Why thank you, Andy. What a gentleman. He puts on a good show. [LB404]

SENATOR MURANTE: Senator McGill to open on LB404. [LB404]

SENATOR McGILL: Thank you, Vice Chair, members of the committee. I'm here to introduce LB404. This bill would amend the Natural Gas Act by removing one of the two caps or limitations on jurisdictional utilities and the cost they can pass on to their customers to recapture their infrastructure expenditures. Currently, a natural gas utility can file for infrastructure system replacement cost recovery charges once per every 12 months, and this filing is outside of a full rate case. These infrastructure cost recovery filings are filed with the Public Service Commission and reviewed by the public advocate. The cap that is removed by this bill is the statutory language that prevents the utility company from charging more than 50 cents per customer over the base utility rates to recapture their expenditures on infrastructure. This bill would also remove the language that prevents any subsequent filing a minimum of 12 months later for any additional infrastructure replacement cost recovery from increasing more than 50 cents per month per residential customer. Okay. That was a lot of babble. But this was brought to me by folks with SourceGas. They'll be up next to explain their concern. This process was put into statute a couple of years ago and there were two caps in there to make sure that we weren't putting undue burden on the ratepayers. It seems that maybe it needs to be tweaked in some...to either get rid of the cap or maybe raise the cap a little bit to make it more practical for the natural gas companies to use. No one has used it yet, but I hope you'll just listen to the information and the testimony and we'll see if we can make some tweaks to this current law to make it more usable. [LB404]

SENATOR MURANTE: All right. Thank you, Senator McGill. Are there any questions? Seeing none... [LB404]

SENATOR McGILL: All right. [LB404]

SENATOR MURANTE: ...are there any proponents? [LB404]

LEWIS BINSWANGER: (Exhibit 2) Senator McGill, members of the committee, thank you for allowing me to speak today on behalf of SourceGas on LB404. My name is Lewis Binswanger, that's Lewis, L-e-w-i-s, last name Binswanger, B-i-n-s-w-a-n-g-e-r. What has been passed out is a presentation that I'll discuss today. But before I get into the crux of LB404 and why we'd like to have it amended, I'd like to give you a little bit of background first. Just on Slide 1, I mean, it talks about the pipeline industry in total and some of the recent events that have shaped pipeline safety in America. And part of it started back in '99 and 2000 when there were a couple of major incidents in which there were several lives lost, 12 in Carlsbad, New Mexico. Shortly after that, there was legislation, federal legislation, proposed that passed Congress and the President signed into law, an act called Pipeline Safety Improvement Act of 2002. And that addressed transmission pipelines, and those are pipelines that typically go cross-country. They're higher-pressure lines, things that connect to towns to towns. After that, Congress passed and the President signed into law another act in 2006 which was titled Pipeline Inspection, Protection, Enforcement, and Safety Act. And this one addressed more of the distribution system which are the lines that serve your typical developments, your homes, your businesses, and things of that nature. Subsequent to that, unfortunately, there were several accidents. I have listed several of them that occurred. You know, in 2010, 2011 where several lives were lost also. And SourceGas, as is the other natural gas utilities in the state of Nebraska, are very focused on pipeline safety. On Slide 2 I just want to show you the service territory of where SourceGas serves right now. We serve a large area, western Nebraska. The center area that's white is served by NorthWestern, and eastern Nebraska is by Black Hills. We have about 86,000 customers that we serve, about 204 employees that live and work in Nebraska. We have eight division offices. And importantly what we have is about 5,800 miles of main that run in Nebraska of which 4,600 are distribution that connect up some of the homes, and businesses, and 1,200 miles are transmission, some of the higher-pressure lines. In addition, in '12, in 2012, we're proud that we invested over $6 million in pipeline safety just in the state of Nebraska. And those facts are covered on Slide 3. Now Slide 4, before I get into really LB404 I just want to give just a slight primer on rate making and what we have to do when we file a rate case. Our last rate case order was issued May of 2012, so it was last year, and the commission did authorize about $5 million of rate increase. But what was interesting or not interesting but what was relevant in that case was total rate case expense, and that is for our outside attorneys and outside witnesses and consultants and experts along with the public advocate, witnesses, and experts, totaled $1.3 million to fully litigate that case. And that was quite a bit of money to litigate a case for 86,000 customers. Those $1.3 million are paid for and borne by the ratepayer. So we end up including that in the rates and the ratepayers go ahead and pay that over time. What we're hoping is that by modifying LB404 to address some of the major investments that we have planned for pipeline safety, that that would extend the time period in between rate cases and, thus, lower the cost overall to the customers and ratepayers in the state of Nebraska. The second bullet, just a general rule of thumb of what we use in SourceGas is that for every million dollars that we spend for pipeline replacement, that equates to about $100,000 of rate request. So even though we spend a million dollars, we're not asking for dollar-for-dollar recovery; we're asking for about 10 percent because the rate making formula, what it does is it says over time you'll have these facilities in place for a lot of years, therefore, you'll recover the cost of that over several years. And that's important because what we have planned over the next five years for pipeline safety and integrity in Nebraska is about $9 million a year. So what that equates to is about a $900,000 rate request for recovery under the statute that we will be talking about today. Slide 5. Part of the statute, and that's 66-1865 which is not covered under LB404, discusses a current floor and a cap and it was something that Senator McGill mentioned in her introduction. Currently, a jurisdiction utility cannot introduce or cannot request recovery for infrastructure replacement unless they first meet the floor, which is .5 of 1 percent of the jurisdiction utilities base revenue or a million dollars, whichever is lower, and they cannot ask for anything exceeding 10 percent of the jurisdictional base revenue level. Page 6 depicts that pictorially for each of the three companies in the state. So for Black Hills, that .5 percent floor would be $965,000, their 10 percent cap would be $19 million; for NorthWestern, $264,000, their 10 percent cap would be $5.2 million; and for SourceGas, our floor .5 percent would be $220,000, and our cap would be $4.4 million. So that being said, the guidelines of 66-1865 essentially state you cannot file unless you're filing...for SourceGas asks for more than $220,000 and your request cannot be more than $4.4 million. LB404, going to page 7, addresses two other sections of the statute, 66-1866 and 1867. And before I get into exactly the 50-cent cap, there are some items in there that Senator McGill mentioned that are requirements for us, for any jurisdictional utility to file with the commission. And that is for us to request any type of recovery, we do have to file with the commission. And the public advocate is required also to review the application and confirm that the costs are in accordance with state Natural Gas Regulation Act, that...confirm that all of the calculations were proper, and file a report with the commission. And the commission also is required to hold a hearing where anyone can testify on behalf of either customers, however the public advocate typically takes that role, and they will hear all the evidence. And then at the end of the hearing, they will go ahead and issue an order as whether we can recover under this particular statute. And then as Senator McGill pointed out, we can only do this once every 12 months and we can only do this for a period of five years. If five years has transpired and we're still collecting under this, we either have to file a rate case, a full rate case, or discontinue recovery under this surcharge. The last bullet on page 7 is what we're really talking about here, and that is such monthly charge shall not increase more than 50 cents per residential customer. And that is what we'd like to tweak in LB404. In Slide 8 shows it again pictorially what the challenge is for all of the companies here. Again, the red bar and the green bar show the current .5 percent floor and the 10 percent cap. And for Black Hills, the 50-cent cap only allows them to cover between the window of $965,000 and $1.1 million. So there's quite big gap between the 50-cent cap and a 10-percent cap. In NorthWestern's case, one interpretation of the current statute would state that they cannot even file under this because their floor is $264,000, whereas the 50-cent cap based on their customers is $247,000. So they're kind of left without being able to file under one interpretation of the statute. For SourceGas, our .5-percent floor would be $220,000 and our 50-cent cap would be $524,000. As I noted earlier, we are investing approximately $9 million per year in the next five years for pipeline safety. That equates to about $900,000 that would qualify under this statute. However, we're limited to $524,000. And that's why we'd like to have this 50-cent cap either adjusted...currently the way it's drafted is for...is to be removed completely. And in closing, Slide 9 just has a few statements that I'd like to make. The investments that are included for recovery under this statute are for pipeline safety and integrity. And typically these type of investments are not disallowed by commissions because they are for pipeline safety. The modifications to the statute would address the 50-cent cap per meter. And even though it would be modified and if it were approved by this committee, we would still have to file with the commission and we still have to get a full review by the commission and also the public advocate before anything would be approved. Now I have had some conversations with other parties and we do understand that eliminating the 50-cent cap entirely is problematic for some of the other parties. That being said, we are open to some middle point between the 50-cent cap and a 10-percent cap. And that's really where I am with this, so thank you. And open for any questions. [LB404]

SENATOR MURANTE: Thank you very much. Are there any questions? Senator Coash. [LB404]

SENATOR COASH: Thank you. Has SourceGas taken advantage of the ability to do the 50 cent per ratepayer already? [LB404]

LEWIS BINSWANGER: We have not. We have been filing rate cases about every other year, and what we want to do is try to get out of this cycle. In December, we were preparing our first filing and that's when we encountered the challenge with the 50-cent cap because we were basing it on the $6 million that we spent in '12, in 2012. We were preparing our filing, and as we were preparing testimony and exhibits we found out that we cannot file for full recovery because of the 50-cent cap. And that's when we started talking about how can we get this modified. [LB404]

SENATOR COASH: But you haven't even tried to file for under the cap. [LB404]

LEWIS BINSWANGER: Correct. [LB404]

SENATOR COASH: But this bill removes the cap. I'm just struggling to figure out how you want to remove the cap when you haven't even used what's available to you under the law already. [LB404]

LEWIS BINSWANGER: Correct. What we are preparing is a filing right now that we would file either way, either under the cap or hopefully if this gets modified so that we can request full recovery of the expenditures of 2012. [LB404]

SENATOR COASH: Okay. I think I'm starting to get it. Thank you. [LB404]

SENATOR MURANTE: Senator Krist. [LB404]

SENATOR KRIST: I'm going to try to lead into what Senator Coash just said. The fact that you've not used your 50-cent cap at this point does not mean that you've not reviewed rates, you've done it through a case rate process. [LB404]

LEWIS BINSWANGER: Yes. [LB404]

SENATOR KRIST: And that process cost you...give me that number again, it cost you one-point-something million that instead of being passed on at a 50 cent per was passed on at a recovery rate, but that was the litigation that was involved, correct? [LB404]

LEWIS BINSWANGER: That is correct. Because we have been filing rate cases about every other year at those high costs to fully litigate, we haven't had to use this statute as of yet. Because once you file a rate case, everything included under approval of the statute will get rolled into a full rate case. If you're filing rate cases every year, it just doesn't make sense to file under this statute. What we're trying to do is extend the time period in between rate case filings and reduce that amount of litigation cost that is borne by the ratepayer. [LB404]

SENATOR KRIST: So in summary, if we remove the cap partially or all, there would be less rate cases discussed, which would be less litigation paid for by the ratepayer. [LB404]

LEWIS BINSWANGER: That is correct. Yes. [LB404]

SENATOR KRIST: Thank you. [LB404]

SENATOR MURANTE: Thank you, Senator Krist. Are there any other questions?

Seeing none, thank you for your testimony. [LB404]

LEWIS BINSWANGER: Thank you. [LB404]

SENATOR MURANTE: Are there additional proponents? Welcome. [LB404]

JILL BECKER: Good afternoon, members of the Urban Affairs Committee. My name is Jill Becker, spelled B-e-c-k-e-r, and I'm a registered lobbyist appearing before you today on behalf of Black Hills Energy. I don't want to repeat a lot of Lewie's testimony, but I would just say that Black Hills Energy certainly supports the ability of all of the impacted natural gas utilities to be able to use this statute. And I think what you heard from Lewie's testimony is that just due to the differences in our company's and the number of our customers and how the mathematical equation is supposed to work that the statute doesn't work properly for them. So from that aspect, we would certainly support either removing that cap or increasing it so that they can fully recover the amount of expenditures that they make for pipeline safety. From Black Hills Energy's perspective, the cap would most likely be problematic for us at least the first year that we would potentially use the cap. But based on the language of the statute for that first year if we were over that 50 cents, we could roll that into the second year. So we could probably make the statute work a little bit easier than SourceGas could just because of, as you can see in the charts that were distributed to you, the differences in the way that our two companies can operate under the statute. One thing that I would remind the committee of is some of the questions that you had, Senator Krist, is that the necessity of a rate case prior to the filing of this type of tracker is needed because those rate cases establish the amount of rate base for the use of that tracker. And so as SourceGas was discussing and as in the case with us, too, when you are in the middle of a rate case either before the commission or before a court, those numbers are still in flux so you really can't adequately use the tracker because you don't know what numbers you're supposed to properly be using yet. So that's really all that I wanted to offer for information. With that, I'd be happy to answer any questions. [LB404]

SENATOR MURANTE: Thank you very much. Are there any questions? Seeing none, thank you for your testimony. [LB404]

JILL BECKER: Thank you. [LB404]

SENATOR MURANTE: Are there additional proponents wishing to speak? Maybe? No. Are there any opponents? Welcome. [LB404]

LYNN REX: (Exhibits 3 and 4) Senators, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we strongly oppose LB404, we respectfully but strongly oppose it. We are very concerned about this. We have two handouts for you. One is just a listing of the 14 municipally-owned natural gas systems in the state of Nebraska. But other than those 14 municipalities, all of the rest of them are served by one of the three investor-owned utilities. And a very quick background would be that in 2003, David Landis was then a state senator and is here today in a different capacity was the one that was a mediator and put together some very serious negotiations which resulted in local governing bodies and municipalities giving up the regulation of natural gas and making that a state regulatory effort for the Public Service Commission. And one of our major issues in that whole negotiation was that Nebraska have a public advocate which was strongly opposed at that time by the gas companies. But eventually it was conceded, which was important for us and we appreciated them doing that. And along the way, the reason why that's important, is because the public advocate has a very important role to play. Obviously the commission represents ratepayers. The public advocate represents basically also those ratepayers. And I think it's important to note that as you go through this process, in 2011 or rather 2009, the Legislature did pass LB658 which is what you have before you. The prior year in 2008, you had a bill that was very identical to what you passed and which you advanced out of committee. And that bill fortunately was killed in committee; the following year it was advanced and now we have LB658 in play. And as Senator Coash noted and, Senator Krist, you noted, none of the investor-owned utilities have filed one case even though at that time back in 2009 they told this committee that they needed to have it. They needed to have it for safety and they needed to have it now. They have yet to file one case under that. In fact, all of the cases that have been before the Public Service Commission have been for general rate cases. With that, what I've handed out to you is basically an opinion by Harding&Shultz that is our outside counsel, and they've prepared for you just their summation of the implications in LB658 as well as what LB404 would do to LB658 which is obviously LB658 being current law and LB404 how it would take the cap away. The only protection that ratepayers have essentially other than the commission itself obviously and the public advocate is the fact that state law has a 50-cent cap. And we certainly are not open to trying to remove that cap or negotiate that higher, especially when it's never been used. And I just would like to read very quickly from testimony that Roger Cox who was the public advocate, he is not...he is no longer the public advocate. But as the public advocate, Roger Cox gave this testimony on March 3, 2009, before this committee encouraging you not to advance LB658. You could oversize your pipes massively in hopes that you'll build a new subdivision in the future. Right now, that's the sort of thing we would resist--we, the Public Service Commission and him. Having the ratepayers pay the entire cost of currently doing so because the utility is doing that in contemplation of future services. Yet under this bill all of that would be recovered from the ratepayers. In the last Aquila rate case--of course Aquila is now Black Hills--there was a substantial amount, approximately $13 million of capital additions that the commission determined were not appropriately supported by the utility so they were not included in the utility's rate base. If this bill, which of course LB658 is now in effect, had been in effect at that time, the utility would have been able to recover those costs from ratepayers for years before we got to a general rate case. In essence, by taking the cap off, and the companies have already said they're going to be coming in for this, what you do is you do in fact preclude the necessity of a rate case. An overall rate case is the balancing of all of the costs, all of the expenses so that the ratepayers are effectively represented and the stockholders are effectively represented. Clearly companies and investor-owned utilities deserve a fair rate of return on their investment. That's never been the question. The question is, how do you balance those interests to make sure the ratepayers don't pay too much? And LB658 on its face in current law as well as LB404 even makes it worse by basically skewing that so that the ratepayers could end up paying for significant charges that perhaps are not correctly theirs to be paid for. So with that, I'd be happy to respond to any questions that you might have. But we do strongly oppose this bill. [LB404]

SENATOR MURANTE: Thank you. Senator Krist. [LB404]

SENATOR KRIST: One question and then a follow one to that. Your concern is that a bigger pipeline or the testimony said a bigger pipeline or a pipeline that is not necessarily in the interest of safety could be built and that the current ratepayers would be charged for that pipeline going in. Is that a good summary? [LB404]

LYNN REX: No. That is part of the concern. I think the overall concern, Senator, is that when you have an overall rate case, which is of course what SourceGas has done and we appreciate the fact that they've been doing that on a rather consistent basis, when you have an overall rate case, you have all the expenses, all the costs, everything is balanced, including the interest of the ratepayers versus the stockholders. When you come in with targeted infrastructure improvements, in other words, you're just taking a slice of it, that's all that the Public Service Commission and the public advocate would be reviewing is just that one slice. They're not going to review everything else. And my example was to point out that at the time of one of the rate cases that came in, a general rate case for Aquila, there were $13 million in costs that they wanted in infrastructure improvements and the Public Service Commission said no. So bottom line is you could have significant investments and whether it's for safety or not, that doesn't mean that all of those expenses should be borne by ratepayers. [LB404]

SENATOR KRIST: Okay. Because I'm a pilot we're going to use a real example here. We got Norfolk that needs a bigger pipeline going in. They've asked the gas company to put a bigger pipeline in. We dealt with this... [LB404]

LYNN REX: Yes. [LB404]

SENATOR KRIST: ...last year, year before last. How do they pay for that bigger pipeline that comes in if they can't...you're saying that the case rate process is the way to do that because all the details are examined, all the costs are examined. [LB404]

LYNN REX: Well, Senator, last year Mike Flood had a bill and that bill I believe was LB1114, and that bill in fact put in place a process for that very thing. So for the city of Norfolk because they're at maximum capacity right now, in order for them to grow economically they really do need to have some additional pipeline capacity. And so there are various pieces of that that this committee worked on and others and negotiated, and we weren't involved in those negotiations, to facilitate that. And they do have a different route, a direct route by which they can do that and, in fact, the municipality itself can help pay for part of that if they so choose to so. [LB404]

SENATOR KRIST: Okay. Then the follow one is, how cost-effective economically is it to continue to do a case rate? I mean, the legal fees and the study must be very expensive. [LB404]

LYNN REX: Well, Senator, I think that is...I agree that, you know, legal fees are expensive in these kinds of efforts, but a pittance compared to the amount of money that you're looking at when you are looking at these rate reviews and these cases and the amount of money that will be generated for years from ratepayers. So, sure, maybe all those expenses, and I don't have the numbers in front of me but I'm taking at face value what he said of $1.3 million including their legal expenses as well as the legal expenses by the state of Nebraska as well as the public advocate of $1.3 million. I don't know if that's accurate or not but even taking it at face value that it is, and I have no reason to believe he wouldn't be telling you something accurate, when you look at the millions of dollars that's generated, I would submit to you that that is, I'm not saying it's de minimus, but it pales in comparison to the exposure that ratepayers have in this state when you don't have adequate rate review. [LB404]

SENATOR KRIST: Thank you very much. [LB404]

LYNN REX: And what we're suggesting is it's extremely important to have a balancing of interests. [LB404]

SENATOR KRIST: Thank you. [LB404]

LYNN REX: You're welcome. [LB404]

SENATOR MURANTE: Thank you, Senator Krist. Are there any additional questions? Seeing none, thank you, Ms. Rex... [LB404]

LYNN REX: Thank you very much. Really appreciate it. [LB404]

SENATOR MURANTE: ...for your testimony. Are there additional opponents wishing to speak? [LB404]

RANDY GATES: Good afternoon. I'm Randy Gates, G-a-t-e-s, finance officer with the city of Norfolk, Nebraska, and I'm here to basically testify in support of Lynn's testimony against LB404. I think the best protection for the ratepayers is through the general rate making process and not a shortcut like this. [LB404]

SENATOR MURANTE: All right. Thank you very much. Are there any questions? [LB404]

SENATOR KRIST: That's a great testimony. (Laughter) [LB404]

RANDY GATES: Thank you, Senator. [LB404]

SENATOR MURANTE: Thank you very much. Additional opponents. [LB404]

JACK VAVRA: Jack Vavra, V-a-v-r-a, city administrator in York testifying for the League of Nebraska Municipalities. One time way, way, way back when the gas companies would come in and say we need this much money for everything, and the rate case would go. People would take a look at, then they'd get a raise or they wouldn't get a raise. Then they decided that the price of gas was a little too fluctuating and it was very, very difficult for them to determine how much gas was going to cost, so that was exempted. So whatever the gas cost, they get to recoup that without any rate review. And now it seems that we have something called some safety issues that since it has safety attached to it we should exempt that too. And this is just one more step in several steps that will take place over decades perhaps and getting very little review of any rates for the gas companies. I would entertain any questions. [LB404]

SENATOR MURANTE: Thank you very much. Are there any questions? Seeing none, thank you. Are there additional opponents wishing to speak? Welcome. [LB404]

LYNNE SCHULLER: Hi. Lynne Schuller, executive director of the Nebraska Propane Gas Association. I am not here for horses. (Laughter) [LB404]

SENATOR COASH: We were just going... [LB404]

SENATOR KRIST: That's too bad. Let's talk about horses. [LB404]

LYNNE SCHULLER: I represent the 140 marketers and associates across the state who sell propane. For those of you who aren't aware, propane is typically considered more of a rural fuel. It's more portable. Natural gas, you need significant infrastructure to lay those lines to get those to the customers, so they're typically in more urban areas, Lincoln, Omaha, and Norfolk, those kinds of places. Propane is more cost-effective for those rural communities that are much more spread out and you can get the fuel there more efficiently. In other states what has happened is that they have to show...typically the laws say that, you know, if you're dragging a line out to a new housing development or something, that cost has to be spread among the new ratepayers where the line is going. Natural gas companies have come in in other states and said we don't want to do that. We would like to spread these costs among every ratepayer we have. And which...and as the natural gas company is getting larger and larger, those costs can be spread out over millions of customers instead of having to spread the cost to those few people that they were dragging the line to, thus, being able to infinitely expand their market and spread it out to every ratepayer in the community. We don't think that that's the most efficient use of resources. We don't think that that's fair to the ratepayers who live in Omaha that would have to pay for a line going out to someplace five miles down the road. And we just think that the current state of affairs is much more fair to everyone involved and that if you take this cap off, it opens a can of worms beyond what is being contemplated in this bill I think. [LB404]

SENATOR MURANTE: Thank you for your testimony. Are there any questions? Seeing none, thank you. Are there any additional opponents wishing to testify? Are there any neutral testifiers? [LB404]

JERRY VAP: (Exhibit 5) Madam Chair, members of the committee, I'm Jerry Vap and I'm the commissioner that represents the fifth district of the Public Service Commission. And SourceGas serves probably 70 percent of the district I represent and NorthWestern serves the rest. I'm here today testifying in a neutral capacity. The commission agrees that the most important job...I gave you the wrong papers. You get these. That's (inaudible). (Laughter) She was looking for enough copies for you and so. The commission does agree that the most important job of a natural gas public utility is to provide safe and reliable natural gas service for Nebraska ratepayers. The natural gas infrastructure replacement mechanism can be a helpful tool to the utilities in that effort but only if the amounts that may be collected are meaningful in the light of the costs that the utilities must incur. We have a concern about eliminating the cap entirely without providing some other protection for the ratepayers. The costs we are talking about would otherwise be borne by the utility until its next rate case. These costs are shifted to customers who will pay higher rates sooner. Such an approach has its benefits, allowing the utility and consumers to avoid costs associated with annual rate cases; reducing the rate shock to consumers during the subsequent rate cases by gradually including costs in rates; providing utilities with a more stable return on infrastructure investment; and reducing regulatory lag rates. However, these benefits must be balanced with reasonable protections for the customers. The current cap of 50 cents is the amount that the surcharge may increase each year. As a result, after five years a utility could implement a rate increase of $2.50 without full commission review. If the 50-cent cap isn't adequate, some type of limit--whether it is a higher overall cap or perhaps a limit on the size of the project itself--is necessary to ensure that the cumulative impact on customers is kept in check. The current law allows a maximum project size that would easily generate a monthly surcharge of $3 to $4. If the surcharge were allowed to increase by the same amount each year for five years, a customer could potentially see a charge of $15 to $20 per month on their bill on top of all the other charges. While infrastructure costs are necessary and important, outside of a rate case, the commission is unable to examine whether there are any cost savings by the utility that should be passed on to the customers. In summary, this proposal presents important considerations for the committee to evaluate. The commission would be happy to work with the committee and the utilities on finding an appropriate solution to the concerns we have raised. I'd answer any questions you may have. [LB404]

SENATOR MURANTE: Thank you, Commissioner Vap. Are there any questions? Seeing none, thank you for your testimony. [LB404]

JERRY VAP: Thank you. [LB404]

SENATOR MURANTE: Additional neutral testifiers. [LB404]

WILLIAM F. AUSTIN: Good afternoon, Chairman McGill, members of the committee. My name is Bill Austin. I've been recently appointed as public advocate on natural gas matters by the Public Service Commission. And I apologize. Being more than relatively new to the position, I find I have a considerable amount yet to learn on a number of issues. One of those areas of learning includes the infrastructure system replacement cost recovery charges. There are some things I know and some things I think I know about this. Our provisions regarding this these charges appear to be patterned after the Gas Safety and Reliability Policy Act of Kansas. That act has a 40 cent per month cap on such charges for residential customers, and Kansas to my knowledge is still operating under that 40-cent cap. Our act currently has a 50-cent cap. I initially felt I would be here testifying in opposition. And I would have to tell you that if the cap were completely removed, my position as public advocate would remain one of opposition. As you know, the 50-cent cap is just one part of the formula. Neb. Stat. 66-1865 provides a floor of recovery of the lesser of $1 million or .5 of 1 percent of the jurisdictional utility's base revenue. It provides a ceiling so that the infrastructure system replacement cost charge will not produce revenue exceeding 10 percent of the jurisdictional utility's base revenue. Take, for instance, SourceGas with a $44 million base revenue level. That would theoretically permit a maximum of $4,400,000 to be recovered. That would equate to a surcharge of $4.20 per month for the first year. That is what is tempered at the present time by the 50-cent cap. Now again as I say, if the cap were being removed completely, I would have to say that I would be opposed to this bill. The utilities have indicated they're willing to discuss whether there's some proper adjustment that can be made to the cap to accommodate their operations. And in that regard, I for one am at least willing to see what can be worked out. I believe there are a number of aspects that we also ought to look at in addition to the 50-cent cap. That would include whether or not the 10 percent maximum recovery based upon the jurisdictional utilities base revenue level is too high. Ten percent is quite a bit when it would generate $4.4 million of recovery charges. Perhaps that should also be reduced at the same time to 5 percent. I think there are some questions as to exactly what all ought to be included within this infrastructure recovery. And we need to be sure that those charges and costs that are being recovered are actually related to safety and not just replacement costs. So I'm here just in a neutral position indicating that I'd be willing to look at whatever alternatives that the utilities might be willing to suggest other than complete removal of the cap. [LB404]

SENATOR MURANTE: Thank you for your testimony. Senator Coash has a question. [LB404]

WILLIAM F. AUSTIN: Oh, I'm sorry. [LB404]

SENATOR COASH: Thank you, Mr. Austin. And I just want to clarify something because you said you were neutral... [LB404]

WILLIAM F. AUSTIN: Yes. [LB404]

SENATOR COASH: ...but you'd be opposed if we removed the cap. [LB404]

WILLIAM F. AUSTIN: In total. [LB404]

SENATOR COASH: In total. The bill in front of us removes the cap in total. [LB404]

WILLIAM F. AUSTIN: Yes, I'm opposed to that. [LB404]

SENATOR COASH: Okay. So this is kind of my thing, Mr. Austin. If you're opposed to it, just say you're opposed to it. But the bill in front of us does remove the cap entirely. [LB404]

WILLIAM F. AUSTIN: I'm happy to say that I'm opposed to the bill in front of you. [LB404]

SENATOR COASH: Okay. [LB404]

WILLIAM F. AUSTIN: I talked with SourceGas the other day. They indicated some willingness to at least discuss alternatives, and for that reason, I'm willing to say I'm here to listen. [LB404]

SENATOR COASH: Okay. I appreciate the clarification. Thank you, Mr. Austin. [LB404]

SENATOR MURANTE: Thank you, Senator Coash. Any additional questions? Seeing none, thank you very much. [LB404]

WILLIAM F. AUSTIN: Thank you. [LB404]

SENATOR MURANTE: Is there any additional neutral testimony? Senator McGill to close. [LB404]

SENATOR McGILL: Thank you, members, for listening and trying to follow along and understand this issue. I'd like to thank the Commissioner and Mr. Austin and welcome him to his new job and thank them for their testimony because basically what they said is exactly what was on my mind when I agreed to bring this bill, that I was hesitant at first and then I listened to SourceGas and saw that maybe there is an issue that we can help them resolve. Even though I introduced the bill, I don't even care for getting rid of the cap. Like I would like to see another number in there or maybe we tweak with the number of years they're allowed to do it. Maybe it's raising the cap but then saying you could only do it once every five years as opposed to once a year, four, or five years. You know, and playing around with some of those other things to see if something...we can work out something that would be a little bit more workable but still protects the ratepayers. [LB404]

SENATOR MURANTE: Thank you, Senator McGill. [LB404]

SENATOR McGILL: Thank you. [LB404]

SENATOR MURANTE: Are there any questions? Seeing none, that ends the hearing on LB404. I'm going to turn the chair back over to the Chair. [LB404]

SENATOR McGILL: All right. As Senator...oh, Senator Dubas is here. Wonderful. And she is here to open on LB529. [LB529]

SENATOR DUBAS: (Exhibit 6) Good afternoon, Senator McGill, members of the Urban Affairs Committee. I think this is my maiden voyage with this committee, so. [LB529]

SENATOR McGILL: Really! [LB529]

SENATOR DUBAS: Yes. [LB529]

SENATOR McGILL: Oh, wow! [LB529]

SENATOR DUBAS: I don't know. I guess from rural we don't have a lot of urban issues, but I'm going to make an exception today with the bill that I'm bringing forward to you. My name is Senator Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent Legislative District 34. LB529 proposes to amend the Community Development Law which governs the operation and administration of tax increment financing. TIF was first authorized by a constitutional amendment in 1978 and has been modified over the years, particularly in 1997. The Legislature went into great detail with the intent language for this act. That language clearly states that it is in the public interest to help municipalities where areas have deteriorated to the point of making them economically and socially undesirable for development. The prevention and elimination of blight is a matter of state policy and public interest. The blighted and substandard determination is based upon: lack of sufficient economic activity, public and private infrastructure, job growth, wage levels, population growth, low and moderate-income housing, business expansion, and new construction. These conditions have prevented economic and population growth and need extraordinary remedy. Those are pretty clear parameters for the use of TIF. I know you will also be hearing about a proposed constitutional amendment that will remove the blighted and substandard language and replace it with areas in need of rehabilitation and redevelopment. That will certainly loosen up those guidelines. This bill presents the other side of this issue, and I believe the questions raised by LB529 should be a part of that dialogue. Clearly, the Community Development Act was passed to serve a very important purpose, and our communities all across the state have taken advantage of tax increment financing to help improve their economies. I certainly do understand the challenges of effective economic development, especially in rural communities. So my reasons for proposing changes to TIF are not driven by my lack of support for the positive changes that have occurred because of this program. Over the years, changes have been made to the program to ensure its appropriate use. Reforms made in 1997 required cities to include a cost-benefit analysis of a proposed TIF project to determine if it would have a net beneficial impact on the city. By doing this analysis, you can examine the economic activity as well as the impact of the lost tax revenue. The changes further defined explicitly that funds generated by TIF could only be used to serve the property which generates the funds. In more recent years, the Revenue Committee has introduced bills and conducted interim studies to examine TIF and if its uses are excessive or too far away from that original intent language. These concerns are gaining momentum as school districts look at the impact of these projects on their budgets. I understand that school administrators are somewhat hesitant to express their reservations because they certainly don't want to stand in the way of economic development. But yet in a time of budget restraints, questions seems to be picking up. I know one of my communities has a representative from their school district on their redevelopment board to ensure the district has a voice in any decisions that they make. But I think the question is, do we really know how many dollars we are putting into our state aid formula to compensate for TIF? Supporters of TIF say it spurs economic growth in blighted areas where it's needed. It also provides incentive for projects that would not otherwise happen. TIF plans can be considered cost free since the same amount of tax will go to local governments and then the increased taxes at the end of the tax break will again return to those local governments. Opponents say it's too easy to massage the definition of blighted and substandard. And how do we know that such projects would not be built without the TIF financing? Does it give developers an unfair competitive advantage? Do we encourage developers to depend on government financial support rather than taking the risks on their own? And how do we determine if we are serving a public or a private purpose? I have communities in my district who use TIF as a very effective economic development tool. I also have communities in my district who prefer to limit their use of this program. My interest in TIF was sparked by conversations about state aid to education. The opinion was put forward by some that we are essentially subsidizing economic development through the state aid formula. The more communities have tied up in TIF projects, the less their resources, therefore, skewing the state aid formula to their advantage. Where is the line that determines if TIF is tipping the balance from a positive to a negative in relation to its impact on other political subdivisions? Does it erode the tax base or simply delay financially realizing the growth by a few years? I read a research paper and it was full of lots of formulas and equations so I wasn't tracking completely with that research paper, but the gist of the paper was trying to make that determination as to what are the benefits versus the negatives with TIF. And the final analysis of the person who wrote that paper was TIF may neither be a friend or a foe but rather both depending on the magnitude of its presence. So as I listened to the conversations and look at reports and news articles about TIF, it seems balance may be what I'm looking for and others as well. So have the requirements for the cost-benefit analysis meeting blighted and substandard definitions and the but-for language put effective checks and balances in place. I am by no means an expert on this issue. And as I look at the number of projects reported from 1996 to 2011, it appears there has been significant growth. And if you have a program in place, you hope that people are using it. We started out with 149 projects that were reported in 1996. We are now at 603 in the 2011 latest report. Those projects represent significant dollars that will not immediately find their way to local government budgets. The 2011 report to the Department of Revenue showed the TIF excess taxes levied at $53.9 million. With LB529, I have attempted to place limits on the use of TIF funding through two mechanisms. First, limits the projected...the project valuation, that is the value of the property before any improvements are made or the frozen valuation for all TIF projects in the city at 1.5 percent of the city's total taxable value. The second limit, limits the current valuation minus the redevelopment project value or the excess value to 5 percent of a city's total valuation in that current year. Deciding what are the appropriate percentages is certainly not easy. Each community has unique needs, so should this formula be a one-size-fits-all approach? As I continue to hear concerns from other political subdivisions, especially schools...do communities or community development boards need to...a stronger criteria to prioritize TIF projects? Again, I do want to appreciate what TIF does for economic development but feel we should go back to what this program was originally intended to support and make sure that we are not writing blank checks for projects that are costing us in other areas. I also believe we should be able to make the case to our local subdivisions that how we use TIF is providing a good return on their investments. I do have some handouts here that will show where all of the communities are at as far as if they were to have to meet this 1.5 and this 5 percent limitation. So that's just kind of for your view. Again, I'm not an expert in this field and I've talked to a lot of people who understand this far better than I do. But I know we're going to have a discussion about TIF. I'm probably not the most popular girl at the ball right now with this particular bill but, you know, feel I want to represent that constituency who have raised this concern with me. And if we're going to have a TIF discussion, let's have a TIF discussion. So I would try to answer any questions you may have. [LB529]

SENATOR McGILL: Thank you, Senator Dubas. And I look forward to...thank you for compiling this research too. Are there any questions from the committee? Senator Krist. [LB529]

SENATOR KRIST: Just a quick comment. You'd be surprised the number of superintendents that have come into this and made that...their opinion known. So it is a concern in how it relates to the school districts, so. [LB529]

SENATOR DUBAS: And I do appreciate their reluctance to be very...real verbal about this because we do see...and they appreciate the fact that the economic development will eventually help them. But it does impact their budgets and what they do financially. So I think it needs to be a part of that discussion. [LB529]

SENATOR KRIST: Thanks. [LB529]

SENATOR McGILL: All right. Thank you. Any other questions? No. Thank you very much. [LB529]

SENATOR DUBAS: I do have to go back to my committee. If I have the chance, I'll try to come back... [LB529]

SENATOR McGILL: Okay. [LB529]

SENATOR DUBAS: ...just to listen, but otherwise I'll waive my closing. [LB529]

SENATOR McGILL: All right. Sounds good. [LB529]

SENATOR DUBAS: Thank you. [LB529]

SENATOR McGILL: We will take the first proponent. Anyone here in favor of LB529? None of those school districts showed up. (Laughter) Sorry, Senator Dubas. Any opponents then? Senator Landis. [LB529]

DAVID LANDIS: (Exhibits 7 and 8) Thank you, Senator. Members of the Urban Affairs Committee, David Landis, the urban development director for the city of Lincoln. City of Lincoln has been using this tool and increasingly so over recent years. We have a body of evidence to share that we think substantiates the significant public purpose that Senator Dubas was kind enough to recite for us. TIF basically tries to allow the marketplace which has stalled in dilapidated and substandard areas to be rejuvenated. And the reason that the market stalled in those locations is because if you have an empty or an abandoned building, when you buy that property you buy an abandoned building which you don't want. You demolish that old building which you don't want to pay for to begin with and then it's costing to demolish. If there are environmental concerns, you have costs associated with that so that you can get down to a piece of property that you then want to build on. Compare that to building at the edge of a city in a suburb where there are no abandoned buildings. There are probably very few environmental costs. The land is owned by one person usually. And, of course, it costs the city to run the infrastructure out there, but it's the most convenient place to build in a city--at its edge--if you're a private developer. Costly for the city because it expands the infrastructure system, not costly for the private developer. It's why cities would like development in the core area--older, already has infrastructure. But if it's dilapidated, then the market will naturally go to the suburbs and leave this alone. And the reason is, it will be more costly to build in this old area than it will be someplace else. TIF steps in and says this: Look, we'll allow you to invest in this property. You got to keep paying the taxes that you're paying now. But for 15 years, we will divert the taxes from other political subdivisions and we will spend it on the public enhancements that accompany this. If you need new utilities, we'll help pay for them. If you need a site preparation or demolishing, this money can help pay for that. If you need utilities to be strengthened or run to this location, if you need streetscape to be operative there, if you rip up the sidewalks, we can replace them with TIF dollars. There's a set of public purposes for which TIF dollars are spent. At the end of the 15 years, the developer has had this tool to allow this dilapidated location to be economically feasible. Been paying taxes the whole time, but have been going towards the project. After the 15 years, they go on the tax roll. What do we know about results because everything here I think is really results? And we do have a body of evidence in Lincoln now. It's because we've now had TIF long enough that it has run the 15 years, the books have closed, and then we can analyze where we were before, what we spent in the 15 years, and what's happened in the subsequent years. Here's what we learned. Fifteen projects have run their course. Those 15 projects totaled altogether $15 million of tax valuation when TIF began. New buildings on many of those structures. At the end of 15 years, that $15 million of valuation, $15 million, had grown to $105 million. Today, that's $170 million. It was $15 million; today it's $170 million. When TIF began on those projects and when you added all 15 locations up, they paid $330,000 of taxes a year. Today now that they're out of TIF and paying taxes that go to everybody, the total is $3.4 million. That's a growth of over 1,000 percent. During the 15 years, we totaled up how much money we diverted to help these projects be built and the answer was $6.8 million. Since the 15 years have closed and have been paying full taxes to everybody, they've paid over $30 million in taxes. Lincoln Public Schools did without $4 million during that 15-year period that went to the developers so that they could make these projects work. It didn't come into the General Fund, it didn't get dispersed to everybody, and the schools didn't get those $4 million. In the subsequent years, they've gotten $21 million. And every year, they get $2 million of the $3.4. A little bit more than that, they get about $2.4 million. In the entire 15 years they forewent about $4.2 million. They now get that about every...well, about two years because of the growth. You have to wait. You have to let this work. But on the far end, it's not the private sector that is the chief beneficiary, although they are. But a city that grows 1,100 percent in valuation, 1,000 percent in taxes, and whose political subdivisions get I think a very handsome return on their forbearance while all the time replacing dilapidated buildings with new and better ones. That's a good deal. This cap kills Lincoln if we interpret it correctly. We are at one of the two caps in the bill and we stop. When we stop, this which is the 4-H building on the state fair campus on the west side, ceilings, as you can tell, ripped up like that and makes the repair of that building incredibly costly and, therefore, it hasn't been done for the last 20 years. The private developer who wants to do Innovation Campus wants to take that building, refurbish it, and connect it to other tissue. The reason the private developer can turn this, which we've watched happen for 20 years and have no private sector money to do anything about, to this is because of TIF. It's the Sam Lawrence Hotel and a bunch of one- or two-story structures, swappers paradise. It's now Embassy Suites. Major convention center in Lincoln. This was the Earl Carter Lumber Company that had fallen into not particularly strong times. They wound up moving. They're still open. This is the Assurity building that took its place. Dilapidated building--new $50 million building. Thirteen empty tracts used for storage, now the arena. TIF is at the heart of that project. This was an abandoned building down in the Haymarket. It's now this hotel which opened up this last year. This is the old Valentino's building. The back side of it, it was StarShip 9. One- or two-story buildings. It's now a ten-story building with about $25 million of investment, private sector, and is open in Lincoln. There is a picture like that for 40 or 50 projects in Lincoln, and the befores and after are that dramatic. I'm here because I'm not the economic development director for the city of Lincoln; I'm the urban development director which means I want to attack blight, substandard conditions, dilapidated buildings, problem properties, and a rotting core and replace it with new, fresh development like that. It's good for the city. Thank you. [LB529]

SENATOR McGILL: I'm sorry. Senator Krist. [LB529]

SENATOR KRIST: Talk to me about the definition blighted, substandard. She would change that definition. [LB529]

DAVID LANDIS: I think it happens in another bill, Senator. [LB529]

SENATOR McGILL: That's in the next bill, Senator Krist. [LB529]

DAVID LANDIS: It's in the constitutional amendment... [LB529]

SENATOR KRIST: Oh. Should have read this one. (Laugh) [LB529]

DAVID LANDIS: ...they altered...they choose to alter the phrase blighted and substandard. They don't remove the standards, but they call the standards at the end another topic. [LB529]

SENATOR KRIST: Okay. [LB529]

DAVID LANDIS: And the reason they do that is because telling somebody their property is blighted and substandard is a slap in the face. We think that it will be less problematical if we say this is an area that could use redevelopment and refurbishment. But if my recollection is correct, there is no change to the statutory definitions. It's that the statutory definitions will add up to an area that requires redevelopment and refurbishment could use that. [LB529]

SENATOR KRIST: Are you going to testify on the next one as well? [LB529]

DAVID LANDIS: I won't, no. [LB529]

SENATOR KRIST: Okay. Well, thank you for that. And then the other question for you is... [LB529]

DAVID LANDIS: You're welcome for not testifying on the next bill. (Laughter) [LB529]

SENATOR KRIST: No. Thank you for the... [LB529]

DAVID LANDIS: Happy to, happy to have me not testify. [LB529]

SENATOR KRIST: Let me rephrase that. Thank you for the information not... [LB529]

DAVID LANDIS: You bet. No problem, Senator. [LB529]

SENATOR KRIST: ...not for your not testifying. Senator, you know, you've been part of this structure for a long time and a recognized expert in the area, and Lincoln is lucky to have you. [LB529]

DAVID LANDIS: Thank you. [LB529]

SENATOR KRIST: I think though a concern could be that TIF can be your worst enemy and your best friend. If you TIF and you build a strip mall, for example, and you give away and you do without within that school district and 15 years later you can't fill that strip mall, then you have a real dilemma. [LB529]

DAVID LANDIS: You don't have real growth... [LB529]

SENATOR KRIST: Right. [LB529]

DAVID LANDIS: ...and you've forgone perhaps resources for a very critical public... [LB529]

SENATOR KRIST: And I think that's part of Senator Dubas' aim is that without that expertise and that oversight, that we could give away the farm and never get the eggs. So do you want to talk about that for a minute? [LB529]

DAVID LANDIS: I will because you've raised such a good question. It does have a history in the city of Lincoln and we have a history that tells us the point at which we overstepped the use of TIF with respect to our school system. We had a project that we were going to do on north 56th Street before the Beutler administration. But that we took some land that was essentially green land and we agreed to a developer to do several things, including building single-family homes, a subdivision. The schools, which have not objected to use of TIF in Lincoln, stepped forward and said, wait a second. This isn't core area property that's been paying taxes for 60 or 80 years. These old buildings, they've been paying taxes for 60 or 80 years. Now they're dilapidated and we want better ones, but they have been paying taxes for a long time. School says, no, no, no, no. This is green land. This never paid taxes to us, but you're going to fill it with homes and they'll have kids and they'll send the kids to us. You will increase our obligations and you will give us no new resources. And at the point that that was clear to us, we have established a line of communication with our public school system. On occasion for some of these projects, I've called up the superintendent and timely tell you about the project. There have been times when they've said, h'm, it's on the fence. There have been times when they've said...I've had a time they said we're not crazy about that and, in fact, we didn't do it. But the story that they've told us is this: don't turn green land into homes that give us kids and no tax base. And we have observed that. But you know, Senator, we did that because we called up another political subdivision in our area. [LB529]

SENATOR KRIST: Imagine that. [LB529]

DAVID LANDIS: Five-hundred and twenty jurisdictions in the state of Nebraska, all of them municipalities. We vary in how we do business, and a state law will not fit well that variation. We hope we've handled the public trust well. On one occasion we stepped too far. But I will say this. It's taught us to speak to our public school system. And they would be here objecting I think because they care a lot about our schools and they need all the resources they can get if they thought we were taking money out of the till and not putting it back. The record is pretty darn good in Lincoln, though, if you take a look at those 15 projects that we know what happened. They've been well compensated for the forbearance that they've shown. [LB529]

SENATOR KRIST: Thank you. [LB529]

SENATOR McGILL: Thank you. Any other questions? Thank you, Senator Landis. Next proponent...or opponent, I'm sorry. I forgot where we were. Hello, Ricky. [LB529]

RICKY CUNNINGHAM: Good afternoon, R-i-c-k-y Cunningham, C-u-n-n-i-n-g-h-a-m. I am the planning director of the city of Omaha. And this continues to be tough to follow my friend from Lincoln but I'll try. As I've testified before, we are obviously in opposition of any kind of bill like this that would limit our use of TIF. And, in fact, in this case because of the selected percentages, I'd like to say that TIF would be terminated, and I use that from the movie The Terminator. We will be terminated in the city of Omaha as far as TIF goes. And that is because of the percentages used. This was also similar last year with LB918 because of the percentages used with terminated TIF in the city of Omaha. I think I'm comfortable in saying based upon and put from the League that this would terminate TIF in a number of cities and villages across the state of Nebraska. In particular just looking at the formulas, it does take interpretation and we took two weeks to get what we think is the right interpretation. In the formula, single (i)--I don't know if that's one (i), two, whatever--we would actually be at .6 based on the 2012 CTL report. And I think we...based upon the introducer, Senator Dubas, I think we have the right interpretation of it. That is just based on 2012. It does not factor in any TIFs that we are working on, any TIFs that we are planning, any dreams that we have in focus areas within the city of Omaha for redevelopment and reinvestment. Very quickly, that will move to .7 if I throw in just two what I call big kahuna redevelopment projects. That's the Crossroads redevelopment project and the Capitol District redevelopment project. So with two projects, that goes from .6 to .7. So won't take very much before we're done with that 1.5 percent. In the case of formula (2)(i), we are already there. We are currently at 5.16 percent, and if I add in those two big kahuna projects which I wouldn't be able to add in because we are already over, we would go to over 6 percent. I talk about the areas that we want to focus on in the city of Omaha that we think appropriate for the use of TIF. The downtown, I don't think anybody can argue about the investments that have been made in downtown. To turn downtown around, we still have work to do. I mention the Capitol District, that's the Pinnacle food site. That is a site that's currently a parking lot; before that it was a vacant manufacturing facility. And it is currently a parking lot, a surface parking lot. It's not even a structured parking garage. It's a surface parking lot. And then of course in and around the major investment that the city has made in private entities within the city and the Qwest Center, excuse me, CenturyLink Center and the TD Ameritrade Park, we have a lot of redevelopment and reinvestment dreamed for in what we call the NoDo area. Don't ask me why we call it that, but the north downtown area. In Midtown West, we want to continue to invest in that area. In particular a project that's going forward now, the former Target site who has been vacant for six to ten years. The Omaha Steel Castings site which is not vacant yet but will soon be vacant, and the reason why it will be vacant is because it is a historic foundry that is way beyond its serviceable life. And that's why Omaha Steel

Castings decided some time ago that they needed to move because that building is costing them money. That site provides us 29 to 30 acres when added to other acreages could force multiply with some righteous redevelopment in and around the Med Center and what I call health center. The Crossroads redevelopment area I just indicated is a key area that we want to focus, and TIF is on the table for that area. The Ak-Sar-Ben Village, we have used TIF to create that wonderful redevelopment area, and there is area now to the south that we need to expand the vision of the Ak-Sar-Ben Village. Our airport business parking probably more importantly, a new one that we're working on at Ames-Locust, we had...the only way that we could make that project work to get shovel-ready sites which are very important to bring manufacturing jobs to the area in the city of Omaha with the highest unemployment rate and the highest poverty levels in the city of Omaha, I'm talking 30 percent unemployment and 50 percent poverty levels, we need that new industrial park shovel-ready sites to get new jobs there. We are targeting between 400 and 700 new jobs right there where the jobless are. Then, of course, we've got plans for north Omaha and the village revitalization area. My hometown, my area of Omaha, we have great need there. We have been investing there and we need to invest more with a new village plan which I'm very excited about, about what can be done in north Omaha. Again, if we don't have TIF, none of this stuff is going to occur. My...well, he left. Okay. Dave had talked about the benefits and the results of TIF in Lincoln. We, too, and you've heard this before, have the same kind of evidence of how effective TIF really has been. And what I want to give you is just a sense of how we don't approve everything that walks in the door for TIF. We are looking for the biggest and highest return on the investment. Over the past 11, 12 years, we have been successful in getting a leveraged rate. For every TIF dollar, we get approximately $11 of investment in that local community. So that's how we measure it with the leverage factor. You've heard about the fact that we've got 67 paid off debts, a little bit more than Lincoln. The value of those projects increased over 1,000 percent to 2011. We haven't checked it for 2012. They had increased 734 percent on the average by the time they paid off; 2011, 1,000 percent. Last year, we also talked about the fact that the concept in our minds, TIF is a rising tide, lifts all ships. And so what that says is if you invest in a dilapidated building, as Dave indicated, or an area that is subpar, performing at a subpar level for the city, if you invest in that area you will impact the areas around it. We studied five TIF projects that are current and operational across the city. And of those projects, 70 percent of the deferred tax revenue from the projects themselves was covered by increase in tax revenue from the properties within 300 feet, three blocks, around the project. That's significant in that same time period which was five years from 2007 to 2005 (sic), what happened to our economy? It went down. Housing values went down. In all of these cases, in all five of these cases, all five of these TIF projects, the property values--residential, commercial, and otherwise--around them all increased from the lowest 14 percent to the highest being 27...44 percent. And so...and that's what leads us to the fact that 70 percent of the deferred taxes, those taxes they wouldn't get anyway, those taxing jurisdictions, 70 percent of that was covered by an increase in the taxable valuation around the projects. [LB529]

SENATOR McGILL: Ricky, I'm going to ask you wrap up here. [LB529]

RICKY CUNNINGHAM: Well, you don't have the lights. [LB529]

SENATOR McGILL: I know there's no light system, but...and you...do any committee members have more questions or...? [LB529]

RICKY CUNNINGHAM: Just one more quickie. [LB529]

SENATOR McGILL: Okay. [LB529]

RICKY CUNNINGHAM: One of the reasons why I don't think that you hear, at least in Omaha, about...from OPS about the impact on them is that because they are reaping the return on their investment every year now. We have a table showing what the new tax revenue coming on board on a yearly basis for four years, that's roughly $95,000 per year per TIF project that's coming on board; 2.8, 2.9 for those four years. So at least at OPS, they are seeing this amount coming back. That's just the direct tax revenue. The increase in value is $132 million over those years. That doesn't include I believe the big...one big kahuna project and so these are smaller projects. The one big that we're looking for coming off is the First National Tower. That a big kahuna project. We also created nearly...in two years, 1,300 jobs; that's 309 permanent FTEs and over 630-something in...excuse me, 920 in construction over two years. So there are benefits to TIF. There are benefits broad-based. And so if you shut it down in Omaha, you are going to shut down a lot of great things that could occur in the future that would be adding return on investment for years to come. If you didn't know, we strongly oppose this bill. [LB529]

SENATOR McGILL: I appreciate your passion for TIF. Any questions? [LB529]

RICKY CUNNINGHAM: Any questions? [LB529]

SENATOR McGILL: Nope. Thank you very much for coming down, Mr. Cunningham. Next opponent. [LB529]

JACK VAVRA: Jack, J-a-c-k, Vavra, V-a-v-r-a, city of York, League of Nebraska Municipalities. And I will be brief but I am going to give you some numbers that you haven't been given yet. When I heard about this bill and that 5 percent impact, you're taking 5 percent of a municipality's valuation and then relating it to a school district. What happens when you do that is the larger the school district and the city, the more impact there is on the school district. The smaller the municipality, the less impact there is on the school district. Took three school districts, one who's McCool Junction in York County. The valuation of McCool, the village, is $8 million. The value of the McCool

Public School District is $85 million. So when we put 5 percent of McCool's, translate it to the school, it's ten times larger. So, therefore, it's only instead of being 5 percent it's only five-tenths of a percent, one-tenth less. The city of York and the York Public School. City of York has a valuation of $417 million; school district, $814 million, about two to one. So that 5 percent translated to the York Public School system is only 2.5 percent. Now we take the city of Omaha and the Omaha Public School District, and the city of Omaha has a valuation of $28 billion. The Omaha Public School District unlike as these other school districts where they go beyond the city limits of a town, village; Omaha Public School only serves a share, a portion of Omaha. The rest is covered by Millard and Elkhorn and Westside I guess. So what happens there is $28 billion versus $18 billion. So if you have a 5-percent cap on Omaha, that will translate to a $7.5 percent of the valuation for the Omaha Public School District. So I am against it. I've been dealing with this on and off for 30 years, TIF, and I think it's a good project. There is really difficult though when you try to take a bill like this and relate it back and solve a school problem because these differences in valuations and the comparative valuations of a municipality or a city versus the school district that it surrounds or surrounds it is very difficult if not impossible. I would answer any questions. [LB529]

SENATOR McGILL: Any questions from the committee? Nope, I don't see any. Thank you very much. [LB529]

JACK VAVRA: Thank you. [LB529]

SENATOR McGILL: Next opponent. [LB529]

RANDY GATES: (Exhibit 9) Once again, Randy Gates, finance officer with the city of Norfolk. There was a couple...there was a handout going around with a couple of pages in it that illustrates the points I want to talk about related to LB529. The first one is something I put together for a joint governing meeting we had back in November with other government entities in our area. The city of Norfolk of course participated, Madison County, Norfolk Public Schools, and Northeast Community College, and those are the ones highlighted in yellow on that handout. And this handout I use to illustrate Norfolk's conservative use of TIF financing. We've only done six TIF projects in the 30 years I've been finance officer with the city of Norfolk. Four of those projects are paid off or the four at the top of the first page of the handout. I did on the right-hand side of that a little bit of analysis kind of like. The city of Lincoln and Omaha was talking about where...showed what's happened to the taxes these other entities are receiving when our TIF projects go back on-line and they start getting the taxes for those. Our school, it's almost $400,000 annually now of property tax off of these projects. In total, we're talking about something approaching $650,000. We've only got two TIF projects that still have outstanding debt, and those are taking as you can see about $32,000 away from the taxing entities that would have gotten those taxes if these weren't TIF projects. But as we all know, these projects wouldn't have probably happened but for the TIF, so they're really not losing anything. But even if you consider that as a loss, it's still over a $600,000-a-year net gain. So this isn't near as sophisticated analysis as Omaha and Lincoln presented but it shows the same point that these entities do receive a benefit of this. In some cases, that's not very far down the road. Towards the middle of that page you see the number of years the taxes were divided. A couple of those projects were pretty short, one three years and one eight years. The other two are 12 and 13 years, and the two remaining ones are ongoing. We're not for sure yet when those will pay off. So, as I've said, I think this illustrates primarily how conservative Norfolk has been. And being that conservative as you would expect, LB529 if it would have been in effect while we were doing these TIF projects would not have impacted the city of Norfolk. But you don't have to change much to have an impact on Norfolk, and that's what the second page is trying to show. Norfolk I think may use this tool a little bit more going forward. We've hired an economic development director nine months ago. This is one of the tools she has in her toolbox. I think she'll be coming up here to talk to you guys later about LR29CA. And this something we'll probably be using and taking advantage of a little bit more going forward than we have in the past. And you wouldn't have to take advantage of it a lot more in the future than we had in the past to run into trouble. On the second page of this I put in red two changes to our actual experience, two hypothetical changes to see what would have happened if those...if we would have done this instead of what we really did. First change is if we wouldn't have been so short on our TIF bonds if they'd have been the full 15 years what would have happened, and that's the red column off to the right that shows when those bonds would have paid off if they would have went the full 15 years. And the other one is to assume we had another large TIF project, large for Norfolk. I'm sure it wouldn't be a big kahuna project in Omaha, (laughter) but maybe a little kahuna project in Norfolk. So if we'd had a little kahuna, another one of those in 2000, where would we have been? Well, if we would have had 15-year TIF bonds on all of those and a little kahuna added to it, we would have been at $44,504,000 of incremental valuation in 2000 after that little kahuna got added in. And that, if I'm understanding LB529 correctly, would have put us over the 5 percent limit. In 2001, our assessed valuation was $811 million; 5 percent of that is $40,550,000, about $5 million over or about $4 million over where we were at, so we couldn't have done any TIF projects in 2001. Two-thousand two, our assessed valuation went up, but was still less than we would have needed to do to be able to do any additional TIF projects. And we actually did a small TIF project, a little tiny kahuna in 2002 that we wouldn't have been able to do if LB529 would had been in effect. So even as conservative as we are, and I think we're pretty darn conservative in our TIF use, have been pretty wise in our TIF use, it wouldn't have taken too much change for LB529 to have adversely impacted our economic development efforts. I'm afraid if LB529 goes into effect, our new economic development director will be using TIF more, I'm pretty confident that's a tool that we'll be using, and a tool we'll try to use wisely, but we wouldn't be able to use it to the full effect if LB529 goes into effect. And that's why I'm opposed to LB529, and I'd be glad to answer any questions. [LB529]

SENATOR McGILL: All right. Any questions from the committee? Thank you very much though for coming down. Next opponent. [LB529]

GARY KRUMLAND: (Exhibit 10) Senator McGill, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities appearing in opposition to LB529. I won't repeat what has been going on, but I do want to pass out, there's four letters here from cities who also are in opposition, one from Kearney, from Sidney, from the United Cities of Sarpy County who represent four cities in Sarpy County, and the city of Wahoo, all have concerns about the bill. Just want to kind of draw your attention to the city of Wahoo's letter to point out, you've heard from larger cities so far. It also affects smaller communities. Wahoo has had seven redevelopment projects. The value of the property before redevelopment was about a million dollars; after the redevelopment they'll be worth about $6 million and it actually created around 200 jobs, which is huge for the city of Wahoo. One could argue that the other political subdivisions aren't getting the taxes for 15 years for that. But with...Wahoo says in the letter without the tax increment financing, those projects wouldn't have been done and everybody would have remained at $1 million and received the taxes that they would. But after the projects are done, it will increase sixfold and they will get the money. So unless anybody has any questions, I will... [LB529]

SENATOR McGILL: All right, Gary. [LB529]

GARY KRUMLAND: ...I would ask that these letters be put in the record too. [LB529]

SENATOR McGILL: Absolutely. Thank you, Gary. Any other opponents? Anyone here neutral? Senator Dubas, anything...oh, Senator Dubas waives closing. Thank you, Senator Dubas. And with that, we...I don't...oh, there's Speaker Adams. He's in the back row. We will open on LR29CA. Welcome, Mr. Speaker. [LB529]

SENATOR ADAMS: Well, thank you. An auspices group at that. (Laughter) I expected you to be but maybe not at this hour. My name is Greg Adams, A-d-a-m-s, representing the 24th Legislative District and I bring you LR29CA. Let me begin by telling you that one of the reasons I'm here is because having spent ten years as a mayor in a first-class city and some time on a city council that did a lot of TIF projects, I think I have a reasonably good handle on it, how it works, and I know what some of the complaints were from citizens. Most importantly, I know the benefit of this economic development tool if used properly. The other reason, having chaired Education and know the formula pretty well, I've had to talk to more than one superintendent about this, and some of them get it, some of them thought they did. And it's not quite, I don't believe, the crisis that some schools make it out to be. Does it increase General Fund to TEEOSA? In some instances yes, there is no question about that, but in a lot of others, and if you want to get into how that formula works I'd explain it to you, but...look at that. [LR29CA]

SENATOR McGILL: Another time perhaps. [LR29CA]

SENATOR ADAMS: Another time I suspect. (Laughter) So let me begin in this way. What this constitutional amendment does basically is two things. One of them is changes language. It takes the language "blighted and substandard" away. I can recall vividly the first, maybe even the second, TIF project we did in York and some of the neighbors coming in, what are you doing saying that my properties are blighted and substandard. They're not. And it took a long time to convince them. Look. Relax. It's okay. It's just language that has to be used. But my property is not blighted and substandard. We get that. All right. We do. It's just a label. I think that if we remove that label, we remove some of the mystery about TIF and some of the angst that comes along with it. There's other mystery, there's other angst, but this is a beginning point to take that out. The other thing that I liked about this language, not only taking the blighted and substandard out, but if you notice the replacement language, "need of rehabilitation and redevelopment." That's what TIF was designed to do, and you heard that from former-Senator Landis. And just like about every piece of legislation that we pass in this body and we try to make it fit everybody in this state, somebody squeaks around it, interprets it differently, intentionally or otherwise. And I suspect we can all find examples brought to us where TIF wasn't really used for rehabilitation and redevelopment but for other things. And you notice they use the words "but for." There's the key right there. "But for." This project would not happen "but for" this kind of public intervention. But it should be for redevelopment and rehabilitation. That's the essence of this. The other thing that the amendment does, it moves the length of a TIF project from 15 to 20 years. Now I'm going to be open...I'm going to admit to you right out of the chute that I initially had some concerns about that, because there was a number that was even higher. This is I think workable. And I'm going to come at it from this perspective. Depending on the community, and 500-and-some, whatever the number was, can be used in a lot of different ways. I would wager to say that in terms of raw numbers, most TIF projects that are done in the state of Nebraska are not bonded. Now if your an Omaha or a Lincoln and you're doing much bigger projects, there may be bonded indebtedness involved. But if a store owner comes to you and says I want to put a new facade on my downtown store and it's going to be $2,500, you're not going to be bonding for something like that. Or I need a new sidewalk. All right. We're encouraging that in the city so we'll help you out. But on the other side of the coin if you're going to draw a line in the downtown of the community that's maybe two blocks by five blocks and you're inside of town, and within there you need to replace 100-year-old water and sewer lines and old sidewalks, and it's not a project-specific TIF but rather it's this whole area and it's the city itself that's doing it, it may be necessary to issue bonds on something like that. And a 20-year bond is much more marketable than a 15-year bond. It's really that simple. Going out beyond that, a TIF project can morph into 20 different things in that period of time from what its original intent was, and that becomes a little problematic. So the essence of the amendment would be to take blighted and substandard out, reaffirm that rehab and redevelopment, and move from 15 to 20 years. And I would take questions if you have them. [LR29CA]

SENATOR McGILL: Senator Krist. [LR29CA]

SENATOR KRIST: I was kind of glad I didn't read the right bill because we did get the professor's assessment, Professor Landis' assessment on what we were doing... [LR29CA]

SENATOR ADAMS: Yeah. [LR29CA]

SENATOR KRIST: ...which was very useful. And I did talk to him a bit afterwards. Senator, here's my concern. There are some pretty talented folks in this state who run urban development and project development, understand that. They understand what you just described as a bonding issue. And in rare cases we may say 20 is good. My concern, and you heard me say it earlier, my big concern is that very often we will TIF, go to 15, and then either the strip mall or the area of town didn't turn out the way they wanted it to. In fact, part of the Kansas City development with the Power and Light District didn't do as well as they thought it was going to do, some if it did but some of it didn't. I would like to propose, and we can take a look at it in committee and stay in communication, but I'd like to propose that it's not unusual for us to say cities of the municipal class, cities of the primary, secondary, etcetera, that there might be some qualification to exceeding the standard 15 that's in place right now that's tied exactly to potentially what you said which was the bonding issue that might be there. I just think if you blanketly said 20 years you may have people getting themselves in more trouble because of the TIF money and the development process. So if you'd want to comment on that, I'd... [LR29CA]

SENATOR ADAMS: You know I think that that's a legitimate question that this committee ought to deal with, and I know that there are people in the room that could be more authoritative in response to that than what I am. I come back also to the "but for" issue. We've had some projects in York that didn't pan out. They didn't pan out. From a school perspective though, "but for" us doing the TIF in the first place wasn't anything else going to happen. So the school was getting $100,000...they were taxing on $100,000 worth of value the way it was. The TIF project comes in, it didn't pan out. My question is what's been lost because this is all they were getting anyway? And if it had not been for this, they may not have acquired anything else. You know, you raise a legitimate concern about the viability of projects because that's why I bring up the point that you may have an area that's TIFed for eight years or ten years and it...the project from its initial stages to the end of that ten-year period maybe is three different things and has moved through three different buyers that have done three different things with it, some successful, not so successful. So I think it's a reasonable point to bring up. I really do. [LR29CA]

SENATOR KRIST: Thank you. [LR29CA]

SENATOR McGILL: Any other questions? Senator Karpisek. [LR29CA]

SENATOR KARPISEK: Thank you, Senator McGill. Speaker Adams, would this increase the places where TIF could be used by changing the verbiage? [LR29CA]

SENATOR ADAMS: Actually I think it ought to decrease it. [LR29CA]

SENATOR KARPISEK: Make it, instead of blighted and substandard, in need of rehabilitation and redevelopment. [LR29CA]

SENATOR ADAMS: Well, and the reason I say that, Senator Karpisek, is this. And maybe my review of the history of this legislation isn't accurate. This legislation was designed to do what former-Senator Landis was talking about--redevelopment, rehabilitation, to get into places where "but for" public intervention it wasn't going to happen. No investor really had any desire to mess with it. Tearing down the old building in the downtown that otherwise they're not going to mess with, there's asbestos abatement, I'm better off to let it set and pay lesser tax on it and have the city send me notices than I am to go in there and spend a bunch of money doing something with it. Over time I think the definition within any given city of what TIF ought to be used for gets stretched for very good reasons sometimes, unknowingly sometimes, or maybe just straight out I think we can pull this off. My hope is that what this does, it reaffirms to people like you and I and our colleagues on the floor and maybe these 500-and-some cities that when this was created this is what it was meant to be for. See, my fear all along, Senator Karpisek, has been that cities may lose TIF because there's a lot of folks that don't understand it and there has been abuse I suspect. I don't...I can't name cases for you, but there has been. And those kinds of things...and the school issue, it's a legitimate one, in some areas of the state, in urban areas more than it is in smaller rural areas. City Administrator Vavra pointed that out. I don't know if this will increase or decrease but it ought to refocus what it really ought to be use for. [LR29CA]

SENATOR KARPISEK: And I do agree with the name or the verbiage change because I've heard a lot of people say from the outside, that's not blighted, substandard. But they're using that money to go in there, so. [LR29CA]

SENATOR ADAMS: Yes, yes. Which raises two points. One, maybe the blighted and substandard isn't the right title. The other thing is, maybe they shouldn't be doing the project. [LR29CA]

SENATOR McGILL: Yeah. [LR29CA]

SENATOR KARPISEK: Correct. Both. [LR29CA]

SENATOR ADAMS: Yeah. [LR29CA]

SENATOR KARPISEK: Thank you. Thank you, Senator McGill. [LR29CA]

SENATOR McGILL: Oh, yeah. Well, looking, as Senator Landis was saying, trying to prevent TIF from being used on the outskirts of a city where the market should be taking care of that. TIFing a cornfield, you know, is the example that we hear people complain about, and this language I think is much tighter and would help prevent that. [LR29CA]

SENATOR ADAMS: Most of our TIF projects in York that have been done were more in the older part, the inner city, the retail area, and around that concentric ring around the retail area where you really couldn't get people to want to commit. It's a small, rural community. In a retail area, people are not willing to take that risk. But with some intervention, taking some old schools that were closed up and converting them into apartments, otherwise they would set there idle because of asbestos abatement and those kinds of things. [LR29CA]

SENATOR McGILL: Exactly. Any other questions? Nope. Thank you, Mr. Speaker. [LR29CA]

SENATOR ADAMS: Thank you. [LR29CA]

SENATOR McGILL: First proponent. [LR29CA]

SENATOR ADAMS: (Exhibit 11) I do have a letter of support... [LR29CA]

SENATOR McGILL: Oh, a letter. [LR29CA]

SENATOR ADAMS: ...from the city of Lincoln to the... [LR29CA]

SENATOR McGILL: All right. Oh yeah. We'll go ahead and read that into the record. There is a letter of support from the city of Lincoln here. [LR29CA]

LYNN REX: (Exhibits 12 and 13) Senator McGill, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First and foremost, I want to thank Senator Adams, Speaker Adams, for introducing LR29CA. This is a very important piece of legislation and one our highest priorities this year. I'm handing out to you a letter in support of it. There's other cities that will be here testifying in support of it as well. And it passed unanimously in our larger cities legislative committee which is comprised of all first-class cities, Lincoln and Omaha, as well as our smaller cities legislative committee which has a representative of about 40 different representatives of the second-class cities and villages across the state. One of the handouts as you note will have, it looks like this and it has a listing. And this lists the TIF, the number of years that legislatures of the 48 legislatures plus the District of Columbia which allow tax increment financing. You'll note that there are only three states that still have 15 years as a payback period, and those three states are North Dakota, Montana, and Nebraska. And, in fact, last year even South Dakota went from a 15 year to a 20 year. So among all the states, Nebraska I think is the top four most restrictive tax increment financing provisions in statutes in the United States. We're here today to talk to you about the necessity of LR29CA. And my role today is just to outline two major things which Senator Adams talked about briefly, which is, number one, first and foremost, this strikes the language of blighted and substandard but it inserts basically what constitutes in state law now what blighted and substandard really is by definition, which is an area in need of rehabilitation or redevelopment. And you'll note that that's already defined in Section 18-2103 of statute. But we're not just taking out substandard and blighted, we're actually putting in the definition of what that means. And I think that's very important. Secondly, as he noted, we're expanding from 15 years to 20 years the payback period. But I think it's extremely important to underscore the fact that the primary beneficiaries of tax increment financing ultimately are the schools because 75 cents roughly, depending upon where you live, anywhere from 70 to 75 cents of every dollar of taxpayer dollars generated, 75 cents of that goes to schools. The rest of it's divided up between cities, counties, NRDs, and others. So certainly as you are expanding and growing the valuation of a municipality of which there are 530 in this state, the primary beneficiary in the end becomes the school. And, in fact, my understanding of the current TEEOSA formula is that the state of Nebraska through TEEOSA does make up that amount of increment that might be lost under the current TIF statute. But whether they do or they don't, the reality is that at the end the biggest winner under this is TIF. And, of course, the biggest winner ultimately are those individuals who live within cities and villages because that means that in these redeveloped areas, perhaps they're going to have jobs that they wouldn't otherwise have. In addition, I would just underscore for you that when you look at this, this is fundamentally different than the last time that voters in Nebraska looked at a constitutional amendment on tax increment financing. And that was in November 2006. The Legislature at that point put basically what was Amendment 6 on the ballot which was a combination of LR275CA which Senator Landis had introduced in 2006 and LR272CA which Matt Connealy had introduced. And they combined both of those and essentially what that constitutional amendment did which is extremely different from this one, it struck the word substandard and blighted but it put in nothing else. So it allowed just for pure economic development for any purpose whatsoever you could have TIF. This bill does not do that. This proposed constitutional amendment does not do that. It basically underscores that TIF was in the beginning and continues to be used for areas in need of rehabilitation and redevelopment. In addition, the other constitutional amendment in 2006 had language which would allow counties to TIF. And the League of Nebraska Municipalities has always strongly opposed that provision, and in fact I would like to think that we had some role in making sure that that constitutional amendment in 2006 did not pass because we want to have planned growth of cities. We don't want to have folks doing developments outside in areas where, yes, it might be cheaper to put it there but the reality is this is intended to be an area where you're rebuilding the core areas of municipalities that are in fact in need of redevelopment and rehabilitation. So in essence, what we're proposing here is diametrically different than Amendment 6 that was placed on the ballot in 2006. This is an underscoring of the role of what TIF is supposed to be in this state. And I'd be happy to answer any questions you might have. And we really do appreciate Speaker Adams introducing this. And there are several folks behind me that will be also coming forward to tell you how important this is to us. [LR29CA]

SENATOR McGILL: Thank you, Lynn. Questions? I know I have a couple then. [LR29CA]

LYNN REX: Okay. [LR29CA]

SENATOR McGILL: So the intent is for both of these to be on the November 2014 ballot... [LR29CA]

LYNN REX: Yes, that's correct. [LR29CA]

SENATOR McGILL: ...for both of them. [LR29CA]

LYNN REX: Yes. [LR29CA]

SENATOR McGILL: Okay. And is the League and other allies, are they prepared to fund a campaign to try to get voters to vote for it? [LR29CA]

LYNN REX: Yes. [LR29CA]

SENATOR McGILL: We know that the status quo is usually, you know, what they vote for. Even though this one makes a lot of sense, there's still a lot of voter education that needs to take place. [LR29CA]

LYNN REX: You're exactly right. There is a lot of voter education and the board is already in the process of appropriating funds to work on voter education in tax increment financing. In addition, we're prepared to do what's necessary to make sure that we have a statewide campaign and an aggressive statewide campaign to educate folks on TIF, how it's to be used. And I do believe that there have been some abuses here and there. We, obviously, never recommend to a city to do that. I think there have been a couple of folks that have in fact made a living recommending to cities to do that. And hopefully they will also get a heads up that that's not the way to do business. But overwhelmingly municipalities have used tax increment financing in the right way and in a way which has created great value to the community and created jobs and done other things for that community. So... [LR29CA]

SENATOR McGILL: Well, that's good to hear because TIF is so confusing to people that there has to be a campaign in order to make change. [LR29CA]

LYNN REX: Yes, yes. [LR29CA]

SENATOR McGILL: And then just to...some of the question that Senator Krist had to Senator Adams about that 20 years and any concerns or restrictions that...I don't know if you have anything, feedback, based on his question about the different sizes of government or if in any of these states that give 20 years if they have any restrictions onto the type of projects or anything that are eligible for that 20 years. [LR29CA]

LYNN REX: I think it's great question and I think the answer to that would be in the enabling legislation once the constitutional amendment passes. [LR29CA]

SENATOR McGILL: I see. [LR29CA]

LYNN REX: I think we need to go back to Chapter 18, Article XXI and tighten up a number of things in that, and I think that that's one area where this committee could look at that and say, okay, when are there types of projects that would be valuable to have a 20 year as opposed to a 10. And by the way, I do want to underscore what Senator Adams said which is that not all projects are bonded, number one, and, number 2, when a city can do it for less than even 15 years they do it. I mean, you have to have a pretty big project. But, for example, even in response to the former bill that you heard today that the League opposed by Senator Dubas, in our briefing that we have with municipalities every week the city administrator of South Sioux City indicated that right now South Sioux City is looking at a project that will be over $200 million which would totally put them over those limits, but also that's the type of project where you'd be looking at a 20-year payback, something like that. You know, you're not going to look at that for a very small project and nor should you. But I think that the types of restrictions and protections that need to be there are those that would be in the enabling legislation once this proposed constitutional amendment would pass. [LR29CA]

SENATOR McGILL: That's very helpful. Senator Krist, do you have a question? [LR29CA]

SENATOR KRIST: I agree. It has to be...thank you, it has to be in the enabling legislation once it comes back, and the less complicated the constitutional amendment is, if we go on the ballot, the better off we are. But I just want to make one point. Before we go down this path, I'm pretty convinced that there's data out there that's available on those political subdivisions and cities who have declared bankruptcy or are near declaring bankruptcy and how they put themselves in that position. And I'm going to bet that TIF was part of that particular issue. I look at California here, 50 years; Connecticut, 40 years, and I look at the cities that are declaring bankruptcies in some of these states. So I think we should be wise and I put this on the record. I think we should be wise about how far we go out and what we encourage people to do because in today's construction, again my concern is 15 years from now you're not going to be able to fill up the strip mall. So you give away your tax base and then you never get it back because it's not being there. But we'll work through it. But you're absolutely right. It's got to be in the enabling legislation. [LR29CA]

LYNN REX: And, Senator, I'm not suggesting that TIF did not have something to do with those bankruptcies, but I can tell you the last four major ones in the United States all dealt with unfunded pension liability. And that included Vallejo, California, it included three municipalities, one that's in receivership right now in Rhode Island, and two more that are on the way. And it's all dealing with unfunded liabilities for defined benefit plans. [LR29CA]

SENATOR KRIST: All I'm suggesting it's probably up there in causal factors when people make those decisions. So thank you, Lynn, for your testimony. [LR29CA]

LYNN REX: There are certainly implications and I respect what you're saying. [LR29CA]

SENATOR KRIST: All right. [LR29CA]

SENATOR McGILL: All right. Other questions? No. [LR29CA]

LYNN REX: Thanks for your time today. Thank you. [LR29CA]

SENATOR McGILL: Thank you, Lynn. While the next proponent is coming up, just read into the record a letter in support from the United Cities of Sarpy County. [LR29CA]

RICKY CUNNINGHAM: Ricky Cunningham, planning director, city of Omaha, that's spelled R-i-c-k-y C-u-n-n-i-n-g-h...h-a-m, excuse me, Cunningham. Okay. (Laughter) I'm thinking about, okay, I got my hand slapped for talking so long the last time that I want to cut this one short. First of all, we are in support of LR29CA. We are first in support of it because we have run into the buzz saw of community outcry that you heard that you are going to affect the property value of my home because you are calling me blighted and substandard. Our response has been to those individuals, well, that's really not how it works. And that's one of the reasons why we did this research so that we could begin to at least put numbers to what we've said. We've always said that a rising tide lifts all ships, and so when we do a TIF project we do it so that it basic stabilizes if not increases property values around it. So we did this study on actives TIFs right now of what impacts they've had. And as I've indicated, the property values around those TIFs in the last five years, 2007 to 2012, when our economy tanked, not so much so in Nebraska but still tanked, and property values were going down rather than up especially on homes that in these five projects from 14 to 76 percent increase in the taxable valuation around these TIF projects. That's no including the TIF project. We took that out. That value went up as high as in one case 3,000 percent. So we took that out so we didn't skew it. So from that perspective it does work but it is difficult in a public meeting, in a public hearing before a city council to be...to get people to understand that by creating a community redevelopment area which we have to designate the areas blighted and substandard by Community Development Law in order to do that, we will not affect their property values. In fact, we're doing it in order to increase their property values. In fact, you know, I don't say it but if anything your taxes may go up because your property value might be going up. So we don't say that because that could cause some other problems. I wanted to make some other...first of all, the city of Omaha if you don't know, we are on the state line. We abut Iowa. Iowa does not have 15-year TIFs. In fact, I've read where they actually have in some cases indefinite TIFs. Now I can't imagine that but that's what I've heard. But they certainly have more than 15 years. In some cases that are urban design renewal areas within the area that's designated, they can go indefinite, but they can definitely go 25 years, something like that. And so we are competing with them daily as far as new jobs and reinvestment potential from potential investors. So that's...this would allow us to perhaps be a little bit more competitive with Iowa on across the state line. The other thing is...and in the city of Omaha, we are seeing and denying it that we're getting old, at least parts of our city are getting old, and some of those parts are not within our downtown or within that concentric ring around it. And so, for example, you know, as time has gone on, the use of TIF has crept out. In past years, it crept out to 72nd Street. Okay. And at some point when I was a child going to the Crossroads Mall and that was my mall, the cornfields were right on the other side. Okay. That's not the case now. And the newer parts of town are out there. And, in fact, because of annexation and so forth we have, for example, two areas of town that are just as old as our downtown areas and that, like the old Millard area. We've got parts of old Millard area that's just as old and underperforming and parts of old Elkhorn, for example. And so we are currently, in old Elkhorn, we are processing our redevelopment plan for old downtown Elkhorn. And we have indicated to developers that if you'd like to come into the old Millard area, and the business association has asked us to encourage the developer, that we would consider the use of TIF in that area, but only because it meets the definition of requiring redevelopment, renovation, reinvestment. And so this would help us I think in those areas for sure because I know that we will get slammed with you're going to decrease our property values if you declare us blighted and substandard. And those are very negative terms. There's no doubt about it. They're very negative terms and this is not a negative process. This is a positive process. We have proof over the years that this is a positive process but you have to get to that. So you have to get over that hump of people, you know, understanding that, yes, your house is not dilapidated but there might be 15 or 20 others in your neighborhood that are. And so we need to try to bring that up. I'm going to stop now because you slapped my... [LR29CA]

SENATOR McGILL: Thank you. And we do appreciate your testimony. I hope you don't take it too poorly that... [LR29CA]

RICKY CUNNINGHAM: No. I'm just messing with you. [LR29CA]

SENATOR McGILL: We've gotten the point though. [LR29CA]

RICKY CUNNINGHAM: I'm just messing with you. [LR29CA]

SENATOR McGILL: Fabulous. Any questions? Nope. Thank you very much. [LR29CA]

RICKY CUNNINGHAM: Thank you. [LR29CA]

SENATOR McGILL: Next proponent. [LR29CA]

MIKE McMEEKIN: (Exhibit 14) Senator McGill, members of the committee, good afternoon. My name is Mike McMeekin, that's M-c-M-e-e-k-i-n, and I am here today representing Omaha by Design. And I do have another day job. I'm the president of Lamp Rynearson and Associates. We are an engineering and surveying firm headquartered in Omaha. We employ 130 people of which 82 of those are in Omaha. Omaha by Design is a very unique nonprofit organization that was founded in 2001 and whose operational costs are 100 percent funded by the private sector. Our mission is focused on improving the quality of life in the Omaha area by protecting and enhancing the quality of both the built environment and the natural environment. Our major accomplishments included the development of the urban design element and the environmental element to the city of Omaha as master plan. Both of these plans were developed through a partnership of the city of Omaha and the private sector, and we are now focused on implementing the strategies in those two plans which include strengthening the climate for redevelopment. Omaha by Design supports the enhancements to TIF covered by LR29CA and other legislative tools 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 areas of our city. The problem that Omaha and other Nebraska cities are facing is illustrated by the graphic on the backside of the handout that we have provided. Within the interstate loop around Omaha, population decreased by 2,000 people from 2000 to 2010. All the areas shaded in pink and red experienced losses in population over this time period. Through the work we have done over the last 12 years on the urban design element and the environmental element, we understand that preserving and increasing population base and tax base in the core of the city is critical to the overall quality of life in the city. And the principle applies not only to Omaha but to cities across Nebraska that have an interest in preserving their identity that they've had for many years and their investment in the core of their cities. Having worked on both suburban developments and urban redevelopment projects for almost 30 years in Omaha, I understand that urban redevelopment will not occur at the rate that it would be most desirable without the tools like those provided by TIF and enhanced by LR29CA. Redevelopment projects face unique challenges and high costs such as the difficulty in assembling property, environmental contamination, demolition, site preparation, and complex utility issues that are not faced by suburban developments. So in order to assure the redevelopment occurs, we need public policy and financing tools that level the playing field. So if we have these strong policies and tools that support redevelopment, there will be multiple benefits to cities. And they're highlighted, again, on our handout. First of all, population growth will be accommodated with minimal consumption of agricultural land. Second, the utilization of infrastructure that cities are obligated to maintain will be maximized. I'm talking about infrastructure like streets, sewers, and utilities. And the tax base that is adjacent to that infrastructure will be enhanced and most of the time it will be enhanced at higher rates than would occur for comparable infrastructure in suburban areas. And so over the long term, this holds down taxes. Next, the efficiency of providing municipal services will be maximized, services such as: parks, libraries, police, fire, emergency response, and schools. Again, over the long term, this will hold down taxes. Next, the conditions for operating and maintaining vitally important public transportation systems will be much more favorable if we can encourage redevelopment. Urban neighborhoods will be stronger and they'll be places that people who live there will want to protect. And, next, our cities will have more of the types of urban environments that are important to attracting and retaining young professionals. And then, finally, jobs will be created and economic development will occur in the areas that need it the most. So I also support LR29CA and other redevelopment tools 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've been involved with and supported the work of Omaha by Design since its inception. Our employees live in all parts of the city and they travel through and to all parts of the city to shop and to go to recreational activities. To wrap up. Redevelopment is about conservation, conserving land, conserving energy, and other resources. And it's about cities operating efficiently in the way they provide infrastructure and services. Because of the challenges that the private sector faces in order to be successful in redevelopment, we need tools such as TIF and we need enhancement of those tools such as LR29CA provides. On behalf of Omaha by Design, we urge your support. Thank you and be glad to answer any questions. [LR29CA]

SENATOR McGILL: Thank you, Mike. Any questions? No. Thank you very much. [LR29CA]

MIKE McMEEKIN: Okay. Thank you. [LR29CA]

SENATOR McGILL: Next person in support of the bill. Welcome. [LR29CA]

COURTNEY KLEIN-FAUST: Good afternoon, Madam Chairperson, members of the committee. My name is Courtney Klein-Faust, that's C-o-u-r-t-n-e-y K-l-e-i-n-F-a-u-s-t. I'm the economic development director for the city of Norfolk and I'll be offering testimony on behalf of the city, and I'm here at the request of the League of Nebraska Municipalities. I also want to echo the comments that Lynn Rex gave earlier. In addition, I want to thank you as senators for your service to the state. My father had the opportunity to serve in this body for one term, so I know the sacrifices you make. Appreciate your time this afternoon and I'll keep my testimony very brief. I am delighted to be here in favor of LR29CA. I've been working in economic development for the city of Norfolk for nine months now. We've had one TIF project during my term. When I go out and speak to property owners in an areas that we are looking at declaring blighted and substandard, they are very much in favor of proposed redevelopment in the area. In fact, I have been hugged on occasion in areas that have been sitting idle, very unattractive, for a number of years because of the cost that would have to be incurred by a developer to come in and redevelop them. So neighboring property owners are very happy when we come to the table with a tool like TIF until I come to the point of telling them that we are declaring their property blighted and substandard and their demeanor changes. It's got a very negative connotation. It causes a lot of misperceptions. As many of them think this year they think it's going to have a negative impact on their property values, that somehow this will be recorded against their deed, and is going to follow them the rest of their lives. It's simply not the case, but it takes a lot of time to try to clear up that unfortunate misperception. The language change proposed in this legislative resolution will go a very long way in helping clear up the misperception that this is somehow a negative. Once they understand, they all come around. They're very much in support. They want to see the area redeveloped. As Randy Gates testified to earlier, in the city of Norfolk we use TIF very conservatively. It's in areas that desperately need to be redeveloped that have costs associated with redevelopment that prohibit that. TIF is a great tool, and so I hope that this legislative resolution will be passed to allow us to more readily explain to folks the benefits. In addition, we are in support of an extension to 20 years for the payback period. I will say the TIF projects that we've had in the city of Norfolk typically pay back far earlier than the current 15 years. In fact, we've had some pay back as early as eight years into the project period because the valuations come back higher than what we've conservatively estimated. But some projects have very high infrastructure costs and it may take up to 20 years to recoup those infrastructure costs. The areas need to be redeveloped, and so allowing us to go out 20 years would help us to redevelop those areas. It's not something we would do necessarily in every instance, but in some instances it is necessary. With that, I'll conclude my testimony and I'd be happy to answer any questions. [LR29CA]

SENATOR McGILL: Any questions? Thank you, Courtney, for coming down from Norfolk. [LR29CA]

COURTNEY KLEIN-FAUST: Thank you. [LR29CA]

SENATOR McGILL: Other folks in favor. Hello. [LR29CA]

BRETT BAKER: Good afternoon. My name is Brett Baker, B-r-e-t-t B-a-k-e-r. I'm currently with the city of Seward, city administrator, city of the first class. And before coming to Seward, I was the city administrator of economic development director for the city of Hickman for a number of years down there, and they were a second-class city. Have some experience with TIF. We had some projects previously that we set forward, and as the previous testifier just said, they seemed to be running ahead of schedule because the valuation increases actually do come a little bit faster. As we start to go into this, we would like to, you know, first of all, thank Senator Adams for bringing this forward for us. I'm also speaking on behalf of not only the city of Seward but the Nebraska City/County Management Association. I'm the state president again this year. And we would strongly, you know, endorse this constitutional amendment. As I think you've heard, we are straddled with what items we have in our toolboxes to support economic development, and TIF is one of them, along with LB840 is a huge component for a lot of cities including the city of Seward which we do have the LB840. The principal and the repayment can be talked about, but as we stated, many of the other states, I think Lynn Rex gave you that, that most of them are at 20 years and some are 25, 30, and you saw the unlimited on there which is kind of out of school. But can't imagine that. But there's quite a few cities in our group, in our NCMA group, that border Iowa and border South Dakota. And as you can see, we're kind of...we're behind on that. And a 20-year allowance would probably help them level that playing field up a little bit. So we think that that would be very much appreciated. Also removing the words substandard and blighted is huge. You heard Courtney just testify that that is tough to go into a downtown district and talk to people about blighted areas. We actually, the city of Seward, we are a newcomer to the tax increment financing world. We're one of the last first-class cities to adopt it. It was kind of an ultimatum a year ago that we either get that program started and get moving, which we did. To date, we have funded four tax increment financing projects. One of them is substantial, other ones relatively small by scale, the other three. We are currently working with a Lincoln developer on what I can a huge tax increment financing project at this time. It's in cost-benefit-analysis mode right now. If this...these projects are really geared and the people that we talk to about substandard and blighted, we try to use different words like you're in the redevelopment area. And all of our material that we basically put out there, unless we're talking about statutory language, we try to talk redevelopment area. So we feel that the language proposed in there is not going to, you know, limit the tax increment financing to the areas, but it will just, you know, change the whole verbiage of rehab and redevelopment areas. So I'm with the rest of the group here, along with the City/County Management Association to ask you to support LR29CA, and would be happy to answer any questions. [LR29CA]

SENATOR McGILL: How's that mayor of yours doing? He lurks around this place. (Laughter) [LR29CA]

BRETT BAKER: I understand that that's a concern, yeah. I'm glad his boss is here and I guess I'd have to defer that question to Senator Karpisek, so. [LR29CA]

SENATOR McGILL: Anyway, are there any serious questions from the committee? Nope. I don't see any. Thank you very much. [LR29CA]

BRETT BAKER: Okay. Thank you for your time. Yep. [LR29CA]

SENATOR McGILL: Anyone else here in favor of the constitutional amendment? All right. Anyone opposed? Hello there. [LR29CA]

COBY MACH: Good afternoon. My name if Coby Mach, C-o-b-y M-a-c-h. I am the president of the Lincoln Independent Business Association. We're an organization of about 1,200 members here in Lincoln and Lancaster County. While I'm speaking in opposition to LR29CA, I will tell you that LIBA has no opinion on the terminology change that is being proposed in this amendment. We certainly understand how some folks would not like to live in a substandard and blighted area. I have to tell you overall LIBA supports TIF. In fact, we find ourselves defending the use of TIF quite frequently here in the city of Lincoln. Our members benefit from TIF financing. Our members are contractors, they're builders, they're developers, and land-use attorneys, the folks that are utilizing the TIF to rehabilitate areas that are blighted and substandard. TIF has proven itself, as you've heard, as a very effective tool to redevelop rundown areas of Lincoln and other parts of the state also, and to provide infrastructure in those areas that are needed. However, TIF also requires a balance, a balance between development and the needs of the entire community. TIF is an investment we believe in our community, and like every investment there comes a time when you need to take your money out. An entire generation of students will go through the school system in 12 years. An entire generation will go through our school system in 12 years. The current process of having 15 years we believe is appropriate because those funds are diverted from our schools which, again, we understand this is a little hard for me because we also know the benefit at the end of the 15 years. But they are diverted for 15 years from our schools, from our county. Our county commissioners just faced a very, very tough budget once again in trying not to raise property taxes here in Lancaster County. So TIF requires a balance between the incentives which really rehabilitate a community but then also take tax monies that are necessary to support the rest of the community. We think the current 15-year limitation on TIF allows the redevelopment to occur, the revitalization to occur without exacting too high of a toll from the rest of the community. And so we would ask you to oppose this bill. Thank you. [LR29CA]

SENATOR McGILL: Thank you, Coby. Any other...any questions? I don't see any. Thank you very much. [LR29CA]

COBY MACH: Thank you. [LR29CA]

SENATOR McGILL: Anyone else here in opposition? Neutral? Senator Adams, is he still...oh, nope, he is waiving closing. So thank you, everyone, for attending our hearing today. [LR29CA]