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Urban Affairs Committee
October 17, 2014

[LR599]

The Committee on Urban Affairs met at 1:30 p.m. on Friday, October 17, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR599. Senators present: Amanda McGill, Chairperson; Sue Crawford, Vice Chairperson; and Bob Krist. Senators absent: Brad Ashford; Colby Coash; Russ Karpisek; and Scott Lautenbaugh.

SENATOR MCGILL: Thank you all for coming today for this legislative resolution hearing of LR599 from Senator Davis. Just little reminders, I know most of you have been here before, but please silence your cell phones so those don't conflict with the audio that we're recording here today. Make sure to say and spell your name when you get up here. Let us know who you're representing, whether it's a city or an organization or yourself. We are going to use the time system today because we do...we were told in advance of a number of people who were planning to testify. And so we are going to do a five-minute light system. You know, I'll be as lenient as I can be, but I want to make sure we're using our time efficiently. Do your best to not repeat too much what people have already said and bring us new and relevant information if possible. We've got J.T. here today as our page. So if you have handouts when you come on up to the table, if you'd pass out the form that you've filled out to testify here to Katie Chatters, our committee clerk, and then anything that you have to share with the rest of the committee you can pass along to J.T. I am state Senator Amanda McGill representing northeast Lincoln. To my immediate right is Trevor Fitzgerald, our brand new legal counsel. So this is his first hearing and his first time sitting on this side of the table as opposed to being in the audience. So this is really exciting for us and for him. And immediately to his right, we have Senator Sue Crawford. So she's been serving in the Legislature for a couple years representing Bellevue. We're glad that she's able to be here. And then of course, Senator Davis, who is not a committee member but I have went ahead and invited him to sit on this side of the table today and allow him to be able to ask questions as well during this hearing. And with that, Senator Krist I know is in the

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building and he'll be down and joining us soon. And Senator Ashford may wander in at some point. You know, it's interim and people are busy with a lot of different things. So we are making a good record here for the Legislature moving forward and those new folks who will be elected to replace those of us heading out the door. So we're building a good record for senators to look over. And with that, we can go ahead and get started with Senator Davis' opening. [LR599]

SENATOR DAVIS: (Exhibits 1, 2, and 3) Thank you, Senator McGill and members of the committee. I'll beg your indulgence a little bit on the time because I... [LR599]

SENATOR MCGILL: Oh, of course. [LR599]

SENATOR DAVIS: ...tried to put this together this morning. My name is Al Davis, A-I D-a-v-i-s. I represent District 43 in northwestern Nebraska. Last session, I introduced LB1095, which suggested that greater supervision should be provided by the state of Nebraska concerning cities who use tax increment financing as a development tool. The state statute on TIF calls for its use in blighted and substandard areas of the city. The law was put in place many years ago and the demolition and construction of the new Cornhusker Hotel was the first project implemented in Nebraska. There are probably not many who remember the old Cornhusker, but my family stayed there frequently since my father served on the Highway Commission. If the building were still standing there today, it would have been a worthy candidate for TIF financing to bring the grandeur of the old hotel up to current standards, and I wish that had been the case. However, the old hotel was obsolete and I can understand the need for the city of Lincoln to have a new hotel at that time, so it was a worthy project. Was it substandard? Certainly it was. How does TIF work? A developer approaches the city in question with a building renovation or construction proposal. In theory, he should have done a feasibility study on what he wants to do. That study should say, in effect, without some government help on this project, I will not build it here. This is familiarly known as the "but for" clause. Assuming the developer meets this "but for" clause, a contract is entered into with the

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city which back bonds for the project with tax revenue generated by the property. Once a property is TIFed, the valuation is frozen at the predevelopment price for 15 years or until the bonds are paid off, whichever is sooner. So what is the problem? Good intentions run amuck. With no supervision and no way for the state to enforce sensible development in cities, tax increment financing imposes burdens on property taxpayers elsewhere in the community itself and on the county, school district, community college, natural resources district, and the myriad of other taxing entities who rely for property tax to meet their obligations. It even imposes burdens on Nebraskans who live 400 miles away from the TIFed property since TIFing a project removes it from valuation purposes for the TEEOSA formula. TIFed property in Nebraska increased annual state aid to schools by \$22 million in 2012 and an additional \$10 million was added to that figure once personal property was included. TIF is years away from being at capacity in Nebraska since cities have the authority to TIF 35 percent of their geographic area. Now, only 3.54 percent of all property is currently in a TIF category. Unless supervision and standards are developed for TIF financing, the state will be forced to add greater and greater amounts of money to state aid. And since funds are limited, the number of unequalized districts will continue to increase. Surely, this is not what the bill drafters had in mind when they passed this legislation. I believe strongly in economic development and wholeheartedly support a city's desire to improve its appearance. But it is improper for a city to manipulate the law to its benefit at the expense of the other taxing entities which rely on the property tax to pay their bills. What kind of properties are being TIFed? Farm fields south of North Platte which were TIFed for the construction of a Walmart Distribution Center and a Menards; a strip mall in the city of North Platte; renovation of a print shop in North Platte; construction of a new John Deere dealership in North Platte; a housing development there; ethanol plants in many Nebraska communities; grocery stores in Grand Island, Plattsmouth, Lincoln, and other communities; in Omaha, an office building in the Regency neighborhood was TIFed; and there are countless other projects there. Gothenburg's TIF projects include a Pizza Hut, an Orscheln Farm store, Super 8 Motel, a tire store, and a senior living project. We know that construction of fast-food restaurants were TIFed in several communities.

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Neligh, Nebraska, TIFed a field for housing developments and then advertised the lots were lower priced because they had been TIFed. I have included a number of news articles clipped from the Journal Star mentioning Lincoln area projects. So how do I explain this to people in agriculture? Put simply, if agricultural land could be TIFed, this might be how it would work. Farmer Jones purchases a dryland farm next to his farm. He approaches the governing body of the area and asks the property be TIFed. Once in place, Farmer Jones installs a well on the field, puts in a pivot and any other improvements he might want. A bond is purchased and the improvements on Farmer Jones's farm are paid for by diverting the increased tax based on the increased valuation to paying off the improvements. Fifteen years later, the land returns to the tax rolls as irrigated land, and the TIF is justified by the governing body as increasing valuation. But maybe Farmer Jones would have irrigated that field on his own. And wouldn't giving Farmer Jones the revenue available to pay for his equipment be seen as an unfair advantage by other farmers who didn't ask for help to irrigate their land? City officials have told me TIF funds are sometimes used for acquisition to help developers achieve his goals. In Farmer Jones's case, that would mean letting TIF buy the land in the first place. Surely this is not what the legislators had in mind when they put TIF laws in place. City officials tell me they don't have any other tools available for economic development. If that is true, I'd ask that they bring some ideas to the Urban Affairs Committee for discussion but bring ideas which do not impinge on other taxing entities' tax asking to promote a project. And bring ideas which have forced oversight, which do not pick winners and losers based on the whim of a city council member or an urban developer. In my own district, a corporate entity called West Plains Grain approached the city of Alliance for TIF financing, which was granted. The company purchased over 160 acres there and added a rail so their rail cars could be easily filled. A worthy project? I think so. Complications to the project: The county was obligated to install new county roads for the project which cost the county \$150,457. Later, West Plains Grain sold a corner of the field to another entity, Panhandle Cooperative, for nearly \$2 million. Panhandle Cooperative had not sought TIF financing but their project was included in the parcel so they, too, were TIFed. On those two parcels, the base value was

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\$400,000. The excess value for West Plains alone was \$8,305,000 and for Panhandle Co-op, \$2,148,000. Again, I want to say I believe this is a worthy economic development project but should not be done under the auspices of TIF which was designed to reinvigorate inner-city, substandard parts of a city. Did the TIFing of this parcel add extra value to West Plains Grain when they sold some smaller parcel to Panhandle Cooperative? We will never know. Here are a few examples of TIF projects which exist in communities in my own district which are dubious in nature. These selections are in nonequalized school districts, which means property owners elsewhere must make up the shortfall in state aid. Shopko stores in Valentine and Ainsworth, a grocery store in Valentine in competition with another non-TIFed grocery there, and an office building owned by one of the largest farmers in north-central Nebraska. Obviously, the Shopko stores will cannibalize other retail in those communities but will not bring additional businesses to the community, and the grain producer in town will not locate elsewhere since this is his home. Across Nebraska, unequalized districts with TIF financing are imposing \$2.9 million in additional property tax requirements on the long-suffering farmers, ranchers, and homeowners who live outside those districts. Down the road a bit further and outside my district, Broken Bow TIFed two banks for new construction, a car wash, and other retail facilities. I wonder if the customers of the nice new bank realize that they are subsidizing the construction of that building through their tax dollars. The parameters set out for TIF financing are not being followed. There is no supervision, no regulation, and little recourse for the private citizen to address the issues of TIF. As more and more property is TIFed without proper administration, the state of Nebraska will face increased obligations to help hard-strapped counties and school districts. I ask the Urban Affairs Committee to take a long, hard look at TIF financing. Controls must be put in place to regulate the use of improper TIF projects. A framework of projects needs to be developed, and sound, thoughtful economic development should be promoted. I would be happy to work with the committee, our communities, and other taxing entities to find an equitable solution to the problem of economic development incentives because I believe strongly that they serve a purpose if properly used. But TIF isn't working the way it should be working. Let's fix it. [LR599]

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SENATOR MCGILL: Thank you, Senator Davis. [LR599]

SENATOR DAVIS: Thank you. [LR599]

SENATOR MCGILL: Are there any questions initially from the committee? Doesn't look like it. [LR599]

SENATOR DAVIS: Okay. [LR599]

SENATOR MCGILL: Senator Krist has joined us now, from the Omaha area. [LR599]

SENATOR KRIST: I apologize for my tardiness. [LR599]

SENATOR MCGILL: It's all good. We're not...since this is a hearing on a resolution, we don't really have a for or against organization to this meeting. So we're just going to take people as they're interested to come forward. If you are interested in coming sooner rather than later to speak, if you'll move to the front and kind of sit in some of these front chairs, that kind of will put you up next to bat. All right, go ahead. [LR599]

RENEE FRY: (Exhibit 4) Good afternoon, Senator McGill and members of the Urban Affairs Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute. We're a data-drive, statewide, nonpartisan Nebraska organization focused on budget and tax policy. We believe that TIF, when targeted for revitalization of blighted and substandard areas, may be an important tool for community betterment. However, there are numerous instances of TIF projects failing to meet either the "but for" requirements or reasonable interpretation of blighted and substandard as required by law. Given that the use of both state and local taxpayer dollars are used to offset TIF projects and that there are implications to those communities that lose revenue as a result, we encourage TIF reform. Yesterday I was in

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Scottsbluff presenting on a recent report. Mark Haynes, a farmer from Dawes County, attended the meeting. I know Mark has an interest in TIF reform so I mentioned today's hearing to him. His response to me was that he doesn't care if Omaha wants to TIF projects so long as it doesn't impact him and his school district. We think this is a legitimate point. TIF reduced taxable property in Nebraska by \$2.6 billion and reduced property tax revenues by more than \$47 million in 2013. About \$21.6 million of that lost revenue was ultimately paid by state income and sales taxpayers because the reduced local resources triggered increased state aid. The reason for this is that TIF decreases districts' resources on the resources side of the TEEOSA equation while the needs side remains the same, which results in more state aid for districts that contain a TIF project and receive equalization aid. For fiscal year '15, K-12 general fund property tax revenues will be reduced by about \$26.2 million due to TIF, about \$21.6 million of which will be offset through increased state aid, reducing overall funding for K-12 by about \$5 million. Of that total, nonequalized districts will lose about \$2.9 million. While most certainly an unintended consequence, Mark and Chadron Public Schools are essentially subsidizing TIF projects in other communities. For other local subdivisions such as counties, municipalities, community colleges, and natural resources districts, property tax revenues are reduced with no offsetting compensation by the state. We estimate the losses for these subdivisions to total \$19.2 million, including \$7.8 million for counties in 2013. At this point you might be thinking that these projects would not have occurred but for TIF so that it's really not a loss of revenue and can point to the growth within certain TIF districts as evidence. However, according to studies done for the Lincoln Land Institute, growth in TIF districts are offset by declines elsewhere within a municipality. In other words, what they find is that if you subsidize a store in a location, there will be less demand to have a similar store in a nearby location. Researchers Dye and Merriman conclude that policymakers should use TIF with caution. It is, after all, merely a way of financing economic development and does not change the opportunities for development or the skills of those doing the development planning. Now there may be a good reason to incent growth in particular communities. However, we would suggest reform that embraces TIF best practices as adopted by other states

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and municipalities. (1) Align TIF and economic development goals to ensure public benefit. An economic development plan should be required for each proposed TIF project and projects should align with the economic development goals of the city. (2) Increase community support and buy-in. Houston uses a model that encourages community buy-in by allowing taxing authorities such as school districts to opt out of any TIF project that they do not support. This encourages the developers to propose a project that truly benefits the entire community. For districts the individual taxing authorities choose to support, they are allowed to appoint a member to the board that oversees TIF to ensure their needs are considered. (3) State oversight should monitor the implementation of TIF across municipalities. (4) The city should use competitive market forces to lessen the public subsidy of the project. When the city owns the potential development site, a competitive bidding process may be used in which multiple developers submit proposals. (5) Standard, transparent, and concrete processes should exist for TIF approval, monitoring performance, oversight, and accountability. A well-defined and transparent TIF guide should be created and made available to the public. Specific measurable metrics should be developed in order to promote accountability and performance of the TIF project. These metrics should include milestones, spending, and financial and social benchmarks. The projects should be evaluated annually with the results made available to the public. And local governing bodies should be made up of local stakeholders that should be tasked with assessing how the projects are contributing to the community. This group should include representatives of other taxing bodies that levy property taxes, including each school district. To ensure that public funds are being distributed...can I? [LR599]

SENATOR MCGILL: Can you go ahead and wrap up? [LR599]

RENEE FRY: Sure, yep. To ensure that public funds are being distributed and used appropriately, the city should strengthen and standardize the use of the "but for" test so that only projects that need TIF funding receive it, and local governments should be audited to make sure they're meeting this requirement. Thank you for your time and I'd

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be happy to answer any questions. [LR599]

SENATOR MCGILL: Thank you, Renee. Senator Krist. [LR599]

SENATOR KRIST: Thank you, Chair. In your opinion and in your capacity, is there anything wrong with the statute that currently exists? And by asking that question, I'm asking you to interpret for me, are we looking at...and many times in the past six years I have seen a good law that someone misuses, misinterprets, or misapplies to a circumstance. Is there anything wrong with the statute the way it's written? Do we have bad actors who are misinterpreting or people who are abusing it? Or do we need really to readdress and rewrite the statute? [LR599]

RENEE FRY: So, yes and no. I think that the statutes could go a little bit further, particularly in providing the state oversight and giving some state authority ability to audit what's being required by law. When I look at the statute, it does require the "but for" test, it does require standard and...substandard and blighted. I don't believe that those are being met. But there's really not a clear methodology by which we can go and test that those are being done. So I think the structure of the statute is sound, but we need to implement some of that state oversight to take it a bit...to make sure that we have the ability to check to see that those pieces are being completed because we know that in many instances they are not. And I think there will be people here today who have specific examples of when we're not meeting the statutory requirements. And then the other component that I would suggest is this point about the loss of revenue, particularly through the TEEOSA formula. This is not addressed in the statute and it's something that I think we have to have a conversation about. I do not think it was ever intended that other communities would be subsidizing TIF projects. But the way that our law is currently working, that's in effect what is happening. And so I think that's sort of a separate issue but something that we really need to have a conversation about. [LR599]

SENATOR KRIST: And so just one follow-up. [LR599]

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SENATOR MCGILL: Yeah, go ahead. [LR599]

SENATOR KRIST: So you're suggesting that the state needs to have oversight over the individual municipality in terms of ensuring that the "but for" and a few other criteria are carefully watched. And are you also suggesting that the state would have veto power over any TIF project? [LR599]

RENEE FRY: Not the latter. I think that there needs to be some sort of ability from the state, whether it's audit ability to go in and check and see if those are going...if those are happening. I could see that having veto power would get extremely cumbersome, so that's not what I am recommending. But somehow we need to make sure that we have the ability to ensure that municipalities are meeting the statutory requirements. [LR599]

SENATOR KRIST: Okay. So I'm sure that you said that there will be other people here, but I want to take it one step further with you, Renee, because I trust your judgment, obviously. [LR599]

RENEE FRY: Sure, yeah. [LR599]

SENATOR KRIST: Here's my problem. Without enforcement and without the teeth, the audit is like the State Auditor who basically has the ability to point out the problem but not the ability to potentially avoid the problem to begin with or to end the problem after it's put into place. [LR599]

RENEE FRY: Yeah. No, that's a good point. [LR599]

SENATOR KRIST: So if we embark upon a restructuring process that puts the state now at a level where there's oversight, in my opinion, if that's what we're trying to do, it would have to be at the inception and have veto power over the TIF project. Otherwise,

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it's a waste of time. [LR599]

RENEE FRY: Yeah. No, that's a really good point. So I would need to give that some thought because what we don't want to happen, and I assume what will come behind me from the cities is saying that those projects... [LR599]

SENATOR KRIST: They don't want any help. Yeah. [LR599]

RENEE FRY: Well, the projects won't happen because it will take too much time if the state has veto authority. And so somehow we have to have a mechanism set up. And maybe it's just that we're requiring more up-front. You know, that those forms be submitted maybe more like the tax incentive process where the projects are actually submitted and there's data that's submitted to the state. So all of the things that are supposed to be happening now in statute, making sure that those are going to a central location to review and at least check those off. But I'll need to think about that a little bit more. [LR599]

SENATOR KRIST: When you do think about it, think about death by fiscal note because the next thing that's going to happen is whoever we give the responsibility to at the state level is going to say, oh, yeah, I can do that, two men, two years, \$2 million, I got it. [LR599]

RENEE FRY: Right, right. [LR599]

SENATOR KRIST: So thank you. [LR599]

RENEE FRY: Yeah. [LR599]

SENATOR KRIST: And I didn't mean to be a smart aleck about that. [LR599]

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RENEE FRY: No. Right. [LR599]

SENATOR KRIST: But I think that's another critical point. Thank you so much for coming. [LR599]

RENEE FRY: Yeah, thanks. [LR599]

SENATOR MCGILL: Senator Crawford. [LR599]

SENATOR CRAWFORD: Thank you. And thank you for your testimony. I wondered if you had any examples from other states in terms of efforts after the approval, what your point (5) is talking about, ongoing performance and oversight. Do you have any examples about what that might look like or how that's been done in other states? [LR599]

RENEE FRY: Yeah, I'll need to go back. Most of the TIF reform has been done...some has been done at the state level and some has been done at the city level. And I'll have to look back. Quite honestly, we did this research several months ago. But I can go back and send that to you. [LR599]

SENATOR CRAWFORD: Okay, thank you. [LR599]

RENEE FRY: I know that we have examples. I just...I need to go back and refresh my memory. [LR599]

SENATOR MCGILL: I just have a couple quick questions. When you envision some state oversight, do you think it's every project that would need to get run through there or maybe projects that a community just feels are problematic? Do you have thoughts on that? [LR599]

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RENEE FRY: Well, yeah. So part of the problem that we have...so for example, we were trying to determine, looking at the projects and the information that's available publicly, at least in an available spot. And if you look at the information that's made available to the Department of Revenue, it's very difficult to really get a grasp of that project and the "but for," all of that stuff. The evaluation that's supposed to happen isn't included. And so that's not at least accessible. It may be if we called the individual cities that we could get it. And so it's really hard to know. There's just a lack of publicly available data in which to really evaluate what's actually happening right now, at least statewide. So there may be certain cities that make this data readily available. So I think we need to start by having increased transparency to make sure...and reporting of these projects to really get a grasp on how cities are using these projects and determine, maybe there are certain categories that need more oversight, such as retail. [LR599]

SENATOR MCGILL: Okay. [LR599]

RENEE FRY: Senator Davis talked about this. There may be someone after who talks about the fact that TIF projects, according to the national research, industrial projects are...have a better ROI with TIF than retail, for example, because retail then is usually...you know, your retail pie isn't growing, right, in a community. [LR599]

SENATOR MCGILL: Yeah. [LR599]

RENEE FRY: And so maybe there are certain types of projects that require prior approval, something that we need to think about. But I think we need to start with just more transparency and data availability. [LR599]

SENATOR MCGILL: So when you're using the term, you know, we need to audit the projects, it's not just the finances of it. It's...know...I remember, as we were talking substandard and blighted a lot last year, I was going through the definitions of what that means and the qualifiers, and so double-checking to see if people are meeting those

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qualifiers. Because in the statute, it is pretty clear about what it takes to be substandard and blighted. [LR599]

RENEE FRY: Right. And, you know, a plan is required. And again, I think you're going hear after me about a number of instances where the plan was never done. I know of projects that...there's a pretty prominent project in Omaha where construction started before... [LR599]

SENATOR MCGILL: Yes. [LR599]

RENEE FRY: ...so clearly did not meet the "but for" test, right? And so making sure that we're at least, at a minimum, that we're meeting current state law, right, because right now it doesn't seem like we are meeting, at least consistently, meeting current state law. But there's no real mechanism for, you know, access to that data to...unless you really go down to each individual city and request all of the documents pertaining to those particular projects, which is incredibly time consuming. [LR599]

SENATOR MCGILL: All right. Are there any other questions? Go ahead, Senator Davis. [LR599]

SENATOR DAVIS: Just probably to get this in the record more than anything, Renee, but do you know the year that this came into being? Wasn't it like '83 or '84, somewhere in that point? [LR599]

RENEE FRY: Yeah, I don't remember that off the top of my head. [LR599]

SENATOR DAVIS: And the point being if ramifications on state aid to education didn't really develop at that point because education wasn't funded by the state at that point to the point, to the degree it is today,... [LR599]

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RENEE FRY: Right. [LR599]

SENATOR DAVIS: ...which is why this is a new problem, or a newer problem. [LR599]

RENEE FRY: Right. No, it was definitely pre-TEEOSA. And so certainly was not contemplated about what the impact would be to K-12 funding. And obviously there is a loss of revenue for other local governments as well. But at least that revenue loss stays within the community, whereas with TEEOSA there's a redistribution that impacts districts outside of the district using TIF. But certainly I'm sure it was not intended to have that effect. [LR599]

SENATOR DAVIS: Thank you. [LR599]

SENATOR MCGILL: I'm being told 1979, so to put a hard date on that. All right, unless there are any other questions, I don't see any. Thank you, Renee. [LR599]

RENEE FRY: Thanks. [LR599]

SENATOR MCGILL: We will happily take the next testifier. [LR599]

DICK CLARK: (Exhibit 5) Chairman McGill, members of the Urban Affairs Committee, my name is Dick Clark, D-i-c-k C-l-a-r-k. I'm director of research for the Platte Institute. Thank you for this opportunity to speak today on the use of TIF in Nebraska, and thanks to Senator Davis for introducing this interim study resolution, LR599. The questions set out in the resolution raise many of the same concerns that were discussed in the February 11 hearing before this committee on Senator Davis' LB1095. And I would like to incorporate my previous testimony by reference here. But I would like to add a few additional points for the committee to consider as this study moves forward. TIF can be a useful tool for the redevelopment of blighted, substandard areas and we see in 18-2102 that that is the narrow purpose for which the Community Redevelopment Act

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was enacted by the Legislature. In locations where there's stagnation and deterioration, redevelopment finance by TIF dollars may be the only way to start the process of turning those neighborhoods around. And frankly, Nebraska law requires that that be the case through what we commonly call the "but for" test. We have to be careful though by what it means to say, this project would not occur but for TIF. If a project is defined with sufficient specificity and the project plan is entirely built around tax increment financing, it is fairly easy to conclude that a particular plan would not transpire but for TIF. That's the wrong question to be asking. The more important question is whether any project of similar value might go forward on that parcel in the near future without TIF. If there's some alternate project that could go forward without it, the attribution of the incremental increase in future revenues to the TIF project becomes much less certain. That means that we have to question the dedication of that future tax revenue bump to the redevelopment authority instead of to other services. The whole reason for the "but for" test is to ensure that the anticipated future revenues dedicated to paying for a project really are a return on that investment. That's important because, as I said, there's an opportunity cost when we divert tax dollars from other uses. Now, as demonstrated in our 2013 study, accurately assessing the probability of development without TIF is a crucial factor for understanding how a TIF project will affect local schools. The more likely it is that a project would have happened anyway, the more likely it is that TIFing that project will be detrimental to that local school district. The "but for" test contained in 18-2116(1)(b)(ii), it's vague enough to allow for a whole lot of shoehorning of projects that probably ought not be approved as TIF recipients. Simply claiming it won't happen if we don't TIF it should not be adequate evidence to pass that test. We need transparency and public accountability for these projects that do receive TIF dollars to ensure that project backers are acting in good faith, that they're following through on the conditions they agreed to when they proceeded with a project. Conflicts of interest relating to TIF projects are defined and prohibited by the Community Redevelopment Act in 18-2106. However, as described in our 2013 study, decision making by local officials is not always at arm's length. Our report described one episode where a city attorney was also the chair of a community redevelopment authority and an

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investor in the community investment club that would be the direct financial beneficiary of the project. This is a clear case of what economists would call moral hazard, and it puts local taxpayers at risk. It's something that our current TIF law is not effectively preventing, 18-2106 notwithstanding. Use of TIF has grown significantly over recent years. And although most projects are in the most populous parts of the state, the greatest growth in its use on a per capita basis has been in the more rural parts of Nebraska. Wherever a TIF project is proposed though, taxpayers should be protected from decisions that shift the burden of paying for local services onto fewer shoulders. That means that Nebraska needs less ambiguous standards for approving or disapproving TIF project proposals, standards that incorporate more objective economic metrics from measuring the cost and benefits of a particular plan. We need more transparency and accountability for projects after they're approved too. The state should require local governments to regularly evaluate TIF projects. There should also be a framework in place to recover lost revenues when project parameters are not met. The Department of Economic Development is currently tasked with overseeing TIF programs in Nebraska. But while DED collects and publishes information on implementation of the projects around the state, it doesn't have the authority to audit them or assess penalties for failing to comply with the law. Other states, such as Minnesota, task the state auditor with this oversight function. But wherever it lands in the structure of state government, it's a function that needs to be carried out. Finally, as the Legislature reviews TIF, it should also review the process for designating areas as blighted or substandard. Our 2013 study found that municipalities seem to be using these designations strategically and in manner which seems to be excessive. In one case...in one case study city, almost one-third of the city land area was deemed to be blighted or substandard. That might be beyond the scope of this interim study under LR599, but it's an important factor to consider when examining how and why TIF is used in Nebraska. I'd like to again thank Senator Davis for introducing the interim study resolution and thank the committee for its time. [LR599]

SENATOR MCGILL: Thank you, Mr. Clark. Questions? Senator Krist. [LR599]

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SENATOR KRIST: Thanks for coming. You've been, as they say, kind of on both sides of the fence looking at both from the government side and now as an independent researcher. You heard the testimony and the exchange that Renee and I had earlier. Is the state the right place for this kind of an oversight? I mean, you're recommending change to statute. [LR599]

DICK CLARK: I am. [LR599]

SENATOR KRIST: Okay. But if there's oversight, wouldn't it be better placed in the county in which the municipality rests? I mean, we've heard several descriptions of how the county then is forced to put in roads or to do other things. I mean, why the state? Why us? [LR599]

DICK CLARK: Well, I think it may be harder in some cases for folks who are a little closer to a project, especially in smaller communities, to be that hard voice of reason there. And maybe it's easier and you don't have relationships that get in the way of that accountability relationship when you don't have the local government responsible for watching itself. And again, there are other states that have set it in their state auditor's office. I'm not so sure DED is a great place for it because the culture of DED is not really one of an enforcement agency. I don't know that that's the right place to it. I know Senator Davis' legislation had another possibility of where that accountability organ might be located and I believe it was a new state entity. And so I'm not sure that I have the final answer on where it ought to be located, but I do think it needs to be somebody who's at an arm's length from those local interests. [LR599]

SENATOR KRIST: Okay. Thank you. [LR599]

SENATOR MCGILL: I appreciate your example about kind of the conflict of interest, because I've also been told about situations where the people making the decisions

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have that conflict of interest within the city. And so I appreciate you bringing that up. Any other questions? Senator Crawford. [LR599]

SENATOR CRAWFORD: Thank you, Chairwoman McGill, and thank you for your testimony. Now you had mentioned I think a lot of our discussion has been the question of the initial granting. But your testimony and also Renee's earlier emphasizes the importance of oversight after that initial step. So what are the concerns or problems that we would be watching for in the ongoing implementation of the project? What's the oversight concern there? [LR599]

DICK CLARK: Well, we get into it in greater detail in our report. But I think the concern is if you agreed to a condition in terms of how a parcel that was financed is going to be developed and on a particular time line, are we hitting those points? And I'm not sure if I have any more detail than that. But it's just, is there a mechanism in place to ensure that people are doing what they said they were going to do? And if they're not, is there a way to rake back in some of those proceeds? You know, if somebody is in one of the Nebraska Advantage tiers and they don't follow through on their promises, my understanding is that there is a way to recover some of that. [LR599]

SENATOR CRAWFORD: Clawback. [LR599]

DICK CLARK: And I'm not sure there's a similar mechanism for TIF, and I think there needs to be. And I think when people's wallets are on the line, to some extent, they're going to keep themselves accountable. [LR599]

SENATOR CRAWFORD: Thank you. [LR599]

SENATOR MCGILL: Hey, I think there needs to be more transparency in Nebraska Advantage as well, actually, while that topic matter comes up. [LR599]

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DICK CLARK: Yeah. Different interim study, right? [LR599]

SENATOR MCGILL: It is a different interim study. [LR599]

SENATOR KRIST: We're dealing with that one in Tax Incentive, yeah. [LR599]

SENATOR MCGILL: Senator Davis, you had a question. [LR599]

SENATOR DAVIS: Well, I've got a couple of questions. And you talk about the 2013 study. And as I recall, 35 percent of the state...a community is supposed to have only 35 percent of their real property TIFed. In reality, I think there are several communities that might be over that. Do you have any...have you done any research on that? [LR599]

DICK CLARK: I'm not sure. I'd have to get back to you on that, Senator. Sorry. [LR599]

SENATOR DAVIS: We were pulling...I was pulling some data right at the end here. And I thought I saw that. But cities tell me they don't have any other economic development tool out there. In your research, do you know other states that have found other ways to do this, to help cities do what they need to do without affecting all the other taxing entities? [LR599]

DICK CLARK: Well, you know, it's obviously a multifaceted problem, right, because ultimately there's the opportunity cost issues of, is this taking away from our vital public services like education, maybe infrastructure, other things? I think that, you know, coming from the Platte Institute where we do look at everything from tax policy to education policy and elsewhere, I think we have to try to find ways to lessen the overall tax burden. I think that's the best economic development medicine of all. And so that's what I would tend to recommend. I think that when we start shifting tax burden around, then obviously certain people are going to feel more acute pain from that. And so certainly it's a tax relief issue for them, but it's a tax relief issue that's related to the fact

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that more burden just got put on their shoulders by virtue of having a smaller base, or at least a smaller base going into the future compared to what the trend might have been. [LR599]

SENATOR DAVIS: And do you have any comments about the wisdom of TIFing fast-food restaurants and retail stores? [LR599]

DICK CLARK: Again, I would actually agree with Ms. Fry when she suggested that it's just...and actually with you. I believe you raised it. It's fundamentally unfair to pick a business that you're going to provide some advantage to against its competitors for no reason other than they were the ones that were able to complete the paperwork. And I think that there we do need to let the market decide whether a town needs another fast-food restaurant or whether it needs, you know, some other chain, whatever. And I do think that the evidence shows that industrial TIFing tends to produce a much better ROI--this was also mentioned--than even residential projects. And both of those return better ROI than commercial projects. So I think maybe if there were some prioritization or maybe tougher metrics for the commercial projects as opposed to the projects that we know tend to be more successful, that might be a good place to start as well. [LR599]

SENATOR DAVIS: And that would need to be defined in statute. [LR599]

DICK CLARK: Yeah. [LR599]

SENATOR DAVIS: Thank you. [LR599]

DICK CLARK: Yes, sir. [LR599]

SENATOR MCGILL: I know that this committee has looked at other options and they are incredibly limited due to our...some things in our constitution, our state constitution. I'm

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sure some of the TIF supporters will talk about that and some of those alternatives as they come up to bat here at the table. But other than that, I don't think...I don't see any other questions. [LR599]

DICK CLARK: Thank you very much. [LR599]

SENATOR MCGILL: Thank you very much, Mr. Clark. I'll take the next testifier. Dave, you can be up next after this one. [LR599]

JACK DUNN: My name is Jack Dunn. And does my voice carry? [LR599]

SENATOR MCGILL: Yep. [LR599]

JACK DUNN: (Exhibit 6)...spelled J-a-c-k D-u-n-n. I'm the executive director of Policy Research and Innovation, formerly known as the Progressive Research Institute. We are a solution-focused, nonpartisan Nebraska organization dedicated to achieving a more democratic, racially integrated, economically just, safe, and healthy community in the Omaha/Council Bluffs area. The following are problems uncovered from studies that we and others have done on TIF in Omaha. The criteria for blighted areas are sufficiently malleable that just about any area can be and has been given that designation. (2) Although north and south Omaha, notable for high concentrations of both poverty and minorities, anchor the blighted areas, most of the actual investment has gone into the downtown and near west Omaha. Poverty downtown has not so much been alleviated as relocated and replaced by gentrification. (3) TIF plans can subsidize projects that would have happened anyhow. This has been mentioned. (4) Since an unknown number of TIF projects would have happened anyhow, what the TIF designation does is shift costs in those cases from the developer to the rest of the city for 15 years. The other property taxpayers in the city pay for the increased police and fire protection, emergency medical services, mass transit, schools, and other public services that the TIF project uses but is not paying for. (5) The city ends up paying for

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infrastructure improvements that otherwise the developer would have paid for. Developers who do not have incentive of a TIF plan do have to pay the costs of these infrastructure improvements. This seems to give developers who receive TIF funds an unfair competitive advantage. Some projects, such as retail strip malls really don't have much more than a 15-year life expectancy. In this case, local governments would receive little if any benefit from the TIF plan. (7) TIFs tend to encourage the bidding war and race-to-the-bottom mentality of municipalities as businesses play off one against the other to see who will give the biggest incentives. Developers begin to develop a sense of entitlement and expect to rely on government handouts rather than taking risks on their own. And two items which occurred to me as I was sitting here which I do not have in the written comments, I'll just quickly. It is absolutely essential, I believe, to have a cost-benefit analysis for any project proposed. And I strongly agree with the notion of a clawback provision. As of 2011, a total \$179,505,247.29 in tax revenues had been forgone during the previous 15 years. Of that amount, \$144,893,914.88, or in other words most of it, represented commercial businesses and market rate housing. As of that date, very little of that money had found its way into north or south Omaha. Most ended up in the downtown, also the north downtown which is a few blocks north of downtown, midtown, Ak-Sar-Ben, and now Crossroads. Other than during the construction period, commercial businesses, that is retail and market rate housing, generate few well-paying jobs. In our third iteration of TIF reports for the Omaha area which we have begun to work on, we will be focusing more strongly on the discrepancy between the TIF funding going to downtown and near west Omaha for redevelopment versus the redevelopment funding for north and south Omaha. At first glance, it seems that much of the north O funding goes to removing and replacing the housing stock which results in removing many of the north Omaha residents. The Blue Cross headquarters project received \$12,000,200 in TIF funds a few years ago. Blue Cross is a successful business venture. Other than possibly avoiding having the headquarters locate outside of Omaha, which raises the issue of whipsawing municipalities for tax breaks, it is hard to imagine why the project would need a TIF plan to proceed. But it is a nice amount and I'm sure north and south Omaha would appreciate similar

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arrangements to help bring in manufacturing jobs. In the meantime, several industrial plants have been lured out of central and north Omaha: Omaha Steel Castings and Distefano Tool and Manufacturing. Given that manufacturing generally pays well for working people, these have been the opposite of economic development we would hope for. The statutory rationale for TIF is to bring economic development to low-income areas. This is no longer how it works in practice, at least in Omaha. The question boils down to what kind of a society do we want to live in: one that pools its resources to help the less fortunate, or one that ignores the less fortunate while subsidizing the well-to-do? TIF started out as a way to meet federal obligations that had a moral imperative; that is, providing homes and jobs for the low income. Over the years, the progress of regulatory capture has almost completely inverted the original intent. Thank you for your time. And I'm happy to answer questions. [LR599]

SENATOR MCGILL: Thank you, Mr. Dunn. Do we have any questions? Senator Krist. [LR599]

SENATOR KRIST: I would ask you, because of the proximity to the metropolitan area, to include the town of Bennington in your research if it's possible given your charter. [LR599]

JACK DUNN: If it can be done, I will. [LR599]

SENATOR KRIST: That's an example of how TIF money built houses because we had people and kids and more kids and more kids and took away from the education funds within the city. And I think it is a great example of how local leadership needs more education in terms of how to use the tool because it's pretty blatant to watch it happen. So I'd ask you to take a look at it if you would, please. [LR599]

JACK DUNN: I will keep that in mind. [LR599]

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SENATOR KRIST: Thank you. [LR599]

SENATOR MCGILL: Other questions? I don't see any. Thank you, Mr. Dunn. [LR599]

JACK DUNN: Thank you. [LR599]

SENATOR MCGILL: Welcome, Senator Landis. I'm sorry we couldn't get the PowerPoint up and going for you today under short notice. [LR599]

DAVID LANDIS: That's all right. I could have given you better notice and I apologize for not doing that. [LR599]

SENATOR MCGILL: I'm glad you brought us some dead trees. (Laugh) [LR599]

DAVID LANDIS: (Exhibits 7, 8, and 9) But I have pictures. My name is David Landis. I am the Urban Development Department director for the city of Lincoln. I also served formerly in this body. I want to make about five points in the five minutes I have. We take the obligation to study and execute state standards seriously. We require in the city of Lincoln a blighted, substandard survey done by a planning firm. It goes through each and every one of the state conditions. It then analyzes whether it's present or not in the blighted area--or would-be blighted area. And those professionals who are not part of the city government provide that to us and on occasion they will say, no, this is not "blightable." They will do a house-by-house, building-by-building survey. You'll see that they include pictures of some of the conditions that are there. They will identify the percentages of dilapidated buildings, the age of the sewers in districts and the like. In other words, it is standard practice in our town to take very seriously the standards that you've executed and we get professional third-party advice to give us that standard. I offer this to you and I ask that you pass it around to take a look at it to see if you find it a substantial document that seriously tries to attend to the issue of blighted and substandard. It's not easy to see this. This isn't very easy. And it would have been

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easier if we had a PowerPoint. But I guess we can jump past the first page because I think Senator Davis and I agree that the Cornhusker Hotel was a good idea. So I think that allows us to go, let's say, to the second page, or essentially things that have happened in the Haymarket. These were empty warehouses with asbestos on occasion that had to be redone. Page 3 is the old Sam Lawrence Hotel. I'm not sure where the women who used to work on an hourly basis in that building went to when they closed that hotel, but it was replaced by Block 35's Embassy Suites. The question is, is that community development? Is it community redevelopment, which is what the act is about? Yes, it does have an economic development aspect. Yes, it helps us build a city well. But the question is, is this community redeveloped when those old buildings, many of which are substandard, old, have infrastructure problems, replaced by Embassy Suites? And would Embassy Suites go to that location but for this help? And the answer is, no, they wouldn't. They have plenty of places to go, plenty of places where you don't have to buy old buildings that you then have to pay to tear down so you can then build the building that you want to have. You see that the building in downtown is not cost effective in many senses, which is why urban sprawl occurs. It's easier to buy land from a farmer at the edge of a city from one landowner at that price and build a new structure. When you do it downtown, you have to--on this block--have to buy six different pieces of property, and they see you coming, to get a building that you don't want so you can then pay \$150,000 to tear it down so you can get to the ground that you can reproduce at the edge of the city very easily so you can build the Embassy Suites. But for the use of TIF to equalize those differences, it's possible the Embassy Suites would be built in Lincoln. But it also would possibly be built at the edge of the city where we have then to expand our road system, expand our sewer system, and create an essentially car-based, unsustainable city that spreads out and sucks up farmland and the surrounding area and creates the inefficiencies of sprawl. Next page, couple of more hotels, however, there's an interesting piece at the bottom of page 4. This was an asbestos-filled, former Naval Reserve building that used to get broken into. And I think if dope smoking was the worst thing that happened at 10th and Military, that's probably excusable. But I think it was much more serious than that. It got replaced by affordable

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housing--not gentrification, but affordable housing including housing for the seriously mental ill in which this city has a 2,000 unit need. And this project was done with the assistance of TIF. There isn't another private sector housing project like it in the city. But the way that we got rid of that ugly old asbestos-filled building and replaced it with affordable housing for poor people and for people with serious mental ill was the use of TIF. That's what made the project work. If you take a look at page 5, those are areas of North 27th, on the left-hand side what was there, and to the right was what happened to it. So that happened on both those pages. It also happens on the next page. And by the way, you know, we...I got the good humor of saying, oh, gosh, we wouldn't want to have a Pizza Hut. But if you take a look at the bottom of page 6 on the left-hand side, and understand that any retailer can go someplace else, they can go to SouthPointe and get it very easy, very nice place, new and it has no cleanup capacity. Would you trade the left-hand side for a Pizza Hut? I would. And you know why? To take a look at the piece on the left-hand side, I have to spend \$75,000 to get down to land. Then I start building the building. And yeah, I'd have to say for a community redevelopment, I would do that. I think my light is on here. [LR599]

SENATOR MCGILL: Mr. Landis, yeah, we can move to questions. I'm sure there will be plenty, so you'll be able to say most of what... [LR599]

DAVID LANDIS: (Laugh) Or maybe not. [LR599]

SENATOR MCGILL: ...what it is you'd like to say. [LR599]

DAVID LANDIS: Sure. [LR599]

SENATOR MCGILL: First, just moving back to, you know, the resolution before us, your thoughts on the extra level of oversight that's being proposed. [LR599]

DAVID LANDIS: You know, there's a couple of reasons why I...first, I think you were

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saying, we're talking about transparency. There's plenty of opportunity for the public to register its disapproval if we're doing things wrong. There are two public hearings when we declare something blighted, an area blighted. There are two public hearings when we create a general redevelopment plan for an area. There are two public hearings when we amend that plan for a specific project. There's another public hearing for when we do the redevelopment agreement for that. There's another public hearing on the capital improvement program to put that into our city budget. And there's another public hearing on the bond that we will ask the developer to purchase but that we will create the writing of. All of those public hearings occur with public notice, in some cases, people surrounding that area, and to the general public. That's a lot of chances to take bites at the apple. But if we made a mistake, there's another 30-day referendum period when they can come in, stop the action by a petition process or they can sue us in court for having extended past the law. Or they can go to the election process and say, we've lost our heads, the city has to be replaced, these people are boneheads. Or finally, they can do recall systems. All of those remedies are available to people who are dissatisfied with their city government. To adding to that state oversight, I got to tell you, it's rare. There in fact isn't any state oversight on any of our border states. The only one that interrupts the process is Kansas that allows counties and schools, I think, essentially to be brought into the process. But every other border state does not have it. They...some of them have less than we have. Some of them have what we have, which is notice and then information to the state. I heard Minnesota being cited. Yes, they do an audit function and then they have no enforcement authority after that. I'm not sure that makes good sense. Why would you do that? Slowing down a process, creating data for which you then have no remedy. And can I...I don't think there's anybody in the room who can do this except for me. But I served in this body for 28 years. So I know about the state bureaucracy, and by the way, I believe in state employees and I think they do a great job. But our system is fallible; local government is fallible, so is the state. And it's not like one of us has it right and one of us has it wrong. And one of us is smart and one of us is dumb. Because when I was a state senator, we found that our Department of Health and Human Services had been the state ward for 200 children, they did not know where

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they were. When I was a state senator, we created a nuclear waste compact that we then failed to exercise because of our Department of Environmental Quality, and we paid more than \$100 million in damages because the state bureaucracy didn't execute its federal responsibilities. When I was in the State Legislature, we had a Banking Department that helped administer the Commonwealth law, which eventually brought thousands of people that had lost their life savings, and then passed a \$16 million bill of reparations which the Supreme Court overruled. And that was the state government that I was a part of at that time. It was my state government that began the problem of the Corrections institute misreading of the factors which have come to light today but went back to '90s when I served in the Nebraska Legislature. The Department of Labor has had to repay \$7 million to the federal government for mismanagement of funds. If we say that state oversight is the right answer because we're boneheads, I wouldn't say that that's a fair characterization of the allocation of expertise on both sides of the ledger. I think we're both fallible. If this is a tool, I don't think the state is the parent and the city is the child. I think if it's a tool, the state is the foreman but the city is a carpenter. We're not a child. We know how to manage these things. And if I could say this, we have repaid the costs of TIF many times over. In fact, on the first 15 projects, over 560...no, about 480 percent rate of return so far. That's how much more we are developing in TIF resources than we expended to do the projects. And it's growing every year by \$3 million. The city of Lincoln's public schools have been paid \$20 million of new taxes through TIF since...well, since the first 15 projects were completed.

[LR599]

SENATOR MCGILL: So, Dave, you know I'm a supporter of TIF as a tool, absolutely, and even see it as being more economic development or open to that being one of the few tools that cities have. But when people...when there are projects that are not meeting the "but for," so when there are projects that are questionably not meeting the "but for," is that just on the public then to engage in the process that you laid out? Or do you think there should be something else in terms of that "but for" analysis? [LR599]

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DAVID LANDIS: We do have a cost benefit, but it's not the traditional cost benefit. It measures how much there is in private investment compared to the assets that are created through the TIF process. So it does prove to be cost beneficial, but it's not a tradition cost benefit. The difficulty of the "but for" test is that it tries to measure the intention of a developer in their mind's eye as to what they choose to do or not. What I don't agree with is Mr. Clark's analysis, which is, you know what? If there's any viable other future project, don't do TIF. How long do we have to wait? That there is a viable alternative that you can conceive of on paper doesn't mean there's a person willing to do it and pony up the money. That's an investor. That's a developer. So the notion that an intellectually attractive alternative might exist doesn't mean that the kinds of buildings that existed and made our neighborhoods look bad are going to be torn down and replaced by new buildings. That's going to take a human being. And you know what we do in the city of Lincoln? We, at the end of the process, we ask for a pro forma. We ask them for their data. We ask for the case. And then in the end we say, and we want you to give us a letter. We want you to declare to this city and to us that but for the use of TIF you would not have done this project in the way that you did. We want you to tell us and the public that that's what you...that's true. I'm not sure of another way to prove or disprove what is a matter of individual intent. So it is hard. And if there's a better policy, let's take a look at it. I have yet to find in the 49 states that have this tool, it is universal in this country, I have yet to find, you know, a good way to attack that problem that I know of. And if there is one, well, then my guess is Renee and Mr. Clark and Mr. Dunn are going to find it for us, and Senator Davis as well before January. [LR599]

SENATOR MCGILL: Questions from the committee? Senator Krist. [LR599]

SENATOR KRIST: Thanks for coming. I learn more usually from you in 15 minutes than I did in all of my...well, anyway. (Laughter) I have a couple of questions for you and they ask you to presuppose that there might be another alternative. With TIF...first of all, how many of your projects went the full number of years that you're allowed to go? [LR599]

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DAVID LANDIS: It varies. But in our case, we've had a number that have gone out of the 15 years. Understand there are many cities who have...who do it much more quickly than we have. I would guess that by comparison, our calendars have run longer than others. [LR599]

SENATOR KRIST: So in the...in using the tool as it currently exists, the measurement of how far you can defer should be measured and that should be part of the decision process. [LR599]

DAVID LANDIS: Yes. And in fact, I think I gave...there should be two pages that will tell you how that deferral and what its expense has been and what its return has been. [LR599]

SENATOR KRIST: Right. [LR599]

DAVID LANDIS: Are there two pages with...? [LR599]

SENATOR MCGILL: Yes, there are. [LR599]

DAVID LANDIS: Okay, good. If I can take a look at the first one, here is what we did. We tried to see whether or not this was a bad deal. On the left-hand is a number one. We knew the valuation of the first 15 projects, these that have run the clock. They've gone the 15 years and then some. So we knew what they were going in and the total value for those 15 projects. All the land and the buildings totaled \$15 million. And those \$15 million of assets were paying \$347,000 of taxes. Then the gray period is the period in which the new taxes were diverted to (inaudible) these projects. And the total amount that was diverted was \$6.3 million in the gray period. Then we have the number three which is what was the valuation when it came out and went on the tax rolls to be taxed for everyone. And the answer was when they came out it was \$105 million and today it's \$165 million. It went in at \$15 million and today it's \$165 million. It went in at 1 and it

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came out at 11. That means that in every year, you're producing about 11 times more taxes than you were on day one, which means it doesn't take long to make up what you spent. We spent \$6.3 million. Those projects now produce \$3.3 million or \$3.4 million a year. Which means we made up the investment in the first two years, and every year that's passed by we've made another \$3 million. The total amount of money that it was essentially new taxes, and that's arguable because people will argue. I think Senator Davis and I would have difficulties whether it was new taxes or not, but in my world those are new taxes. Those aren't the preexisting taxes. Those are the new taxes. Total so far: \$31 million, and out of that, that's \$20 million for the Lincoln Public Schools. The entire city forgo \$6.3 million. Currently, we've receive \$31 million in taxes. And every year that goes by we replace a year of \$350,000 of taxes with a year of \$3.4 million of taxes. Every year that goes by, our school is doing better and better because of TIF. [LR599]

SENATOR KRIST: So we've established, at least from this dialogue, that you have an option to use the 15 or you go less depending upon what your payback might be. Second question in that same vein, is there in your mind a way to set aside, in other words, to partially TIF a project and to look at whatever incrementally can be added into a TEEOSA formula as most people would suggest that we're hurting the state by helping Lincoln, quote unquote. Go ahead. [LR599]

DAVID LANDIS: There's a big framework to that question, and then a more narrow one. Let me tell you what the big one is. Your Revenue Committee, about ten years ago, did a study and what it essentially said is that urban areas subsidize rural schools. As painful as that is for rural schools to believe, that's essentially what the Revenue Committee's study found. And that is to say in the contribution of the pot of money, sales and income tax dollars, cities generate more; they just do. And by the way, that's the nature of cities. It shouldn't shock us. So we create from largely urban sources the pot of state resources that we then allocate back to schools. Money in is more urban than money out. Money out is more rural than urban. And by the way, as an urban

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landowner and as an urban senator when that happened, I thought, that's fair. My goodness, they send their kids down to our state university. We run their State Capitol down here. That we wind up spending...putting money into the pot that winds up going to rural Nebraska is part of the social contract of being a state. So it doesn't bother me that about 25 percent to 30 percent of the contribution that the city of Lincoln makes in sales and income tax money doesn't come back to us. It goes to other social needs in other parts of the state. The big answer is that overall the state aid formula serves rural interests better than it serves urban interests, although there's the equalization problem. Okay. So let's step inside the smaller problem. This really isn't, I don't think, a problem about TIF and its allocation in that if we're doing it wrong, we've got a population that will bounce a city council that goes over their heads. They'll throw them out of office. It'll become a campaign issue. That's how we take care of things. By the way, we don't need a rule that tells us to talk to the Lincoln Public Schools. Lincoln Public Schools told us about eight years ago, don't do that again. They pointed out one of the projects we were working one; said, we don't like that, don't do that again. And we said, okay, we won't. I don't need a state law nor does my mayor to say, okay, we won't, which is what we did. Now, the solution, I think, to the problem that Senator Davis has raised lies in the state aid formula. It lies in more money to rural schools. It doesn't lie in creating a state oversight system, absolutely unprecedented in the nation, to do what the state I don't know is any better at doing than we are given our relative track records, that will make a system untimely, slow down the development process, create uncertainties, and then risk, I think, an effective community redevelopment tool. When I look at those pictures, that's replacing ugly, bad, substandard, dangerous buildings with new, fresh, higher-valued, better land uses. So I see community development more than I see economic development. I think the solution lies in TEEOSA, not in TIF, to the issue that's raised here. [LR599]

SENATOR KRIST: My last comment and question is having been knee deep in Corrections during this interim period as well as watching the Department of Health and Human Services, not very much has changed. But I hope it will in the next few months.

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But to that point, if there was any oversight for...by the way, what you're describing happening in Lincoln does not happen all over in the application of TIF. Yeah, your process in Lincoln is probably, because of you and because of Mayor Beutler, a little more specific and little more...has a little more teeth in it than I think is happening in the rest of the state. And I think that generally is a statement that I will stand behind. But if there is any oversight to be had, what is your concept that the county should step in and at least have a vote in that TIF process? [LR599]

DAVID LANDIS: Okay, so I think the notion is, let's see, would you like to be poisoned by something that's really...(laughter) slow active and is acidic and will take three days of great pain, or would you just like to have a guillotine? I pick the guillotine. [LR599]

SENATOR KRIST: Message received. [LR599]

DAVID LANDIS: I pick the guillotine,... [LR599]

SENATOR KRIST: Message received. [LR599]

DAVID LANDIS: ...meaning this. We at least would have a direct conversation with our county board in a way that jumping the level from local to state means we have to go through you. We have to go through the administrative rule-writing process. We have to go...that is problematical. We don't think, you know, that we should have to do that. But in the end, if we had to because if you're forcing me to, I would rather have it be a person in my city who's, where the rising tide affects us or injures us, is one my neighbors and somebody who's in the same vicinity. If I'm in Hyannis, I don't think I want to come back to Lincoln to get permission to do something good for Hyannis if it was a matter of Hyannis working together and the community was together. If I have to pick, I'll pick that. [LR599]

SENATOR KRIST: Okay. Thank you. [LR599]

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SENATOR MCGILL: So you aren't worried about the conflicts of interest that, you know, when you are just looking at your own community or some people who are on some of these redevelopment advisory boards who are working on a project may have an investment in that project. Do you think maybe there need to be better standards about who's involved in drafting the projects? [LR599]

DAVID LANDIS: I do know that we recently changed our ordinances for what constitutes a conflict of interest. [LR599]

SENATOR MCGILL: Okay. [LR599]

DAVID LANDIS: I don't know of an example in my town that would fit that. [LR599]

SENATOR MCGILL: Okay. [LR599]

DAVID LANDIS: I do know that when there are issues about conflicts of interest and people excuse themselves and walk out, it's covered in our paper. So I don't know. I do not countenance conflicts of interest. I'm not here to argue in favor of conflicts of interest. I do think this...I do think that remedy is as likely to come from the opprobrium that occurs in a local paper when you're called on it than it is that four years later Mike Foley finds it in an audit. I bet of the two, it's the shame in the barbershop of a local coverage than it is the offhanded chance that a state bureaucrat will discover it in some kind of document, if I had to guess. [LR599]

SENATOR MCGILL: Senator Crawford. [LR599]

SENATOR CRAWFORD: Thank you, and thank you for testimony. So I have a couple of questions, one just to confirm what I think I heard you say. The "but for" test for Lincoln is a letter from the developer that says...that states that...is that...? [LR599]

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DAVID LANDIS: We do ask for...we do everything the state obligation requires. We do a cost-benefit analysis. On occasion, we ask for a pro forma and we have them go through that pro forma. When they do a bond issuance--which they will buy by the way, we do not back TIF bonds, developers are completely at risk and our taxpayers are not--they will go through the capitalization rate and the interest rate. So we will do everything that that's the case. And in addition to that, we'll ask them to look us in the eye and tell us if they really mean it or not. Do you need TIF to make this project work? And they will tell us why they do. And we don't have a mathematics for that because it becomes an investment decision. And if you had your retirement account, can you put into math to prove to a third person the decisions you've made about your retirement account? I bet not. Some of it was gut, some of it was instinct, some of it was your taste for risk, some of it wasn't. Well, was there a right answer for your 401(k)? Well, that's kind of what you're saying, wait a second. I'm sure where there's a state law that can divine this fact and we can get to the bottom of it by the way we write a state law then give it to the Revenue Department to administer and stand over them. Really? [LR599]

SENATOR CRAWFORD: Yeah. Well, no, but I'm just trying to figure out what our tools could be or what evidence you could ask for. [LR599]

DAVID LANDIS: Yeah. By the way, you had three very deeply committed, concerned citizens, none of whom who had an idea on how to do that. But they did say we should go looking for it. Okay, all right. But on a fishing expedition, you've been out for three days, wouldn't expect to at least found a small little fish of some kind? [LR599]

SENATOR CRAWFORD: I forgot what my question was. (Laugh) [LR599]

SENATOR MCGILL: Well, we can go to Senator Davis for a minute and then as it comes back to you we can bounce back. [LR599]

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SENATOR CRAWFORD: Yeah, thank you. [LR599]

SENATOR DAVIS: Thank you, Senator. With regard to payback data, how many years are we looking at here? Are we going back to the Cornhusker so we've got 30 years of...? [LR599]

DAVID LANDIS: That's right. So the Cornhusker, being the first, has been on the tax rolls paying taxes for the longest time of all. I think the most recent of those is about, I think, four years old when it came out. And you can see that graph, it's like that because here's the first, then the second, then the third, then the fourth. So you would take the Cornhusker as the longest out of that period. [LR599]

SENATOR DAVIS: But when you came up with your totals, the totals that you have, you put it all,... [LR599]

DAVID LANDIS: All that to today. [LR599]

SENATOR DAVIS: ...the revenue for all those 30-plus years. [LR599]

DAVID LANDIS: Well, for that one, remember, by the way there was a second redevelopment agreement done for the Cornhusker. So it's not exactly that. But that's right. The Cornhusker has had a huge jump in its valuation and it's been paying it year after year after year as in all of these cases. I mean, they jumped. When they come out, it's 1 to 7, but now it's 1 to 11 so that every year that goes by they paying a lot more in taxes than they used to. [LR599]

SENATOR DAVIS: So there was a second TIF project on the Cornhusker? [LR599]

DAVID LANDIS: There was. And it was when they added that conference center that's off to the side, the Burnham Yates Conference Center, and they expanded that. And

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then, oh, by the way, we put a garage on the backside that the city owns. That wound up adding some parking to the city. It also created some conference opportunities. And that occurred in the mid-'80s. [LR599]

SENATOR DAVIS: Okay. My point being some of the revenue that is generated in the city of Lincoln has to do with natural...with population growth over 30 years. [LR599]

DAVID LANDIS: Yes, yes. [LR599]

SENATOR DAVIS: You know, essentially in ten years, the city of Lincoln adds an equivalent of a North Platte. So over 30 years, you've added three North Plattes. You know, there's going to be economic development that takes places because of that,... [LR599]

DAVID LANDIS: Uh-huh. [LR599]

SENATOR DAVIS: ...plus appreciation of asset value. [LR599]

DAVID LANDIS: That's right. What's not accurate about this and it fails to account for the natural appreciation of value over that time. And you probably could refine the data to do that. However, the growth of more people at the edge of the city doesn't change the taxes that the Cornhusker pays. It's one entity that used to pay X and now pays Y. And we added up 15 X's and we added up 15 Y's and the difference was \$150 million of valuation. We recently closed, by the way, a couple of TIF districts, one of them on North 27th. They have shown a growth of \$47 million of valuation from when they began to when they ended. That's a growth...that growth of valuation will produce that amount of tax levy in perpetuity. And that will grow by that natural appreciation as well. [LR599]

SENATOR DAVIS: And that might have taken place without TIF. We don't know that. [LR599]

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DAVID LANDIS: I mean, you know what, that's true. You can't stick your finger in the river in the same place twice which is why there is a certain amount of article of faith. However, here's my test. I want you to look at the pictures. I want you to take a look on the left-hand side and the right-hand side. And take a look at what was torn down and what got built. And if that isn't community redevelopment then stop us in our tracks, because it is. [LR599]

SENATOR DAVIS: So I want to ask you a couple other questions. This is in reference to an article that Deena Winter in Journal Star in 2009. You were quoted as saying: "They thought this was a tool to attack the ghetto and the barrio and the slums, and TIF has been used in areas well beyond that situation," said Landis, who heads up the Urban Development Department. "TIF has never cleared a slum in its 30 years of existence." [LR599]

DAVID LANDIS: That's true. It has never cleared a slum. I will share...can we take a look at a couple of pictures here? Anybody go to UNL as a student years ago? It's not years ago in your case, okay? (Laughter) [LR599]

SENATOR MCGILL: In the late '90s and early 2000s. [LR599]

DAVID LANDIS: If you grew up in Lincoln, there was an area of town called T-town. It was the closest thing we had to a ghetto. And it was a ghetto, I think, in the sense it was...we were a racially intolerant town in which we limited our African-American citizens to their housing opportunities and we had an area that was that way. And if you take a look...oh, darn. I don't have the after pictures here. They had to be culled so I could get this in an appropriate amount of space. Let me put it this way. I showed in the city of Lincoln to a group of older Lincolmites a set of 12 pictures. And I said I want you to guess which neighborhood this is. And everybody in the room was 65 or older. The 16th guess was the Malone neighborhood. Why? Because if you're 65 or 70 years of

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age, you think of the Malone neighborhood being one phenomenon and it's back to the days of T-town. And I was able to show picture after picture of what was different. Now, here's the difference between those. Only a third of those pictures were TIF projects; two-thirds of them were private enterprise. TIF didn't clear that. But the fact that there toeholds and good examples and neighbors across the street that were single family home ownership that we had encouraged produced other areas in the town. What's true is we did not clear that slum. And by the way, we used Community Development Block Grant money as well. We used HOME funds. We used federal money. We didn't use TIF money to do it. TIF didn't do it by itself nor would I make the claim. And the government only did a portion of it and the private sector did more of it than we did. But we set a darn good example with the pieces and tools that we had. [LR599]

SENATOR DAVIS: A little farther along in this article, Deena makes this statement. She said: "Recently, his department proposed TIF for a project that had already been built, a project for which the developer didn't want TIF and a redevelopment project already under construction." Would you like to comment on that? [LR599]

DAVID LANDIS: I don't know the experience to what she's talking about. There was a piece in which there was some unconstructed pieces of work in a project, but we eventually withdrew that as an option. But I don't know that that's what she's referring to. So I can't provide the example that she's thinking of. [LR599]

SENATOR DAVIS: She goes on to say: "The City Council rebuffed the already-built project, but approved the other two, with some grumbling." I certainly... [LR599]

DAVID LANDIS: So in other words, I think we agree that we don't have an example of that having happened. [LR599]

SENATOR DAVIS: I don't know which property that is. [LR599]

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DAVID LANDIS: Right. And that it didn't happen. [LR599]

SENATOR DAVIS: It didn't happen but... [LR599]

DAVID LANDIS: Good. There we are. [LR599]

SENATOR DAVIS: ...it was proposed to be TIFed after it had been completed, which flies in the face of... [LR599]

DAVID LANDIS: Ah. That's her characterization, not mine. And if she's here to tell us the story, I'd probably learn from it as well. But that's not the characterization that I would make. And the reason...well, I'll leave it at that. [LR599]

SENATOR DAVIS: Okay. I would... [LR599]

DAVID LANDIS: Ms. Winter and I have not seen eye to eye in a long time I have to say. [LR599]

SENATOR DAVIS: I'm will say one other thing which is...well, two other things. First and foremost, I don't want to argue with you, but, you know, we now have the majority of school districts in the state are unequalized. So I would say probably your characterization that money flows to the west is no longer true. [LR599]

DAVID LANDIS: It might not be. The data that I'm referring to is at least ten years old and it may be older... [LR599]

SENATOR DAVIS: Right. And things have changed. [LR599]

DAVID LANDIS: And it could be out of worn. On the other hand, I do not know of data to replace it with a more accurate depiction. All I know is the last time we asked and

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answered that question, that was the answer. And it could well be out of date. [LR599]

SENATOR DAVIS: So you have Innovation Campus here which required the state of Nebraska buy into that property to begin with in order to move the State Fair and required the state of Nebraska to change part of the Lottery Fund distribution to help fund the State Fair when it was moved. Then we have TIF financing on the property. And now I read the other day in the paper, university says it's going to have to have additional money to make that work. When do we draw a line to these things? I mean, how far are we going to go? [LR599]

DAVID LANDIS: Yeah. I'm not at the line-drawing stage at this point. The lottery, by the way, was done when the State Fair was in Lincoln. And it was just as much a possibility of keeping it in Lincoln as going to Grand Island. The lottery changed before the transition to Grand Island. [LR599]

SENATOR DAVIS: I was thinking it was right around the same time. [LR599]

DAVID LANDIS: No, and the reason I know that is I introduced the constitutional amendment for the lottery money so I know where I was. [LR599]

SENATOR DAVIS: Well, you should know then. [LR599]

DAVID LANDIS: Yeah. But is it costly to produce an Innovation Campus? Yes, it is. A lot of money, public money? Yes, it is. Is it a gamble? You bet it is. City of Lincoln would have liked to have had both, would have loved to have had the State Fair and an Innovation Campus. The point, I think, is that there is a general belief in city and state government that the growth of the future economy is in the generation of ideas and intellectual capital and not industrial productivity. And an Innovation Campus is a twenty-first century investment. And most investments have a painful period. I'm not at the point to pulling the plug. So far, so good, I think. But we may see things differently on that

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square, Senator. [LR599]

SENATOR DAVIS: Thank you. [LR599]

DAVID LANDIS: You bet. [LR599]

SENATOR MCGILL: I have another question. I'm afraid, you know, you'll be here for another hour when I ask this question. So I apologize for that and for everyone else's patience. [LR599]

DAVID LANDIS: How about if I try a yes or a no? [LR599]

SENATOR MCGILL: Well, it's to address the issue of alternatives for cities. And just wanted to give you the opportunity to talk about that for economic development purposes anyway. [LR599]

DAVID LANDIS: Well, the state does have its LB840 notion where the city can tax itself. There is that alternative. Some people have the stomach for it, people don't. By the way, most of the people who have the stomach for it are in the rural areas. First-class cities and below, they're very, very common. So that piece is there. If there were a source of revenue like a severance tax, if we had a resource that we could tax in that way, that would produce opportunities. We don't seem to have that. So I don't know of a good alternative here. I do know this, that this is a tool that is in fact universal when I say 49 out of 50 states have this. So that when there are locational decisions, it is one of the first questions asked by...they won't say, do you have TIFs? They will say, tell me the terms and conditions under which you do TIF, because they expect it. That's a very common thing. And we, you know, we will say, in some cases, it depends on where you build. Enough said. I don't know of a good alternative. I wish I had one. [LR599]

SENATOR MCGILL: Senator Crawford, did you have a question? [LR599]

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SENATOR CRAWFORD: Sure. I was just going to follow up. You had mentioned...and I appreciate some of your concerns you're raising about a state-level tool. Now you had mentioned responsiveness to the school board. So you engaged in some strategy that they didn't approve of and so you listened to them when they said no. Now in that case then it would be, you know, after the fact. So one of the reform proposals that has been brought forward is one that would require that the other entities that have to forgo resources have a stake in that. You mentioned a county vote. But this, instead of just being a county decides, it would be the school decides whether or not to be part of that pool. Now I think you would say you would have a strong case to make to Lincoln Public Schools if, you know, in the overall picture. But for each project then, you'd be needing to make that case to the schools, that this is worth engaging this project. [LR599]

DAVID LANDIS: Yeah. You know, to answer the question you've asked, I have to in a sense not dispute the phrase about forgoing resources. And for somebody who believes that TIF works, we don't want to work in the language that says, oh, no, no,... [LR599]

SENATOR CRAWFORD: Sure, I hear. [LR599]

DAVID LANDIS: ...we always would have had this money; we just...we gave it back so we could give it to the developer. We don't think the money is in our coffers. So we don't think it's there. And when I hear "lost," that implies usually you have it and you lost it. We don't have it. It's not in our pockets. It's in a developer's bank account someplace, you know, or their investments. And now, in answer to your question, in the event you were to build in a project-by-project approval system, something like that, I'm not sure the school board would want to...maybe in some areas they might. If I'm a developer, I think it means one more tool. I will say this. I've noticed in just the period of time that I've been in this position, developers bring us their projects with shorter and shorter time lines based on the impatience of capital and the impatience of the lending conditions they are able to achieve at any given time. Nailing down their financing is hugely

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important. Missing a building season, not getting a bid out on time makes a substantial difference to them. And something that was at the uncertain...that adds one more element of uncertainty is problematical. They would rather not, I think. [LR599]

SENATOR MCGILL: I have one final question and I just want to give you the... [LR599]

DAVID LANDIS: We're all hoping to get to that final question, aren't we? [LR599]

SENATOR MCGILL: I know. I'm sorry. [LR599]

DAVID LANDIS: Can't we move on here? For God's sake,... [LR599]

SENATOR MCGILL: (Laugh) I want to ask you... [LR599]

DAVID LANDIS: ...let's get somebody else in the hot seat. [LR599]

SENATOR MCGILL: I know, no joke. But I want to ask you about P Street... [LR599]

DAVID LANDIS: Sure. [LR599]

SENATOR MCGILL: ...here in Lincoln and the discussion that has happened since then, you know, about that use of TIF and give you the opportunity to explain that. [LR599]

DAVID LANDIS: It is a complex one and easily misunderstood, and it's one that, I'll start... [LR599]

SENATOR MCGILL: I know when the press first asked me about it, I'm like this sounds interesting. You know,... [LR599]

DAVID LANDIS: That's right. [LR599]

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SENATOR MCGILL: ...I was a little confused. [LR599]

DAVID LANDIS: It would not...if...well, this project could not happen in the form that it is with a private sector developer because of the way that it is structured. We are the redevelopment authority for the city of Lincoln and we can be the developer. That is to say, we can be responsible for the creation of the project. We've done that on occasion. If you take a look at some of the pictures in there, you'll find essentially that we created a district, we held the resources, and then we allocated the resources for public goods because we were essentially the developer and there wasn't a developer on the other side. We were the developer and it was...we used the natural attrition of valuation to create resources, which we then spent for civic purposes. That doesn't sound like the TIF explanation that Senator Davis gave at the beginning or is the common one, which is there's a building, it grows, there's increment and then you do a bond and you pay it off. It's a different phenomenon and it's hard to understand. When we initiated that, we go back to a base year, which was last year, and then the growth since that becomes the available increment for the time into the future when you can bond against it or use it on a year-by-year basis if you're the city. We can do projects on a year-by-year basis and just wait for those taxes to come in one year at a time. We don't have to front-load it if we're the developer. So what we do in that case, if we are the developer, is we freeze at the base year, which was last January 1st, then growth from that period of time on accounts for the resources that we then get to allocate for civic purposes. And that's the way that that project works. It meets the time line. Our law department thinks it's legal. In fact, the writer of the article, the Lincoln Journal article said, yeah, I read the statute, I don't dispute that it's legal, it's just not common and not to be expected. And that's...I can't dispute that. Since that's a matter of opinion, that's fine. [LR599]

SENATOR MCGILL: All right. Thank you. [LR599]

DAVID LANDIS: Uh-huh. [LR599]

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SENATOR MCGILL: Any actual final questions or was that the final question? So... [LR599]

DAVID LANDIS: Oh, please. [LR599]

SENATOR MCGILL: ...it looks... [LR599]

SENATOR DAVIS: Senator McGill, I've got a follow-up on that... [LR599]

SENATOR MCGILL: Okay. Yeah. [LR599]

SENATOR DAVIS: ...because I guess I don't quite grasp how that works. If you can run through that one more time for me. [LR599]

DAVID LANDIS: We have a redevelopment area. We designate a particular area and we essentially allocate or identify the reasons for which we would amass resources and spend resources, and they have to be for a civic benefit, a public benefit. We create those boundaries and we...and then, when you create the project, you go back to the...you go back to the last valuation to begin where you are in identifying the growth in valuation. And here we then have the similarity to what you were describing and what I'm describing now, because it's in the growth of the valuation that increment is created. So from the date from the base year on is the growth of that valuation. And then we would have the option of, once knowing how much that valuation growth was going to be, to bond against it because it was predictable, or wait for the taxes on a year-by-year basis and spend it for the purposes for which you had created the district. [LR599]

SENATOR DAVIS: So you're doing a project. You bond based on the... [LR599]

DAVID LANDIS: We're doing the project. [LR599]

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SENATOR DAVIS: The city does a project. They freeze the valuation. They bond on the change... [LR599]

DAVID LANDIS: Yes. [LR599]

SENATOR DAVIS: ...and then use that appreciated valuation tax to pay off what the city has chosen to do. [LR599]

DAVID LANDIS: I may ask for a copy of this hearing so I can cut out that quote and use it myself the next time (laughter), because that's a better and more succinct answer than what I gave. But I think that's accurate. [LR599]

SENATOR DAVIS: Okay. [LR599]

SENATOR MCGILL: All right. Thank you, Senator Landis. [LR599]

SENATOR KRIST: We need to define the word "last." [LR599]

SENATOR MCGILL: Yeah. Yeah, no joke. I didn't start the stopwatch at the beginning of that testimony but I know you were up there for a while, so appreciate that. All right. Welcome. [LR599]

MARK HUNZEKER: Thank you. Madam Chair, members of the committee, I'm Mark Hunzeker, H-u-n-z-e-k-e-r. I'm a lawyer in Lincoln and...although I may not look it today. I have some other matters. I decided to come a little late and I'm attending to some other matters that don't lend themselves to a coat and tie. [LR599]

SENATOR MCGILL: It's okay. [LR599]

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MARK HUNZEKER: I'd just like to make two relatively simple points on this subject, and if there are other questions I'd be happy to try and answer them. Number one is the current law that you're working with is drafted and operates as an inherently local tool for cities and villages. And any attempt to amend it to make it uniformly apply across the state or to subject local government decision making to second-guessing at the state level is likely to have unintended, adverse consequences. And secondly, at least in Lincoln, the process of gaining approval of a redevelopment project is meticulously in conformance with the law. It's time-consuming, sometimes very frustrating but always results in projects whose benefits outweigh the costs to Lincoln. So as to the first point, I want to reiterate that this law is really not subject to revision which attempts to make uniform interpretation of the statutory terms or some review at the state level. It's entirely local. Throughout the entire section of statutes that deal with this issue are references to local conditions, local comprehensive plans, and ultimately the best interest's of the community affected by the redevelopment project. The addition of a layer of state oversight means that local decisions by local officials can be trumped by state decision makers who have little or no familiarity with local conditions. And no matter how much you massage or amend or elaborate or redefine the key provisions of that statute, there will always be a need for interpretation of every provision to...and as it applies to a specific area, the redevelopment...the blighted and substandard redevelopment area, to a specific redevelopment plan, as it applies to the economic feasibility with or without TIF, as to the whether or not it would be built in that redevelopment area but for the use of TIF, and the cost-benefit analysis, and whether it's in the best interest's of the community affected by the redevelopment project. And under the state statute, all of those matters are subject of multiple public hearings and decisions by local elected officials or appointed officials who live in the community affected by the redevelopment project. As to Lincoln's use of TIF, contrary to the characterizations that I've heard a couple of times today, this is usually not a developer-initiated process. The city does the blight study first, and a developer comes along who wants to do something within that area which has gone through the public hearing process and has been ultimately determined to meet the statutory criteria of

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blighted and substandard. A project is proposed which is consistent with the redevelopment plan that the city has adopted, and then a whole new series of public hearings relative to amending the redevelopment plan and adopting a redevelopment agreement relative to that specific project are held. And of course, after, the negotiation of the redevelopment agreement between the developer and the city is ongoing; and finally, several months later, a city council approval of a redevelopment agreement. And by the way, there are in those agreements consequences to developers if they don't perform precisely as they agree to perform. And one aside here is that I think it's important for you to go back and look at the context. The words "but for" don't appear in that statute, but the test that is commonly referred to as the "but for" test is a finding which is required by the city that the project would not occur in the redevelopment area but for the use of TIF. It doesn't use the words "but for," but without the use of TIF. So it's not a question of whether the project would be built. It's a question of whether it would be built within the redevelopment area that's been designated. These projects are often very time sensitive, especially larger projects. Requirements of lenders and changes in market conditions affect projects all the time. I've had projects go through the entire process of being approved and a redevelopment agreement signed and filed that didn't happen because of changes in market conditions during the time we were working on it. [LR599]

SENATOR MCGILL: All right. I'll ask you to wrap up. [LR599]

MARK HUNZEKER: I'm sorry. [LR599]

SENATOR MCGILL: That's okay. [LR599]

MARK HUNZEKER: It's usually easier to build on the fringe of the city in a cornfield than it is a redevelopment area. It's much more expensive. These are very hard projects to complete and oftentimes they involve things like utility relocations and so forth. And it seems to me that, in reference to the last question that was asked of Senator Landis,...

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[LR599]

SENATOR MCGILL: Uh-huh. [LR599]

MARK HUNZEKER: ...the P Street project is properly seen in that context. It's a public project which no developer would undertake because there is no private benefit other than the ancillary benefits that you get from, say, a new water line or sewer line or any other street project. It is no different from the city allowing for the use of TIF to relocate utilities on a block where a project is going to be built and the utilities are literally in the middle of the project and need to be moved. [LR599]

SENATOR MCGILL: Well, let's see if there are any questions, Mark. [LR599]

MARK HUNZEKER: Okay. [LR599]

SENATOR MCGILL: Not seeing any here. Any over there? I don't see any. You're off the hook. [LR599]

MARK HUNZEKER: Okay. Excellent. [LR599]

SENATOR MCGILL: Maybe we asked all of our questions of Dave Landis but... [LR599]

MARK HUNZEKER: Well, yeah, Dave took care of it. Thank you. [LR599]

SENATOR MCGILL: Thank you very much for fitting this into your busy day. Hello. [LR599]

JEFF POLEY: Hi. My name is Jeff Poley, P-o-l-e-y, 5727 The Knolls in Lincoln. I'm a retired city planner and I'm glad to be here. I don't want to go over ground that's already been trod, so I'm going to take a little different approach. The problem with 18-21,

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etcetera, etcetera, is that it's obsolete and it's a sham. When I started working as a city planner in the late '60s, we were working on things...I don't know if anybody here was alive then, but as you can tell, when I started working as a city planner in the '60s, we were doing projects on urban renewal. We were designing all kinds of projects to tear down. And so urban renewal, unfortunately, like 18-21, started out as urban renewal and became urban removal. And eventually, there was enough opposition to it that it died. One of the reasons my wife and I live in Lincoln is because of the work that was done by people like Dave Landis and to make this one of the finest cities in the United States. And one of the reasons it is, is because of the use of things like TIF. The problem is it's not a program to take care of blight and substandard development. It's an economic development tool. It's a very effective economic development tool. And without that tool, a lot of the things that Dave and the city is responsible for wouldn't have been done. But it's a sham and what it's doing is it's causing people like me to develop cynicism about government and they're telling me things that I know aren't true. Okay. I don't know. If you go on the city site, you'll see the areas...this is a map that's on the city's Web site. It shows that the central business district is blighted. The entire central business district is blighted, including First National Bank Building is in a blighted neighborhood, the Stuart Building is in a blighted neighborhood. Have you been by the Stuart Building lately? Twenty-seventh Street is blighted. Well, that could be pretty accurate, but 27th Street and P Street are identified in exactly the same way. Now the 27th Street development is a terrific development, but we're asking the school district to subsidize the development of that, that work, because for 15 years or however long they're going to have the bonds, the school district is not going to get the revenue that's used to pay off the bonds to put the beautiful trees and the landscaping and all that stuff up. Maybe we should ask the school district, are you willing to subsidize the 27th...or the P Street development in order to get a better return later on? Have we asked them that question? I think the problem is not with Dave Landis. The problem is not with community development. The problem is not with economic development. The problem is with the way 18-21 is written in that the way it's employed now it is not a way to get rid of blight and it's not a way to get rid of some substandard development. It is a very

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powerful and useful economic development tool, particularly in the able hands of the kinds of people that work for the city of Lincoln or the city of Omaha or the city of North Platte. So my charge to the committee is to look at this from a much broader aspect and say, is there a way that we can change 18-21 to be more realistic? And if the citizens of the state of Nebraska decide to allow cities like Lincoln to tax to do whatever they want, to raise money for economic development, then give us the authority to do that, but don't lie to us. Don't force us to say the Stuart Building is a dilapidated building in a blighted area. It's a blighted area, come on. Anyway, Dave needs real tools for economic development; not to rely on a sham. Anyway, I'm done, so... [LR599]

SENATOR MCGILL: Well, I appreciate you coming and making that argument. I know it's one that we've batted back and forth and had a constitutional amendment looking at last year that didn't end up going anywhere. But I really appreciate your perspective. Are there questions from committee members? Senator Davis. [LR599]

SENATOR DAVIS: I've got a couple. Thank you for coming, Mr. Poley. You've made some good points. [LR599]

JEFF POLEY: No, but thank you so much for the article in the newspaper. That was absolutely illuminating and was right on. [LR599]

SENATOR DAVIS: Well, thank you. I appreciate that. You understand I'm a firm believer in economic development. I think it needs to be done in an appropriate manner. But my question comes down to this. I think Senator Landis made some good points about what has been done here, and I support what they've done in many ways. When I look at some of the other places in the state, you know, and I'll just take the one in Alliance that I referred to earlier, you said...no, that was the prior guy. In North Platte we've got a Walmart Distribution Center which came in there. I think that was a great use of TIF financing. But the city also TIFed the cornfield next door to a Menards store and there are projects where banks are being rebuilt. Is that the appropriate use of TIF financing?

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If a bank is sitting in a community and wants to build a new building, why should the taxpayer pay for that? [LR599]

JEFF POLEY: I don't think it's an appropriate use for TIF at all. I think if the citizens of the state of Nebraska decide to give North Platte the ability to tax to benefit a particular business and the voters decide on that and the taxpayers decide on that, sure, then they should have the ability to do that. And the state probably should give them the ability to do that and put it up to the people and say, yeah, we think that such and such a business deserves special treatment. You know, fine. If that's what the people decide to do, then I think the state ought to enable the people to make that decision. But I think TIF is absolutely the wrong instrument to use the way it's written. You know, if you want to take TIF and say, okay, we'll take 18-21 and remove all this stuff about blight and substandard, because that's meaningless, we're not doing that. And look, you have legal counsel, the city has legal counsel. The legal counsel for the city of Lincoln is very confident in what they're doing is legal. What they're doing, I have no question that everything the city or the city of North Platte or everybody else is perfectly legal what they're doing. Does it meet the intention of 18-21? No, of course not, but it's legal. Is that what we want to present to the people of the state of Nebraska saying, well, this is all a sham but, hey, it works? Okay. [LR599]

SENATOR DAVIS: Wink, wink. [LR599]

JEFF POLEY: Yeah, wink, wink. Wink, wink. We get pretty good at that. [LR599]

SENATOR DAVIS: Thank you. [LR599]

SENATOR MCGILL: Are there any other questions for Mr. Poley? Senator Krist. [LR599]

SENATOR KRIST: Because it's all of our prerogative to say exactly what we need to say, I can appreciate the years of experience that you bring to the table to say that, but I

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take exception to calling the piece of legislation a sham. I think it's an attempt on the part of the state to respond to the municipalities who brought the issue to the Legislature years ago. It's the best that I think it can be without things like this happening in interim hearings and trying to change the process. So I'm not scolding you in any way. I'm just saying that in my estimation, when I look at what the city of Omaha did in declaring blighted area into Crossroads and that immediate area around there, there were so many unintended consequences from that issue that that is a local elected group that I think potentially may have made the wrong decision and read into this piece of legislation. If you heard my comments earlier, I said does the legislation need to change, does the education process need to change and at what level? If you're suggesting that we put oversight in, does that oversight need to change? I certainly don't think the state needs to get involved with oversight. I'd be more than willing to talk about changing the legislation if that's what happens in here. But as I read the history and I have spoken with Professor Landis on many occasions about the issue, this was a response of the Legislature, responding to those same people that are executing either properly or improperly. The other point I would make for the record again is this may be more appropriate to a TEEOSA conversation than it is to a development and a community redevelopment conversation. So I just wanted to get that on the record. Thank you for coming. [LR599]

JEFF POLEY: Well, I worked for the state for a number of years in the state office of planning and programming as a city planner and I wrote legislation that Doug Bereuter would send down and we'd send up on zoning and planning and all that kind of stuff. And I had a great deal of respect for the legislative process. And the one thing I would disagree with Dave on is I think the state has incredibly competent people working for it. I worked for incredibly competent people when I worked, you know, when I was a young man, for the state of Nebraska. But I don't think that's the issue. And I certainly don't want to say that...I mean this law has been on the books since 1979, okay, and like everything else, things morph. The legislation has changed very little. You know, if you look at the addendum to the legislation you'd have an idea. I think the last one was

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made in 2014 actually, but very little has really changed in that law. But the environment and the ability of people like me who were employed by cities (laugh), our abilities have changed tremendously. And all I'm saying is let's have the legislation and the reality reflect one another. [LR599]

SENATOR KRIST: And to your point and back to one of Senator Davis' points earlier, greater Nebraska is decreasing in population... [LR599]

JEFF POLEY: Uh-huh. [LR599]

SENATOR KRIST: ...so the natural investment in building in those areas is less likely to occur, while the metropolitan area and Lincoln... [LR599]

JEFF POLEY: Uh-huh. [LR599]

SENATOR KRIST: ...and the eastern side of the state are increasing. When that law was first written, almost everybody enjoyed growth. [LR599]

JEFF POLEY: Uh-huh. [LR599]

SENATOR KRIST: So what we have now is lack of growth and growth and a new TEEOSA issue caused from many of the schools changing status over the years. It's a pretty delicate balance to walk and we're using a '70s or '80s or '90s mentality in the 2014-15 time frame. So...but it's still that tool that we're going to have to measure ourself against as we go forward. Again, thank you. [LR599]

JEFF POLEY: We may want to change the engine in the Maserati. [LR599]

SENATOR MCGILL: (Laughter) Thank you, Mr. Poley. [LR599]

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JEFF POLEY: Thanks for the opportunity. [LR599]

SENATOR MCGILL: Uh-huh. We'll take the next testifier. [LR599]

SHANE WEIDNER: (Exhibit 10) Good afternoon, committee. Shane Weidner, S-h-a-n-e W-e-i-d-n-e-r, city administrator of Norfolk, Nebraska. I am not going to repeat much because Dave knocked it out of the park as far as I was concerned. But, you know, Norfolk's example of using TIF is very similar to Lincoln, and we use it conservatively. We use it sparingly and we use it with great success. We've utilized this tool to increase tax valuation of subject properties tenfold, from a \$3 million base to a \$30 million base in valuation. And with the exception of just two projects, these projects have paid off well under a 15-year period, one in 8 and one in 3, and the other two that I talked about are still in process and most likely and are projected to pay off prior to the 15-year payment. I think this is important to be repeated and you heard this testimony already, but the base taxes continue to go on to all taxing districts during the TIF repayment period. There's nothing lost, so that continues to go on, and I think we can't repeat that enough. And you know, not only do the communities proactively talk to the other taxing agencies regarding the potential of TIF. We do robustly in Norfolk. And we're a community, we're a small community. We're a first-class city, but we're a small community. It isn't like the school board and the city council and the county board don't know each other very personally, don't meet regularly. We talk to each other every week for sure, many times every day. So these type of issues, when we're looking at a TIF project in Norfolk, they are discussed and discussed privately. They're discussed in public. They're discussed one on one, and they're discussed in group settings routinely. You know people have jokingly stated in Nebraska that Nebraska has two seasons, winter and construction, and that's pretty much true it seems like. So you know, laying additional layers of approval processes on to the TIF project time lines just causes the delays that the developers aren't looking, and they move on. They are not patient. They move on to areas or other states that don't have the layers and layers of TIF approval process that could be contemplated in any future legislation, which I hope it isn't,

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because again, we are a community. We're a small community where we work together and there's many public opportunities to discuss and cuss and discuss the benefits or the drawbacks of TIF. So with that being said, I'd be happy to answer any questions that you may have of me. [LR599]

SENATOR MCGILL: Questions from the committee? Looks like your lucky day. I don't see any. [LR599]

SHANE WEIDNER: All right. Thank you, Senator. [LR599]

SENATOR MCGILL: Thank you, Shane, for coming down from Norfolk. Next testifier. [LR599]

CASSIE SEAGREN: Good afternoon. I'm Cassie, C-a-s-s-i-e, Seagren, S-e-a-g-r-e-n, with the city of Omaha. Tax increment financing is an important tool utilized by the city of Omaha to aid in the redevelopment of our community by helping finance the cost of making infrastructure improvements and other public improvements in a redevelopment project area. TIF not only is the most effective redevelopment tool but is also the city of Omaha's only true redevelopment tool. I'd like to reiterate, as Senator Landis had stated, that it is easier to build on the fringes than it is to do infill development, and we are currently seeing that. Applications made to the city of Omaha for TIF financing must be used in accordance with the criteria established by community development law statutes 18-2103, 18-2113, 18-2116, 18-2112, as well as anything else that might be established. In addition, the city of Omaha has created tax increment financing guidelines that explain not only what is required by state statute but other criteria and considerations the city of Omaha looks at when reviewing TIF applications. These guidelines also address the process the TIF application will go through to get approval. The guidelines also clearly state the goals of the application of TIF within the city of Omaha. It is worth noting that city staff review the guidelines with potential applicants, as you will hear in later testimony, prior to an application being made to ensure that it is

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understood and to determine if the project would potentially be eligible for TIF. Per city staff, for every three people that they review the guidelines with, we receive one application. On average, our TIF applications, from the time they are received to the time they are approved by the city council, takes approximately 120 days, and I would tell you from experience, having gone through numerous proposals with project developers, it's often longer than that. Each application that is received also reviews a cost-benefit analysis as required by state statute, and I believe Dave Landis also went into detail about that so I won't go further along those lines, but the analysis is reviewed by our city legal staff, reviewed by our tax increment financing committee, as well as the planning board and eventually the city council. We collect the information to ensure that the "but for" test is made, often looking at what is required in terms of a return on investment. For example, we'll see applications that without the use of tax increment financing the return on the investment for the developer would actually be zero to 1 percent, sometimes even less than zero. And with the TIF financing, it maybe is up to 4 percent. The redevelopment agreement that goes before the planning board as well as the city council also clearly states what the use of the TIF financing is for. I'm not going to go into any further discussion about the number of public hearings. I think you've heard that several times today. But in the city of Omaha, we do establish those same routine practices where there is a number of different public hearings. One of the things I would like to point out is the rate of return that the city of Omaha does see on tax increment financing projects. We've conducted evaluations on a number of different projects that have received TIF financing to look at their effectiveness. Two examples would be the Sorensen Plaza project, which is up at 72nd and Sorensen Parkway, and the Midtown Crossing area. The base year valuations for these projects were \$4.8 million and \$11.1 million respectively. In 2011, the valuations for those same two projects were \$43.9 million and \$102.3 million respectfully, an increase in valuation of 799 percent and 817 percent. However, the real story is what investing in these projects has done for the surrounding properties within 300 feet. Those properties we have looked at and they have combined for 14 percent and 27 percent increase in valuations, which means an additional tax revenue stream not only for the city but for other taxing

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entities, such as school districts. The utilization of TIF is not only an investment in a project currently happening but an investment in our future. We are able to utilize the TIF for public improvements in those areas, freeing up funds to be utilized for public improvements in areas where TIF is not applicable. Without this tool we would not see the projects that revitalize community happen, nor would we see the positive ripple effect they have. Thank you for your time and I'd be happy to answer any questions you might have. [LR599]

SENATOR MCGILL: Thank you. Senator Krist. [LR599]

SENATOR KRIST: Thanks for coming. On the Sorensen Parkway development, I watched that happen and essentially the "but for" test was obvious. Replace an old Vickers plant, which was not going to see any other development and potentially some serious ground and water issues,... [LR599]

CASSIE SEAGREN: Uh-huh. [LR599]

SENATOR KRIST: ...and that truly is a success. Can you tell me how long that project was TIFed? [LR599]

CASSIE SEAGREN: I would tell you our average TIF is paid off in 12 years. [LR599]

SENATOR KRIST: Twelve. [LR599]

CASSIE SEAGREN: We've had some that obviously pay off a lot sooner than that. We have some that actually we just had a round recently go through city council being cancelled because they never came to fruition. That particular project, off the top of my head I don't know that for sure. [LR599]

SENATOR KRIST: Could you let me know that? [LR599]

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CASSIE SEAGREN: I would let you know that. [LR599]

SENATOR KRIST: And just quickly, what percentage do you have going right now in terms of TIF projects that are ongoing? [LR599]

CASSIE SEAGREN: Are you talking about the area? [LR599]

SENATOR KRIST: Yeah. Are you less than 35 percent total? [LR599]

CASSIE SEAGREN: Oh, by far. Prior to the annexation package that we just passed in September, we are at 18.5 percent. I would tell you where, with the amount of ground--we had a rather aggressive annexation package this last year--we're probably at or below 18 percent, and primarily it is east of 72nd Street and predominantly east of 42nd Street. We do have a couple of areas, the old Millard Lumber site, the old Millard, downtown Millard area was recently declared a CRA. And there's an area of old Elkhorn that's also declared a CRA. [LR599]

SENATOR KRIST: Millard couldn't have happened soon enough. [LR599]

CASSIE SEAGREN: I would agree. I'm looking forward to working on that project. [LR599]

SENATOR KRIST: Now you need to get the infrastructure out north of 72nd and Highway 36 so we can start developing out in Douglas County, undeveloped Douglas County. That's my district. [LR599]

CASSIE SEAGREN: Give us time. (Laugh) [LR599]

SENATOR KRIST: Yeah. [LR599]

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SENATOR MCGILL: All right, other questions? Senator Crawford. [LR599]

SENATOR CRAWFORD: Thank you for coming to testify. What would your response be to the concern that was raised by an earlier testifier that the projects tend to be developed in Midtown or like in the Old Mill area and not in north or south Omaha where there might be a call for more attention to economic development? [LR599]

CASSIE SEAGREN: I would tell you since the time I've been with the city of Omaha, while it's limited but since I've been in the economic development field and having the opportunity to work on the statewide level as well as the local level, if you looked at our project list and truly dug down to figure out where those projects are, not only current projects happening, proposals coming forward, but the projects that have been approved and established and going, there is a very good mix. You know, I would also probably tell you that we could probably do more in south Omaha, but a lot of it is just opportunities that are available. But I think that there is a good mix of those projects. Part of it is market demand. You know, a city can create an environment that's inviting for development to happen, but at the end of the day it also takes that private entity to go forward and put that development into place. [LR599]

SENATOR CRAWFORD: Thanks. [LR599]

SENATOR MCGILL: Other...Senator Davis. [LR599]

SENATOR DAVIS: So a couple questions, and this was from an article some time ago so I don't have exact facts, bear with me with it, but it talked about the convention hotel which is down by the Qwest Center, which I think was built with TIF financing. [LR599]

CASSIE SEAGREN: I was not in the city of Omaha at that time. I know that there were some bonds that were taking place there as well. But if you would like that information, I

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could certainly get back to you on that. [LR599]

SENATOR DAVIS: Well, I would. I'm pretty quite sure that that's correct, and that would tell is...has somewhat tenuous profitability because it's not full at all times. But the specific article said so now we have to build another hotel because we don't have quite enough room, and that's going to have to be built with TIF financing too. [LR599]

CASSIE SEAGREN: Uh-huh. [LR599]

SENATOR DAVIS: You know, and I don't understand why the city would go out and try to incite additional hotel construction, which has to be dependent on taxpayer subsidy,... [LR599]

CASSIE SEAGREN: Uh-huh. [LR599]

SENATOR DAVIS: ...if the original hotel is not working. [LR599]

CASSIE SEAGREN: I think there's a couple of different issues going on there, and you're referring to, I believe, the Capitol district project at 10th and Capitol that Shamrock development is currently undergoing. The additional hotel comes at looking at how we fill our convention center, the CenturyLink, and how we attract additional conventions to the city, not only what we have going in the arena with Creighton basketball, UNO hockey, the concerts, swim trials, you name it, but true conventions that come and utilize that park. What we are hearing from conventions that are looking for places to have their convention is the city of Omaha does not have enough full-service hotel rooms in that immediate area. That...the RFP that went out for the Capitol district was actually prior to my time of joining the city of Omaha; however, I could tell you when being in part of the negotiations and working through the redevelopment agreement on that since joining city staff, there is that need. I mean we are hearing that. Additional revenue coming in from outside taxpayers that spend

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money in our restaurants, that might rent cars, I mean there's a residual effect there that helps increase our overall economy. That's part of a larger project. It's not just a hotel. There's a lot of other uses. It's really, truly a mixed-use development. One could look at it as a competition with the Hilton. One could look at it as complementary space as well. [LR599]

SENATOR DAVIS: So you're saying that sort of the additional revenue that will go into the city coffers from sales tax makes that offset worthwhile. [LR599]

CASSIE SEAGREN: It could. You'd have to look at what that is but you can make that argument. [LR599]

SENATOR DAVIS: But in fact the sales tax is strictly the prerogative of the city. Does not percolate down to school districts or the counties who bear some of the cost. [LR599]

CASSIE SEAGREN: In the sales tax, I believe there would also be the 5.5 percent that reverts to the state too. [LR599]

SENATOR DAVIS: Right. Right. [LR599]

CASSIE SEAGREN: So we'd have the 1.5 percent that we're allowed under state law. [LR599]

SENATOR DAVIS: All right. Thank you. [LR599]

CASSIE SEAGREN: You bet. [LR599]

SENATOR CRAWFORD: Just one more question? [LR599]

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SENATOR MCGILL: Yes, Senator Crawford. [LR599]

SENATOR CRAWFORD: Thank you. Just to clarify, we've talked about, you know, what is the "but for" test and I think I heard you say, so I just wanted to clarify if that's true, that one of the tests that you use is a return on investment test. So you ask for a return on investment analysis and then you're looking to see is this...would this project be profitable for the developer on a return on investment or not, and that is the test. Is that the main test or part of the test? [LR599]

CASSIE SEAGREN: No, I would say it's part of it. It's obviously an indication. You know, I think Senator Landis covered a lot of what the city of Lincoln looks at when they do their "but for" test. In our case, you know, we do ask for the project pro formas to see. I don't know a developer in their right mind--if there is one, tell him to come to me and we can talk--but I don't know a developer in their right mind that would truly develop a project with little or no return on their investment. [LR599]

SENATOR CRAWFORD: Right. But I guess then the...I'm just trying to clarify, the "but for" test is that the return on investment without TIF is zero or it isn't right, and then the return on investment with TIF is really the test, yes, this does produce an investment that has a return on investment. [LR599]

CASSIE SEAGREN: Correct. [LR599]

SENATOR CRAWFORD: Is that correct? [LR599]

CASSIE SEAGREN: Yeah. I mean we ask the developers when we look through all of that, we ask them to present their financial information on the project, the pro formas. We go through a pretty extensive look at those and we look at what it would take without TIF and what it would take with TIF. [LR599]

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SENATOR CRAWFORD: Okay. Is there ever any competition so you have multiple developers competing? [LR599]

CASSIE SEAGREN: It's funny you say that, Senator Crawford. I actually earlier this week spoke with two developers on the same parcel of property that they're competing to get under contract. [LR599]

SENATOR CRAWFORD: Uh-huh. [LR599]

CASSIE SEAGREN: So is there competition? Yeah, there is,... [LR599]

SENATOR CRAWFORD: Sometimes, okay. [LR599]

CASSIE SEAGREN: ...but a lot of it is market demand. I mean you're going to see certain things happen in areas dictated based on the market in that area versus a different area. [LR599]

SENATOR CRAWFORD: Right. [LR599]

CASSIE SEAGREN: I mean it's just natural. [LR599]

SENATOR CRAWFORD: Thank you. [LR599]

SENATOR MCGILL: Senator Davis. [LR599]

SENATOR DAVIS: I've got one other question, so...or two. I think you said their return was maybe 4 percent. [LR599]

CASSIE SEAGREN: We...I mean if you ran an average, you're looking at around 4 percent typically on the TIF projects. You know, it depends on the project. Some other

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projects you'll see greater returns, but on average that's what we're seeing. [LR599]

SENATOR DAVIS: So that makes me surprised anyone would take the risk for 4 percent. But that's beside the point. So are contracts put in place based on the contingency of TIF financing? [LR599]

CASSIE SEAGREN: What do you mean, the contract? [LR599]

SENATOR DAVIS: When you have...when you had these developers come to you to talk to you, do you know when they enter a contract on a piece of property if it's contingent on TIF financing or not? [LR599]

CASSIE SEAGREN: That I don't know. But typically you won't. It could be. It's hard to say, it's truly hard to say. And it's all based on... [LR599]

SENATOR DAVIS: Because you don't have access to those contracts. [LR599]

CASSIE SEAGREN: You don't have access to those contracts and it's hard to say based on who's coming forth and meeting with you and what their ability to provide private equity into a deal really is. [LR599]

SENATOR DAVIS: All right. Thank you. [LR599]

SENATOR MCGILL: All right. I don't see any more questions. Thank you very much, Cassie. [LR599]

CASSIE SEAGREN: Thank you. [LR599]

SENATOR MCGILL: How many more testifiers do we have here today? One, two, three, four, okay. All right. Got at least another half hour ahead of us I think. [LR599]

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JAY VAVRICEK: Just a few more. [LR599]

SENATOR MCGILL: It's good to once in a while just take a straw poll, so. [LR599]

JAY VAVRICEK: Good afternoon. My name is Jay Vavricek, and last name is spelled V-a-v-r-i-c-e-k, and a pleasure to see you. So, Senators, once again appreciate your leadership. And I'll try to be brief and touch on some comments because this tool, Grand Island, and I'm the mayor of Grand Island, Grand Island would not be the city it is today without the tax increment financing. And when you look back in the time span that we've used this, it's been brought forward and I think it's been good for our community in maybe some other different respects that I haven't heard here yet today. But nonetheless, I think there's been 36 projects: 3 have been completed successfully. Quite honestly, I've served as mayor now two terms. When I look back in that span, that's part of the reason why I needed to be here today because I think out of those 36 different projects, 33 have occurred through the different promotion efforts that have occurred in the private sector. So going forward I just want to touch on our history because indeed we've got, of those projects, all of them are still in play. Typically, they are 15-year payout and we have not had one issue at all with any of our school systems, and we have Grand Island Public School, Grand Island Northwest. But when you look at the valuation of roughly \$25 million in assets that are projected to increase in ultimately \$115 million, the property tax rolls will be expanded. And no doubt we also look at the other intangibles that go with redevelopment in our city. We're concerned about the entire city, so you're going to see development occur in areas where we have diversity. You're going to have also areas that are within the community redevelopment authority's plan. So there's certain robust areas it's off-limits because they're obviously dynamic and don't require that assistance, but they aren't earmarked in a community redevelopment plan. But we've got different projects all over the community that are bolstering jobs. And when you look at the property taxes that each one of us pay in Grand Island, the lion's share is for education, and if we didn't have jobs we wouldn't

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have the ability to pay for taxes. So I think the underrated thing from tax increment financing comes down to the importance to people to remain in a community but also to have the viability for economic activity. Most of the projects that come forward to the city of Grand Island come virtue of the private sector. The city specifically is not there knocking on doors. We have an economic development entity that's responsible for some of that coordination, but it's really a combined community effort, knowing that there's probably more transparency, in my opinion, at the local level than any other government institution because of the public hearings, the one-on-one interaction that goes with all the different things that we do. But I also don't want to complicate it further. So I appreciate the leadership of Senator Davis in bringing this forward because you talk about transparency. It's also trying to justify policies that may have occurred years and years ago and looking, do they have realization today? But indeed, when you look at what we're doing, we don't want to have it any more complicated. And by now we have the CRA, we have multiple public hearings, we have a planning commission. I have a ten-member city council and also, like anything in the cities of the first class, also we have the veto power of the mayor. So there's a lot of different checks and balances that go through the whole redevelopment approval, knowing that it's based on a "but for" that probably is not defined. But our city has rejected a policy, one of the first ones that came forward, because you can't very well have a sign up, say financing approved of this project, and building a project, and come to the city council and say this isn't going to happen but for. Good project, a very successful business and they're a credit to our community, but it didn't meet that test at that time. There was also another blighted and substandard recommendation for a housing development that the city council did not approve. Unfortunately, that development failed, sat there for a period of time. Through that time period it ultimately then became eligible to be blighted. And the moral of the story is now that particular development is called Copper Creek and we're now having 200 homes being built for affordable housing in a way that we could not do in the private sector. So when you look at some of our different opportunities, I would say this. If this goes forward, I think it will hurt growth in our state. I think it's difficult enough now to compete for jobs and economic opportunity throughout other states. I do think it will

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provide less incentives for developers. The more different hoops that they go through, and we've seen this too, where if you make it so, so tough in the public sector, I mean some people say, hey, what the heck, I mean it's not worth that. So we don't want to curb developers in such a way that they can't see return on investment, but it's not an entitlement. They have to earn it. And I think you're seeing that very positively in Grand Island because we've expanded the tax base in such a way it's in harmony for the school districts and county. And then finally, we've not done so by expanding the city limits to go ahead and take more or less in tax authority from counties, so all this growth has occurred within the city limits. So I would say this: Just don't fix what's broken (sic). It's working. But obviously, we wanted to be a part of this testimony noting our support of tax increment financing. [LR599]

SENATOR MCGILL: Uh-huh. Well, thank you, Mayor. Are there any questions? I don't see any. Thank you very much for... [LR599]

JAY VAVRICEK: Thank you. My pleasure. [LR599]

SENATOR MCGILL: ...coming to Lincoln. [LR599]

JAY VAVRICEK: Thank you. [LR599]

SCOTT SEMRAD: Scott Semrad, S-c-o-t-t S-e-m-r-a-d, 1750 South 85th Avenue, Omaha, Nebraska. I'm going to keep this brief because a lot of the stuff that I had to say has already been said,... [LR599]

SENATOR MCGILL: Thank you. [LR599]

SCOTT SEMRAD: ...but I am a developer. We have focused on the midtown area, which has seen a lot of good things happen over the last five, six, seven years since Midtown Crossing came along. And we do utilize the tool of TIF. And it's been a great

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tool for us to be able to go in and use TIF to do projects that we may otherwise not be able to do because of the risk associated with it. And it also helps us, you know, to work in neighborhoods that we otherwise may not be able to work in because of the economics of it. And you know, I think the main thing here that we're talking about is the process that people like myself have to go through in order to get TIF, and is that process stringent enough, are we proving "but for" enough. And I can assure you, through the city of Omaha at least, it's an extremely stringent process. You're not only going through just the regular planning process you would go through with a project, but you're also, on the side, you have a TIF application. You're working with Economic Development to even have the opportunity to submit the TIF application to a TIF committee for approval on that. And there's a lot of back and forth. I think the last TIF project we did it was probably four or five months before we were able even to submit the application because there was so much scrutiny under the guidelines that they have set forward to even get to submit that to have it be approved. And after that point in time, after they do approve you, you're subject to public hearings with the planning board and then three readings on the city council. So there's plenty of opportunities for people to come and voice their concerns over whether or not TIF is the right thing to do or if they support your project at that time or not. So I feel like it's already a stringent enough process. But one of the things and the benefits of it...and I think you have to go back a few years because I think now people are seeing this neighborhood in midtown Omaha start to turn around and we're starting to see more investment. But having been there, you know, for the last seven years and doing projects and that, I mean we've seen a lot of change and all of it I can directly relate to TIF projects that would not have happened had we not been allowed to use this instrument. I mean first of all, everyone knows Midtown Crossing being a TIF project, and from that you have kind of these concentric circles that have spun off. We've done TIF projects but when we've done projects, we have done some without TIF and then some with TIF when we need to use it, but you'll see other people in that neighborhood. It frees up that neighborhood to go reinvest in itself and you'll see this snowball effect of more and more investment in that neighborhood, and that neighborhood slowly start to change and see the investment

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that TIF was really intended for, was to kind of go in and help to clean up these neighborhoods. I worry that with more oversight...with the oversight that we already have, it's extremely...I mean it's very expensive, as been said over and over again in here today, it's very expensive to develop infill sites. I mean it's...there's no doubt it's easier to go buy a cornfield, build in a cornfield, but there's some benefits to cities, to developers, and just, you know, the citizens in general to see these...the inner core of the city change. And I worry that we already go through an extremely stringent process to get there. And just the spin-off that you see from the TIF in the private investment that really came about because of TIF happening, I worry if we make it too strict and there's too much oversight, we won't see anything happen. We'll see, you know, these projects that have spun out better and better projects and more and more investment kind of cease to exist because it's already a lot of work to go through the process to get to the TIF. So there's my light and that's what I had to say. [LR599]

SENATOR MCGILL: Thanks, Scott. Are there any questions? I don't see any. Thank you very much. [LR599]

SCOTT SEMRAD: Thanks. [LR599]

SENATOR MCGILL: Hello. [LR599]

LARRY BURKS: Senator McGill, members of the committee, Senator Davis, thank you for hearing us today. My name is Larry Burks, L-a-r-r-y B-u-r-k-s. I am the assistant city administrator for the city of Bellevue and one of my primary tasks for the city is economic development. I will try and be brief but there are a few things that I want to emphasize or reemphasize if I can. First is the process. The process of the letters and the notifications and the meetings and the meetings and changes and then meeting again is somewhat of a confusing process. And at any stage of the process there are a number of things that can delay it. Any approval granted to any other taxing authorities would just add to this confusion and delay. More importantly, I think if there were some

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additional powers granted to other taxing entities, there's an opportunity for maybe coercive deals to be made, which is not good at all. If anything, I would like to ask the committee to maybe find, in the research, to find a way to make it easier for us to implement this without less oversight but maybe speed up the process because as you heard previously testimony for projects about their turnaround time is 18 months. And you know, sometimes it's 12 months. So that is just one point I want to reemphasize. Regarding the "if but for" test, for the city of Bellevue it's pretty simple. If but for TIF the projects will be in Council Bluffs or Glenwood, and that's just a stark reality. We deal with it all the time. And now with the Greater Omaha Chamber of Commerce working on behalf, in conjunction with Council Bluffs, and makes our job even harder. And also the "if but for" test also could mean the difference between a higher end or higher valued project, like a commercial manufacturing or industrial project versus a lower value project, such as a coin-op car wash or maybe storage units for parcels. It is a very important tool for us as economic developers. It is not shoehorning at all. It is competitiveness. Iowa has it. Iowa has a very liberal TIF policy. They have tax abatement. So we're up against some heavy hitters in our biggest competitors. And finally, the current mechanism in place works if they use it. We have the legal system to challenge TIF projects. You have the election system to recall or attempt to recall folks who are abusing the system. I think it's not only...we not only can do it. I think many communities have the obligation to do it, if not all communities. So that is what I have, just to reemphasize and maybe point out a few things that were not brought up before. And I'd be happy to answer any questions. [LR599]

SENATOR MCGILL: Thank you, Larry. Any questions? No, don't see any. Thank you very much. Man, this room has cleared out significantly. (Laugh) [LR599]

JOE JOHNSON: Good afternoon. I'm glad I'm saying... [LR599]

SENATOR MCGILL: You know it's been a long hearing when... [LR599]

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JOE JOHNSON: ...not saying good evening, so. [LR599]

SENATOR MCGILL: (Laugh) Not yet. [LR599]

JOE JOHNSON: (Exhibit 11) Yeah, good afternoon, Senator McGill and the rest of the Urban Affairs Committee and Senator Davis. I appreciate the time. I'm going to take a different approach. Joe Johnson, J-o-h-n-s-o-n, city administrator of Nebraska City, plus the president of the Nebraska City/County Management Association as well. But I want to paint a picture for you guys of what's going on in Nebraska City. That's the only thing I can do for you guys. So in front of you I've placed a TIF project that the city of Nebraska City has completed. The first picture is what it looked like before TIF. It was a rundown gas station. The gas station was abandoned. Then it became a gun and ammo shop, not something you want to go into. And then it was used for storage of trailers and trucks and all sorts of things on 11th Street in Nebraska City. There's a drawing, a plat map. And then the third page in is the assessed valuation. I'll let you guys decide when the TIF was done on this project. But I will tell you, no other taxing property tax authority in Nebraska City lost out by this project because this project for ten years, from 1998 to 2008, when we were starting the TIF process, only were collecting less than \$40,000 on this piece of property. That was it, all the other taxing entities. So tell me where they lost out on any tax revenues that they were previously given or had the right to have. But for TIF, we put Thurman's Bike shop in there, the next page. Now that is sitting on Nebraska City's main street. It's a sports shop. Previously...and so this is retail. Previously, our students from our school district who played in sports had to drive to Lincoln and Omaha to get their sports equipment. They weren't purchasing locally. Now they're here locally. We have a retail shop that they can go shop, they can buy their shoes, they can buy their bats, they can buy their balls, they can buy whatever it is they need to do the sports. They can buy it locally, guys. It's awesome. That's what TIF does. That's what TIF does. And this is a true and real example of TIF. So it's not broken. It's not broken in Nebraska City. The school is in full support of something like this. They know. This is six years old. They know in less...this project will pay itself out in less than

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15 years. They know after that they've got \$400,000 worth of valuation sitting there waiting for them. They know that. They understand that. They understand that they're keeping their tax dollars local. That's what TIF has done in Nebraska City. That's all I got. [LR599]

SENATOR MCGILL: Well, thank you for your enthusiasm. [LR599]

JOE JOHNSON: You bet. [LR599]

SENATOR MCGILL: I know I've been to Nebraska City recently and you guys have some exciting stuff in the works with the incubator and everything. [LR599]

JOE JOHNSON: Thank you. Yeah. [LR599]

SENATOR MCGILL: I'm really excited for you guys. [LR599]

JOE JOHNSON: We're privileged. [LR599]

SENATOR MCGILL: Senator Krist. [LR599]

SENATOR KRIST: How long have you been in your position? [LR599]

JOE JOHNSON: I've been a city administrator for about ten years but in Nebraska City for three. [LR599]

SENATOR KRIST: Did you TIF the Walmart building? [LR599]

JOE JOHNSON: We did not. [LR599]

SENATOR KRIST: Yeah. [LR599]

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JOE JOHNSON: That was a very controversial Walmart, so...but that's the public input process. If Walmart would have come to us, with the controversy that that was creating, and asked us for TIF, heads would have rolled. [LR599]

SENATOR KRIST: My point is I used to have a place on a lake down by Nebraska City... [LR599]

JOE JOHNSON: Uh-huh. [LR599]

SENATOR KRIST: ...and was down there quite a bit. My point is that I went through that process as kind of a resident sort of, you know, being there in the summer, and you handled it very well. [LR599]

JOE JOHNSON: Uh-huh. [LR599]

SENATOR KRIST: That's the local public government going through a process where it would have been very easy to TIF Walmart and keep it on this side of the river, because, remember, you turn left at the end of... [LR599]

JOE JOHNSON: Uh-huh. [LR599]

SENATOR KRIST: ...and head over and you're crossing the bridge into Iowa. So you handled it very well. Thank you. [LR599]

JOE JOHNSON: Yeah. You bet. But that's local government. I mean my... [LR599]

SENATOR KRIST: That's local. [LR599]

JOE JOHNSON: I mean my mayor and my commissioners, if they would have

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taxed...even introduced or given a second thought to tax increment financing on that project, they wouldn't be here. [LR599]

SENATOR KRIST: They wouldn't have been reelected. [LR599]

JOE JOHNSON: Yeah. [LR599]

SENATOR KRIST: That's right. [LR599]

JOE JOHNSON: Yeah, they wouldn't be here, so. [LR599]

SENATOR KRIST: Thank you. [LR599]

JOE JOHNSON: You bet. [LR599]

SENATOR MCGILL: Other questions? I don't see any. Thank you for coming. [LR599]

JOE JOHNSON: Thank you. Absolutely. [LR599]

KEN BUNGER: I'm not sure I can match the enthusiasm. [LR599]

SENATOR MCGILL: I know. Woo! Who can? [LR599]

SENATOR KRIST: Can always try. [LR599]

KEN BUNGER: I'll be brief. My name is Ken Bunger. I'm an attorney. I used to be with the city of Omaha legal department until 2002. Since then I've been bond counsel, development counsel for a number of cities and developers, including the city of Chicago; the city of Kansas City; the village of Potter, Nebraska; Waterloo, Nebraska; and several other projects back in Lincoln and Omaha. So I've got a pretty good

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perspective on big and little projects. I was just, as an aside, on the Hilton Hotel, I was project manager for that. It's actually a city-owned hotel and it was done because no private investor in their right mind were building convention center hotels in downtown. But yet, because of the convention center bill which I also had the pleasure of helping draft, we needed a hotel. So the city stepped up, sold the bonds, and is the actual owner of the hotel. There is a TIF that comes off it for some of the infrastructure around the convention center, but that's it. And the hotel is actually doing quite well. I guess the only thing I wanted to say, because I want to echo the importance of local control. Recently with the big projects that I've had the fortune to be involved in--ConAgra, Riverfront in Omaha, the big university campus in West Side in Chicago, to a small shop in Minden, Nebraska--it's just as important to the people in Minden that they get a small retail shop in downtown as it is to the city of Omaha to keep First Data Resources at Ak-Sar-Ben, to keep a Riverfront. It's just all perspective. I don't know how you have a state commission, or whatever would be set up, substitute the judgment of each one of those small communities or large communities. Obviously, the laws could be upgraded. It was written as an urban renewal statute and it's just been tacked on since then. I've had the pleasure of tacking on a lot of it myself and...but it's got flexibility. It's used flexibly. Other states, all 49 of them with 1 exception, have local control. State commissions are almost nonexistent in the United States and for good reason. So I just echo the local control issue. Oh, one other quick thing: There was a senator had a question about the...whether or not private developers have a contingency in their development contracts. Almost all do for zoning, TIF, and anything else that they need for the project. So it is truly a "but for." I was just examining one of those contracts and one of the things the Legislature did was very good a couple years ago, a bill that I helped write that allows for the use or the 15 years to start with a contract rather than a plan. And one of the big reasons for that is a developer can come in, negotiate with the city and get the deal, get a contract, and then go back to the bank and say, I have the TIF as well, and so that makes the project a lot more feasible. And without that, of course, a lot of them don't happen. One last thing: These projects, TIF...you don't go into a project saying, wow, I'm going to get TIF so I'm going to do a project. TIF is, you

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know, maybe a 10 percent bump in a project. You have to have a feasible project. You have to convince a lender that you've got a good project. TIF is...gets you over the hump. It gets you that extra return on investment you need. It is not a reason for doing a project. Any questions? [LR599]

SENATOR MCGILL: Yeah, are there any questions? I don't see any. Thank you, Ken. [LR599]

KEN BUNGER: Okay. Sure. Thanks. [LR599]

DAVID LEVY: Good afternoon, Senators. [LR599]

SENATOR MCGILL: Hello. [LR599]

DAVID LEVY: (Exhibit 12) David Levy, Baird Holm law firm, here though as a board member of the Nebraska Association of Commercial Property Owners, or NACPO. I also represent many developers every day in my law practice. I have less than one page of testimony and I crossed out one paragraph, so I'll be very brief. [LR599]

SENATOR MCGILL: (Laugh) Woo! [LR599]

DAVID LEVY: Yes. The testifiers before me have sang TIF's praises very well and, like I said, I will try not to repeat that. First though for the record, NACPO and its members who are commercial property owners around the state, focused mostly in Lincoln and Omaha but not exclusively, strongly support maintaining a robust, flexible TIF program in Nebraska that is not unduly burdensome to use and which recognizes that different communities have very different needs and conditions. Land use has always been predominantly local and that should not be different with TIF. Second, it is critically important to note that TIF is nearly Nebraska's only urban revitalization incentive tool. Until last year, when the body approved LB191 which created a state historic tax credit,

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TIF really was our only tool. Our neighbors, on the other hand, have numerous other tools to assist redevelopment, from TIF to super TIF to tax credits, enterprise zones, etcetera. The handout I passed out is the table of contents from a publication called "Economic Development Incentives, City of Kansas City, Missouri." It's quite a list. We compete against those states for investment every day. Our lack of tools puts us at a serious disadvantage in that competition. So much so, in fact, that Nebraska developers frequently tell me that they look out of state to make their development investments to states with more tools to help make a broader array of projects feasible and to help make more possible in those projects. Third, TIF is criticized as lining the pockets of wealthy developers. I believe that is a misconception. Indeed, in the last couple of years I have personally worked on two projects that used TIF that are anything but lining really anybody's pockets. The first is the Victory Apartments project in south Omaha, which converted the closed St. Joseph's Hospital into 90 apartments for veterans with a preference for veterans who were formerly homeless. The second is a low-income housing project in an historic building also in south Omaha which also includes on the lower floors medical services provided on an ability-to-pay basis. TIF helped make both of those projects feasible. Without TIF, we likely would not have those projects. I appreciate the committee's time and really I simply ask you to be very wary of the potential unintended consequences of doing anything that would make TIF more difficult or less attractive to use in Nebraska. Thank you very much. Any questions? [LR599]

SENATOR MCGILL: Senator Krist. [LR599]

SENATOR KRIST: Thanks for coming. [LR599]

DAVID LEVY: Sure. [LR599]

SENATOR KRIST: Are you talking about the stockyards building? [LR599]

DAVID LEVY: Yes. [LR599]

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SENATOR KRIST: Yeah, and which beforehand probably wasn't inhabitable in some ways... [LR599]

DAVID LEVY: That's... [LR599]

SENATOR KRIST: ...before the cleanup. [LR599]

DAVID LEVY: Yeah. [LR599]

SENATOR KRIST: Yeah. [LR599]

DAVID LEVY: Yeah. [LR599]

SENATOR KRIST: Great, great use of TIF funds. And has that project now paid for itself? [LR599]

DAVID LEVY: Yes. That project, the TIF has rolled off and that project now actually is owned by...or that building is owned by OneWorld Community Health Centers and they use it really as a comprehensive campus not only for medical services but for low-income housing, for senior housing, trying to really bring all the services and benefits they provide to that campus at the stockyards. [LR599]

SENATOR KRIST: Thanks for helping me put on that record. [LR599]

DAVID LEVY: Sure. [LR599]

SENATOR MCGILL: Other questions? I do not see any. Thank you very much. [LR599]

DAVID LEVY: All right. Thank you all. [LR599]

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SENATOR MCGILL: (Laugh) Yeah, I appreciate the brevity of testifiers... [LR599]

LYNN REX: I understand that. [LR599]

SENATOR MCGILL: ...cutting stuff out if things have already been said,... [LR599]

LYNN REX: Yes. [LR599]

SENATOR MCGILL: ...so things have been moving along a little... [LR599]

LYNN REX: I will do that. [LR599]

SENATOR MCGILL: ...better pace. Oh no, I'm just commenting on everybody. It's been moving at a quicker clip here. [LR599]

LYNN REX: (Exhibit 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. We really appreciate your patience this afternoon. I'm handing out to you just some information that's come in from our municipalities across the state for your review. And one of the things I'd like to just talk to you about with respect to tax increment financing is just the fact that Nebraska has one of the most, if not the most, restrictive TIF laws in the country. On the front end of this...and I know some of this will be very familiar to Trevor--matter of fact, he may have been the one that put this together when Senator Mello was heading up the whole effort on tax increment financing--because you'll note that other states have a much longer period of time for payback. We did a survey for Senator Adams when we were working on LR29CA and I will tell you that across the state of Nebraska very few projects, very few ever went the full 15 years. Most cities do it in less than ten and that's because they don't want to give up more than what they need to give up. Many of them are less than five. The reason why LR29CA would have

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allowed us to go to an additional 5 years, to go 15 to 20, as originally introduced, even though the committee struck that, the purpose of that was for the really huge projects, because every once in a while you get a huge project, whether it be Google or something of that nature. But all that being said, let's begin with the fact that basically tax increment financing in the state of Nebraska is absolutely one of the most restrictive in the country. And as David Levy was indicating, just look at what some of the other states do and you will see that we've got to compete with them, and especially for those border cities. Whether it's a Nebraska City or it's a Scottsbluff, they've got to take that into consideration. Secondly, is there a loss of revenue for other political subdivisions? I would submit to you, you cannot lose what you do not have. How do you lose money that you never had? I'm suggesting to you that, just as Nebraska City outlined in its handout, and if you look it's in the handout for Lincoln, it's in the handout for others as well, even the city itself only gets whatever the base amount is until those bonds are paid off. And then who is the primary beneficiary once the bonds are paid off and it goes on the tax rolls completely? The schools, simply because the schools take so much more of the tax dollar. And I'm not criticizing them. I'm just saying that's a fact. They do. Cities, typically about 15 percent; counties a little bit less than that; NRDs a little bit; and then the schools predominantly the rest of it which is well over usually anywhere from 65 to 70 percent. So the schools are the biggest beneficiaries of TIF. And other than one school district in this state, we found that schools across the state that have been in contact with the League are supportive. What you have in your packet is just a letter I think from...one letter from a school that's actually from the city of Grand Island. But we've had cities and we've even asked our city officials, you know, we're hearing the schools are upset about this, please talk to your superintendent of schools, let us know what they're hearing, and we have not heard back from one city, other than Omaha, knowing that Westside has a concern, saying that their schools are really upset about this. And I will tell you that this...and I'm not going to bore you with it because of the time and I can't because of the time, otherwise I would, believe me I would (laugh),... [LR599]

SENATOR KRIST: We know. [LR599]

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LYNN REX: ...and that is...I've done it before, so make no mistake. The point is that if you look at Chapter 18, Article 21, you will see that it is notice after notice, hearing after hearing, cost-benefit analysis. It is process laden. This is nothing that you do in a month or two. It is literally a 12- to 18-month process from beginning to end. And the whole concept of not being collaborative with other political subdivisions, I think our cities need to be. I think most of them are. If there's anyone listening that knows that their city isn't, we'd sure like to know, because that has not been the experience that we're hearing back from our municipalities. So from a cost-benefit analysis standpoint, when you're doing these TIF projects, it is a game changer and it is what David Levy said. It's not the reason to do a project. It's the reason why some projects would not occur, which is why you have the "but for" contest and the "but for" test, if you will. And I would submit to you that is hard. It is hard to measure, and I think that's what Senator Landis was trying to convey to you. It is hard to measure in the same way that it's hard to measure what under the Nebraska Advantage Act system would the company have expanded or not. Tough to measure whether they would or would not have. But there's no question, when you look at the pictures that have been presented to you today. And we could and we can in fact ask cities, if you would like, to make sure they do it, for all of our first-class cities in particular, you will see the before and after shots. It is profound. The differences are profound. This is a game changer for municipalities. More importantly, it is a game changer for the schools. They are the largest beneficiaries of tax increment financing. They don't get less money during the payback period than they had before, but at the end they are the big winners when it comes to tax increment financing, but so are the rest of the taxpayers because it broadens the base. And it's not just that project. It is the surrounding area that also is improved. [LR599]

SENATOR MCGILL: Are there any questions for Lynn? Senator Davis. [LR599]

SENATOR DAVIS: Thank you. [LR599]

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SENATOR MCGILL: Uh-huh. [LR599]

SENATOR DAVIS: Thank you, Lynn, for coming. I always appreciate your testimony. And I understand your points, except I would say this. I can look at lots of projects across the state of Nebraska, lots of retail facilities, lots of things that would have located in those communities anyway, whether that was TIFed or not. So, yes, the school districts do lose when that happens. They lose 15 years of revenue because the city council makes the decision that we'll TIF this property even though that entity would have come into that community anyway. [LR599]

LYNN REX: If you have projects that would happen anyway, and again, I think that's hard to assess because I don't know. You know, I'm not saying there aren't any, Senator, but I'm saying I know that there are efforts made so that doesn't happen. And I guess I don't buy into the fact that retail does not help a municipality. And in fact, and by the way, the counties are big winners too because obviously the city valuation goes as part of the county valuation. But for some of our smaller municipalities, oh my gosh, if they can get a retail store of any kind or helping to do what usually is going to be a renovated downtown store, that is huge for them. That may be for them what a 300-job industry is for the city of Lincoln. It's a big deal. And I realize that in some parts of the state to which you are familiar maybe that doesn't seem like a big deal, but retail can be. And that's why TIF is used not only in Nebraska but across this country for retail-type projects. [LR599]

SENATOR DAVIS: And how do you feel about housing developments that are put on raw ground? [LR599]

LYNN REX: I have never...first and foremost, I do not believe ever that a cornfield, a corn blight constitutes blight under this statute. It never has. It never will. It is unconstitutional. Now that being said, if you have an area in your city, the way the statute reads, you can have an undeveloped area in your city. And I want to...oh, gosh, I

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don't have the years in front of me, but there's a period of years. It's a long time. It's not just five years where it hasn't been developed. But if you have property that's been within your corporate limits that hasn't been developed for a period of years, and it's a long time, greater than ten years, then that can be included in an area that is deemed to be substandard and blighted. And to another point that was raised, you can also have beautiful buildings in an area that is deemed to be substandard and blighted. You can have areas, and there are in Omaha, there are in Lincoln, where you have one or two really great-looking buildings but everything around it isn't. So those buildings, yes, are going to be considered in that area. But do I think it's appropriate if you're going on the outskirts of a municipality where there is absolutely no development and to try to use it for that? No, I don't. [LR599]

SENATOR DAVIS: Well, it is being used that way. [LR599]

LYNN REX: I don't know that that is...I would like to have those examples, I guess, Senator, because again, unless it is in part of the corporate limits of a municipality, it can't be TIFed unless it's part of the corporate limits of a municipality. [LR599]

SENATOR DAVIS: And it was annexed to the city, as I understand it, but I'll get that data for you. [LR599]

LYNN REX: Yeah, I would like to know, because we will have a conversation with that city for sure. [LR599]

SENATOR MCGILL: And if you could make sure that's shared with our committee, too,... [LR599]

LYNN REX: Yes. [LR599]

SENATOR MCGILL: ...would appreciate that. [LR599]

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LYNN REX: And we'll make sure that city knows. [LR599]

SENATOR MCGILL: Yeah. Any other questions? Senator Krist. [LR599]

SENATOR KRIST: Just a point: This body passed a bill last year where we allowed a TIF to extend beyond the city limits. [LR599]

SENATOR MCGILL: To a former military... [LR599]

SENATOR KRIST: ...to former military. So I do know that there was good reason to allow TIF to be used in that area, and we made an exception. But other than that exception,... [LR599]

LYNN REX: Yeah. [LR599]

SENATOR MCGILL: And an exception to the 35 percent of the... [LR599]

LYNN REX: Yes. [LR599]

SENATOR KRIST: And I think, isn't it 40 years that they... [LR599]

LYNN REX: I think it is 40 years. [LR599]

SENATOR KRIST: Yeah? [LR599]

LYNN REX: And a matter of fact, I know...I believe Plattsmouth is just looking at this... [LR599]

SENATOR KRIST: Yeah. [LR599]

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LYNN REX: ...and I believe, I think you're right. I was going to say 40 and I thought, hmm. [LR599]

SENATOR KRIST: I'm pretty sure it's 40. [LR599]

LYNN REX: I think you're right that it's 40. And I will get back to you and verify that too. But for 40 years, if you have property within your corporate limits that have never been developed, I think it's a safe bet, the chances of that being developed are very remote. I mean... [LR599]

SENATOR KRIST: I'd say the "but for" clause works good on that one. [LR599]

LYNN REX: Yeah, and a "but for" clause works on that. By the same token, you are correct, and I do stand corrected,... [LR599]

SENATOR KRIST: No, I just wanted to make sure. [LR599]

LYNN REX: ...that the SID concept that you put in place was...I wish I'd have thought of it. But congratulations to you for thinking of it because I think it was very innovative to come up with that to take care of a very, very important issue and allow a municipality to TIF outside its corporate limits for that very, very limited purpose for a former military defense site along with the resolution passed by the city that there be a resolution of a motion to annex at some point. So appreciate that very much. [LR599]

SENATOR MCGILL: All right. Any other questions or thoughts? I don't see any. [LR599]

LYNN REX: Thank you for your time. [LR599]

SENATOR MCGILL: Thank you, Lynn. [LR599]

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LYNN REX: Really appreciate it. Thank you. [LR599]

SENATOR MCGILL: Is there anyone else interested in testifying here today? I'm going to read a few letters into the record just real quick. One is from the city of Alliance, one is from the Buffalo County Board of Supervisors, the next one is from Kearney Public Schools, and finally the Kearney Community Redevelopment Authority. And with that, we are done. Or, Senator,...actually, Senator Davis, would you like to close at all? [LR599]

SENATOR DAVIS: No, I'm...thank you. [LR599]

SENATOR MCGILL: No. Okay, he waives that. We'll call it a day then. Thank you everyone. [LR599]