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Urban Affairs Committee
February 16, 2010

[LB943 LB969 LB1064 LR297CA]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 16, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB943, LB969, LB1064, and LR297CA. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Tanya Cook; Bob Krist; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None.

SENATOR MCGILL: We have a few bills on the agenda here today. If you're here and haven't testified before, we need you to fill out forms by the doors with your name. And when you come up to testify, we also need you to state your name and spell it for us for the record. If you could turn your cell phones off or put them on vibrate, that would be really great. The committee members that we have right now, on my right: Senator Bob Krist from Omaha is here; this is our legal counsel Laurie Holman. To my left: Senator Steve Lathrop from Omaha; Senator Kent Rogert from Tekamah; and our committee clerk Katie Chatters; and Senator Tanya Cook just decided to join us. Yeah! (Laugh) I don't think we're going to use the light system today. I don't think there's anything that will...any bills that will be taking up too much time, but we do ask you to be as concise as you can be and not take more than five minutes if possible and leave some time for us to ask you any questions. And with that, I think we can go ahead and get started with Senator Harms and LB493...or LB943, I'm sorry. Dyslexic. (Laugh)

SENATOR HARMS: My name is John, J-o-h-n, middle initial N. Harms, H-a-r-m-s. I represent the 48th District. Senator McGill and colleagues, first of all, thank you for giving me the opportunity to come and visit with you about LB943. Some of you may recall several years ago Senator Phil Erdman introduced legislation that would remove the legal barriers to allow first-class cities to merge, and there was a lot of good discussion on the floor in regard to that issue. The communities of Scottsbluff and Gering have been slowly working at bringing these two communities together and they've got a nice plan put together and I'm very proud of them. And they're moving towards trying to become more cost-effective, more efficient, and continue to provide the same qualities because for those of you who don't know where Scottsbluff and Gering are, they're really close together and Terrytown in between. In working towards this goal, these two communities are about to merge their law enforcement offices, and they've been working on the details maybe the last six months, maybe a year. And they discovered in order to do this, in order to merge them, they're going to have to merge the civil service commissions. This requires an amendment of the Civil Service Act and, thus, that's the reason I'm here, to discuss with you about LB943 which actually allows that to happen. This bill would allow any two or more first-class cities which have a civil service commission to merge these commissions. "The existing commissions shall be dissolved without any further action of the governing body," and members of the existing commissions would be eligible for appointment to the merged commissions. And these are the components that are in this bill: (1) a merged commission shall consist of three,

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

Urban Affairs Committee
February 16, 2010

five, seven, or nine members as provided in the interlocal agreement they would have, cooperative agreement. (2) each city participating in the agreement shall appoint at least one member from that merged commission. And (3) each member of such merged commission shall be a resident of this city at least three years prior to their being picked to serve on this commission. The term of office can be flexible as they emerge according to the agreement but not more than six years. They can also provide a staggering point in the offices of the commissioners as they're chosen. And (5) "at the time of the appointment, not more than four members of the seven-member commission nor more than five members of the nine-member commission shall be of the same political party." That's simply what this bill is about. This bill is to provide and give Gering and Scottsbluff the option of bringing their law enforcement offices together, and I think it's just a beginning of some of the things which I think are really going to be good and hopefully we'll become a model in the future. So I'd be happy, Madam Chair, to answer any questions or...I know there are people coming up behind me that probably have better answers, but be happy to answer anything I can. And I would also, Madam Chair, like the pleasure of closing. Okay? [LB943]

SENATOR MCGILL: Okay, wonderful. And I know you're interested in an emergency clause on this. [LB943]

SENATOR HARMS: Yes, I am. It's really important for us to have the emergency clause because we need to strike while the iron is still hot. They need to get this done and get it out of the way so they can start putting it together. [LB943]

SENATOR MCGILL: And efficiency is the buzz word here nowadays, so. [LB943]

SENATOR HARMS: Yep. Um-hum. [LB943]

SENATOR MCGILL: Senator Lathrop. [LB943]

SENATOR LATHROP: John, this comes to us in the context of Gering and Scottsbluff who are looking at ways to do things together, but the bill it seems would allow two cities of the first class...I mean, Hastings and Kearney could do the same thing. [LB943]

SENATOR HARMS: Sure. [LB943]

SENATOR LATHROP: Is there any...if we consider the context other than Gering and Scottsbluff, is it a good idea or a bad idea or are there unique problems if we have one civil service commission and the cities are Hastings and Kearney... [LB943]

SENATOR HARMS: No, I don't see a problem. [LB943]

SENATOR LATHROP: ...instead of neighboring cities? [LB943]

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

Urban Affairs Committee
February 16, 2010

SENATOR HARMS: I don't see a problem with it because it gives them the option to do it. I mean, right now we can't do it at all and it would be your choice whether you wanted to do it or not. It gives you the option to be able to allow two first-class cities or whatever to come together and do that. You know, maybe they'd like to have a county kind of combination where there might be three cities and a county or four cities and they want to bring them all together. This just eliminates that whole process and it's their choice, they don't have to. [LB943]

SENATOR LATHROP: Okay. Thanks. [LB943]

SENATOR MCGILL: Other questions? [LB943]

SENATOR HARMS: That was a good question. Thank you very much for the question. [LB943]

SENATOR MCGILL: Thank you, Senator Harms. [LB943]

SENATOR HARMS: Thank you, Madam Chair. [LB943]

SENATOR MCGILL: We'll take the first proponent. [LB943]

SUSAN WIEDEMAN: (Exhibit 1) Good afternoon. I'm Mayor Susan Wiedeman, S-u-s-a-n W-i-e-d-e-m-a-n, and I am the mayor of Gering. Once again, thank you, Senator McGill, for allowing us to testify and bringing this forward and members of the committee. Two years ago, we were in front of the same committee, not the same members but the same committee, with LB1056 which was the merger of the first-class city act. At that time, we fielded many questions of what some of our plans were. Of course, you all can imagine how big an elephant is to combine two cities of the first class, so instead of trying to do the whole thing, we decided it would be better to take one step at a time. Six months ago, we decided to try to look at our police departments after some consideration from our police...our two police chiefs who have gotten together and developed a joint impound lot which we now share in the city of Gering. They decided to take the next step to look at combining both departments. At the very least, what this has done is increased communication between the two departments not only at the police chief level, but also at the captain level and sergeant level and patrol levels. But before going forward and being able to merge this, we needed to get enabling legislation to combine the civil service, and by doing this, this will give us a better pool and a larger pool of people to choose from to test, to choose from to go into our police force. Some of the other things that we have also done, our mayors and our counsel and our county commission share; we meet twice monthly to talk about ways we can work together. Our counsels have met at least twice together and we will be meeting a third time to discuss this particular issue and funding of the police

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

Urban Affairs Committee
February 16, 2010

departments on March 8. When we did the budget planning session last year, it was very apparent that in our general fund budget items the police department takes a lot of general funds, and we had to find a way to be more efficient to do more with less and not lessen the service to our citizens, and this is where the idea of blending the services came. At that point, the Gering city administrator, Lane Danielzuk who has experience in law enforcement, was charged with the task to meet with the two chiefs. They continue to meet about twice monthly and bring forward such things, such as combining the civil service. The joint civil service commission...the civil service commissions of both Gering and Scottsbluff met in December and then met again on January 5 with the proposed legislation before you and voted to ask Senator Harms to go forward and introduce this legislation. It was drafted by the Scottsbluff city attorney, Howard Olsen. By enabling this, this helps us move forward in the process, and we are looking at the police department to become a model for future departments to work from. Things that we will be discussing on that March 8 meeting is how to fund it, and we will be meeting with the two city finance directors. I also have with me is a letter for our...excuse me, from Galen Larson who sits on the Gering Civil Service Commission and I will hand that to your clerk to be distributed. I would entertain any questions. [LB943]

SENATOR MCGILL: Senator Rogert. [LB943]

SENATOR ROBERT: Give you a situation. I think it's a good idea, but I just want to ask you a question. Say you as mayor use an executive order or your city passes an ordinance that is in direct conflict with Scottsbluff's. [LB943]

SUSAN WIEDEMAN: Okay. [LB943]

SENATOR ROBERT: How would you handle that situation as part of the civil service group? [LB943]

SUSAN WIEDEMAN: Well, currently we are looking at all of the ordinances and we are trying to get the ordinances matched as closely as possible. That has been a charge of our captains at both police departments are reviewing that. We currently share the same city prosecutor as Scottsbluff, so they are also working with the police departments and the captains to work on getting those, especially that are very different, to get them a little bit more closely in line. [LB943]

SENATOR ROBERT: You know, the reason I ask is say you got two or three members of the Scottsbluff counsel that's mad at something that you did. [LB943]

SUSAN WIEDEMAN: Um-hum. [LB943]

SENATOR ROBERT: So they in an effort to retaliate pass an ordinance that says the jurisdiction for law enforcement shall not be anybody not directly employed by the city of

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

Urban Affairs Committee
February 16, 2010

Scottsbluff, and I don't know that that would cover that but it could be a conflict. Is there room within your agreement, I wonder, to write the prohibitions? [LB943]

SUSAN WIEDEMAN: Well, I think that would come when we really sit down and start drafting the interlocal agreements and the memorandum of understandings between the two departments. [LB943]

SENATOR ROBERT: Yeah. [LB943]

SUSAN WIEDEMAN: And that I'm not going to say is going to be an easy task, it'll probably be a very difficult task, but those are probably where we will address those issues. [LB943]

SENATOR ROBERT: Not saying that would happen but I know how small towns go. (Laughter) [LB943]

SUSAN WIEDEMAN: Yes. [LB943]

SENATOR ROBERT: Two guys get mad and wow! [LB943]

SENATOR MCGILL: Are you using stereotypes? [LB943]

SENATOR ROBERT: (Laughter) I am part of that stereotype, yes. [LB943]

SENATOR LATHROP: I do have maybe a comment. [LB943]

SENATOR MCGILL: Yeah, Senator Lathrop. [LB943]

SENATOR LATHROP: I was here two years ago when Senator Erdman introduced his bill. [LB943]

SUSAN WIEDEMAN: Um-hum. [LB943]

SENATOR LATHROP: And when that bill was introduced...this is more of a comment than a question, when the bill was introduced, it was big, it was like a collection of all of the ideas people thought would be necessary for the two cities to merge. And I remember asking Erdman, Senator Erdman, if this was happening or is this kind of theoretical, and it seemed pretty theoretical at that point. And the difficulty with looking at that bill in a theoretical setting as opposed to what we're doing today is... [LB943]

SUSAN WIEDEMAN: Um-hum. [LB943]

SENATOR LATHROP: ...if you take it in little bits like we are today, then people can

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

Urban Affairs Committee
February 16, 2010

think through the practical implications of the...passing a statute like this and the merger than to take...as I recall it was like a 50-page, 60-, 70-page bill. I mean, it was a pretty significant piece of legislation. A lot of detail in there that was hard to anticipate and cover... [LB943]

SUSAN WIEDEMAN: Um-hum. [LB943]

SENATOR LATHROP: ...in a simple hearing. [LB943]

SUSAN WIEDEMAN: Well, I think what our goal is since that has been passed, but we couldn't do anything until that was passed in LB1056, but I think we've gone back and Mayor Meininger and I have discussed this a lot of times, let's look at ways that we can work together more. And if we can handle one department at a time, it may come to the time then people say, we'll just combine the two cities. [LB943]

SENATOR LATHROP: Right. [LB943]

SUSAN WIEDEMAN: And that is the approach that we are taking at this point, and we do have a plan in there, our succession plan. I know there seems to be some concern about losing officers. We are looking at...no firing, but having things happen through attrition. And I think by combining the departments, I think you will have your better officers rise to the top and those that are frustrated will maybe go elsewhere. And I think that is the correct approach. One of our chiefs will be approaching retirement within the next couple of years. So I think the time is right for us to do this and I really feel...and people ask about Terrytown. Terrytown has a interlocal agreement with Scottsbluff and I think it will make it more efficient all the way around. [LB943]

SENATOR LATHROP: Yeah. Good work. [LB943]

SUSAN WIEDEMAN: Thank you. [LB943]

SENATOR LATHROP: I think it's smart government, it's good work, and then it's...you know, it is more efficient use of resources, and you're to be commended for your work. [LB943]

SUSAN WIEDEMAN: Thank you. And I'd like to thank Senator Harms for introducing the bill for us. [LB943]

SENATOR MCGILL: Other questions? Thank you, Mayor, for coming all the way out here. [LB943]

SUSAN WIEDEMAN: Thank you. [LB943]

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

Urban Affairs Committee
February 16, 2010

SENATOR LATHROP: Do you get John for a state senator now? You're in Gering, right? [LB943]

SUSAN WIEDEMAN: John is...yeah, but John is our state senator. [LB943]

SENATOR LATHROP: Oh, is he? [LB943]

SUSAN WIEDEMAN: Yeah. [LB943]

SENATOR LATHROP: I thought he was just in Scottsbluff. [LB943]

SUSAN WIEDEMAN: No, it's Scotts Bluff County. [LB943]

SENATOR MCGILL: No, Scotts Bluff County. [LB943]

SENATOR LATHROP: Okay. I was going to say. [LB943]

SENATOR MCGILL: (Laugh) He's got the county of Scotts Bluff. (Laugh) [LB943]

SUSAN WIEDEMAN: Thank you. [LB943]

SENATOR MCGILL: Next proponent. [LB943]

TOM PERKINS: Good afternoon. I'm Tom Perkins, T-o-m P-e-r-k-i-n-s. I'm from Scottsbluff and I want to thank you, this committee, and the Chair for allowing us to be here to speak about something that is very dear to my heart. I am here to testify, obviously, on behalf of this bill. As many of us hope in Scottsbluff and Gering, we hope that we will have a unified police department between the two cities. We look for...we have been thinking about this in terms of how will Scottsbluff and Gering be able to come together in the future. And we look forward to this event and believe that it is a practical means for utilizing scarce resources such as funding, enhancing the purchasing power of our law enforcement agencies, and attracting more applicants to our area. Some also believe that the merger of the two will provide an integrated law enforcement approach and provide greater service to the communities. For many years, some of us in our communities has speculated about the possibility of combining the services of Scottsbluff and Gering. In regards to the police departments, we are now closer to that dream. To help facilitate this process one more step needs to occur and that is merging the two civil service commissions. On January 5 of this year, the Gering and Scottsbluff Civil Service Commissions met and reviewed the possible legislation to modify the existing civil service statute that will enable first-class cities to merge civil service commissions, and after discussion, both commissions unanimously voted to approve this proposed legislation. In my opinion, this was truly a historic event for not only those two communities, but I am anticipating a historic event for the state of

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

Urban Affairs Committee
February 16, 2010

Nebraska. We take pride in this event. The merger of the commissions will make it possible for the two communities to engage in a common testing and interviewing process of police candidates. And this will provide all the candidates the assurance that the testing will have integrity, will be fair, that all candidates will experience the same scrutiny from Scottsbluff and Gering, and it will meet the equal opportunity standards. Having served on the Scottsbluff Civil Service Commission for at least 20 years, served as its chair for several years, I along with my Scottsbluff colleagues, Jacque Neu and Dr. Mike Schaff, have concluded that this is one of the most important civic duties that we can offer to our community. In essence, we are representing the citizens of Scottsbluff every time we interview a police officer candidate or a fire fighter candidate. In that time, we have dealt with many sensitive, personal issues brought to us by candidates and on occasion we have sat as a personnel board to hear and act on complaints brought to us by officers and firefighters. We are humbled that our community has given us this responsibility. As we move forward towards the merger of the two police departments, we believe we need to merge the two commissions so that the transition to a single police department will be completed with relative ease. Be assured that those sitting on the new commission will continue to responsibly represent the greater Scottsbluff area citizens when testing and interviewing candidates for the combined police departments. I ask that you move this bill forward and support its passage by the Legislature. I'm open for questions. [LB943]

SENATOR MCGILL: Thank you. Senator Rogert. [LB943]

SENATOR ROBERT: I have two. [LB943]

TOM PERKINS: Yes. [LB943]

SENATOR ROBERT: Did you come here today? [LB943]

TOM PERKINS: Yes. Well, I came here last night. [LB943]

SENATOR ROBERT: Still wasn't a very nice trip, I don't think. [LB943]

TOM PERKINS: It was good for us. We're used to this (laughter). [LB943]

SENATOR ROBERT: How much money do you expect probably the cities will save by just this step alone? Do you have any idea? [LB943]

TOM PERKINS: I have to beg on that one because I'm not involved in the financial concerns of both cities. [LB943]

SENATOR ROBERT: Okay. [LB943]

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

Urban Affairs Committee
February 16, 2010

TOM PERKINS: So I will leave that to the next speaker. [LB943]

SENATOR ROBERT: No problem. Thanks for coming. [LB943]

TOM PERKINS: Sure. Thank you. [LB943]

SENATOR MCGILL: Other questions? No, thank you. [LB943]

TOM PERKINS: Thank you. [LB943]

SENATOR MCGILL: Next proponent. [LB943]

RANDY MEININGER: Senator McGill and members of the committee, my name is Randy G. Meininger, M-e-i-n-i-n-g-e-r. I'm the mayor of Scottsbluff and I take it as an honor and privilege to be able to speak in front of this committee today. Three and a half years ago, Mayor Wiedeman and I got together...well, actually we graduated together from Gering High School, so we have a lot of the same backgrounds. We know that coming off of a farm that if you work together, things can go very well. We started working together on simple things as a swimming pass, that whether you lived in the cities of Scottsbluff or Gering, it didn't matter. We saw them as equal and you could enter both swimming pools without having to pay extra fees. It seems like a very small task, but when you look at it, it set the stage for being able to bring together different...department of parks and formulate a plan to make that work. We then worked towards the issue of solid waste, and we were told that that couldn't be done. We take pride in telling you today that Scottsbluff and Gering have combined their solid waste into one place. We then started looking at how could we work together as cities to merge that. And, again, we came before you and asked for the passage of LB1056. Senator Harms sat down with both of us and said, you know, for lack of a plan we will fail, and we took that to heart. And we've been working, like Mayor Wiedeman said, twice a week very close together between the cities, Scottsbluff, Gering, Terrytown, and the county, to work on a plan so that step by step, little by little we could combine services to offer the same quality at a cheaper or more economic rate. We worked together with our law enforcement officers to put it in an interlocal agreement so that they both had arrest powers in both cities. And I'm proud to tell you that next month, we will start a ride-along program where the officers in the vehicles from Scottsbluff will be patrolling the cities of Gering side by side with Gering police officers so that we learn their cities and they learn ours so that they're seamless, that we can work together. We identified that our ordinances, some of them conflicted, and so we immediately had the police chiefs and the captains start working on one by one. And I'm also proud to tell you that tonight I will not be at our council meeting, but they're in good hands because some of the things that they will be discussing tonight are ordinances that we have found in Gering and Scottsbluff; Gering, some of theirs make better sense and we are now aligning so that those ordinances align with each other and are the same. Our city

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

Urban Affairs Committee
February 16, 2010

prosecutors, as Mayor Wiedeman said, are the same now, so that has assisted us with that process. This is just one step where we think we can create by combining the civil service, we can create a bigger pool of candidates that will be able to protect our cities. We won't have to worry from one city to the other that the ordinances are going to be so different that you pick one place or the other based on what you do or don't want to do because we think that's wrong. So I thank you for the opportunity to testify in front of you. This is a very good bill and this will help us. The momentum is there. Things are happening and especially with emergency clauses will allow us to move forward, combine those services so that we can work on interlocal agreements to take care of those issues. We're up for that challenge, and we'd just appreciate it if you would give us the opportunity to take on that challenge. Any questions? [LB943]

SENATOR MCGILL: Nice work, lots of good details that you've worked on so far. Any other questions? Thank you very much, Mayor. [LB943]

RANDY MEININGER: Thank you. [LB943]

SENATOR MCGILL: Senator White has now joined us and so has Senator Coash. [LB943]

GARY KRUMLAND: (Exhibit 2) Senator McGill, members of the committee, my name is Gary Krumland, my last name is spelled K-r-u-m-l-a-n-d, representing the Leagues of Nebraska Municipalities in support of LB943. Although there aren't other first-class cities who are at the stage where Scottsbluff and Gering are in looking at joining this, this would allow other cities to look at the same thing, especially if they can learn from what Scottsbluff and Gering does in developing a joint effort. There are cities where, as Senator Lathrop mentioned, distance may make it impractical to do this, but there are first-class cities who are fairly close together and at some point may want to look at this, and this would have the tool available to do so. I want to address a question that was brought up that...before the hearing, not here, about on line 5...excuse me, page 5, line 8, it talks about this joint committee has to be...at the time of appointment they split among political parties, and some people are asking why are they doing this? And what I handed out is a current law on the civil service commission. And if you look on the second page of the handout, the current law does require that the commission be appointed from separate parties so that you don't have all from one party. I think when the bill was first put into it because the civil service commission is the one who does testing, who does the evaluation of applicants for jobs and for advancement, they wanted it to be as fair as possible and have the appearance of fairness. And so that was why that was in the original law and it's just reflected in the amendment too. So it's nothing new, it's just carrying on the current policy. [LB943]

SENATOR MCGILL: Thank you for clearing that up. Are there any questions? No, thank you very much. [LB943]

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

Urban Affairs Committee
February 16, 2010

GARY KRUMLAND: Um-hum. [LB943]

SENATOR MCGILL: Other proponents at all? Anyone here opposed? Anyone neutral? With that, Senator Harms, if you would like close. [LB943]

SENATOR HARMS: Thank you, Senator McGill. This is really a good opportunity for us and I'm proud of what the two communities are doing. I hope some day we'll be able to come back and say the two cities have merged and they're moving in the right direction, I think, as you have had the opportunity to hear. I think as we look at the future as it becomes more clouded in regard to the financial conditions of the great state, these are the kind of things that we're going to have to do. And so I would urge you to support it, and also ask you to bring it out with the emergency clause because they need to move along with this particular project. So thank you very much Senator McGill and colleagues. Any questions? [LB943]

SENATOR MCGILL: I don't see any. Thank you very much, Senator Harms. [LB943]

SENATOR HARMS: You're too kind. Thank you. [LB943]

SENATOR MCGILL: Um-hum. That ends the hearing and we will move onto LB969, which our committee counsel will go ahead and introduce. [LB943]

LAURIE HOLMAN: Senator McGill, members of the committee, my name is Laurie Holman, L-a-u-r-i-e H-o-l-m-a-n, and I'm here to introduce LB969. The purpose of LB969 is to provide for terms of office for appointed officials in cities of the second class and to clarify the terms of office in villages. LB969 amends Section 17-107 to provide that in cities of the second class: The terms of office for officers appointed by the mayor and confirmed by the council shall be established by the city council by ordinance. The ordinance shall provide that either (a) the officers hold the office to which they have been appointed until the end of the mayor's term or until their successors are appointed and qualified unless sooner removed or the officers shall hold their office for one year unless sooner removed. LB969 also amends Section 17-208 to clarify that the term of office for villages is one year. LB969 puts the current statutory language regarding the appointment and discipline of police officers into one subsection to avoid confusion and to separate the provisions relating to police officers from the provisions for appointed officials. [LB969]

SENATOR MCGILL: All right. Thank you. [LB969]

LAURIE HOLMAN: You're welcome. Any questions? [LB969]

SENATOR MCGILL: Any questions? No. Thank you very much. [LB969]

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

Urban Affairs Committee
February 16, 2010

LAURIE HOLMAN: Thank you. [LB969]

SENATOR MCGILL: Proponents. [LB969]

GARY KRUMLAND: (Exhibit 3) Senator McGill, members of the committee, my name is Gary Krumland, that's K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB969. As was mentioned, this bill provides terms of offices for cities of the second class for appointed officials and also clarifies it for terms of villages. It was requested by the city of Kimball, and what is being handed out is a letter of support from the city, and went through our legislative committees and other cities of the second class also support this. It was a problem. Under current law, cities of the first class, and those are cities between 5,000 and 100,000, have in the law that they're appointed officials serve for the term of the mayor, so that is clear. For villages, and those are municipalities with a population of 800 or below and they are elected as a board, they don't have a separately elected mayor. Traditionally the appointment has been for one year, but for the cities of second class, which are those between 800 and 5,000 who also have a separate elected mayor and a city council, statutes have been silent on how long the term of office is for appointed officials and that's caused confusion. Cities that were villages and became cities of the second class continued to appoint for one year just because that's what they've been doing. Some of the larger cities were thinking we would like to be like first-class cities since we have a similar structure. We have an elected mayor who makes his appointments and the appointments for...and these are like offices for the clerk, the treasurer, the city attorney, city engineer, would serve during the term of the mayor. And so they would...they've asked that this be put into the statutes. And so...but some of the cities wanted the term of the mayor, some of the cities wanted to continue having the one-year term. So the way the bill was structured would be that a city would make that decision, they would pass an ordinance and either make the appointed officials term the same term as the mayor or they would be for one-year terms. Also, traditionally the term of office for appointed officials and villages has been one year. A few years ago, the statute was amended and it kind of got put into a subsection regarding the board of health and causing confusion of whether what is the term now for other appointed officials. So most cities or villages do it for one year, they wanted to continue doing it for one year, and so the statute clarifies that. The statutes that we're amending were first adopted in 1897 and over the years have been amended. There has been some confusion about what applies to what, and so also with working with the bill drafter tried to put some subsections together and make it clear what provisions apply to which groups of people to make it so everybody knows. We haven't really changed the law, but we tried to eliminate confusion in that. And I...so for that reason, we do support it and I'd be happy to answer any questions. [LB969]

SENATOR MCGILL: All right. Thank you. Senator Rogert. [LB969]

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

Urban Affairs Committee
February 16, 2010

SENATOR ROBERT: Only because I have ten second-class cities in my district. I don't think anybody else here does have any, so. Was there anybody against this? [LB969]

GARY KRUMLAND: No. The only discussion was some cities said, well, we've appointed it for one year, we want to continue doing that. Everybody else seemed to like the idea of continuing for the term of the mayor. [LB969]

SENATOR ROBERT: Okay. [LB969]

GARY KRUMLAND: And so that's why we have the option in the statute. [LB969]

SENATOR ROBERT: I see there has been an issue recently in one of my towns where there was a little confusion and someone found themselves without a job because of it, but this would probably clear it up. [LB969]

GARY KRUMLAND: Yeah, and by putting it in the ordinance, everybody knows what it is and you follow that procedure then. [LB969]

SENATOR ROBERT: Super. [LB969]

SENATOR MCGILL: All right. Senator White. [LB969]

SENATOR WHITE: The only question and concern I have is, is it healthy to have a complete turnover like that? The mayor is done, everybody is gone. [LB969]

GARY KRUMLAND: That is...if the mayor is the one who makes the appointment, I think it's been in the law for cities of the first class for quite a while. [LB969]

SENATOR WHITE: It's worked well? [LB969]

GARY KRUMLAND: Yeah, it's worked well. The idea is that if you have a new mayor, the new mayor would like to appoint new people if they have that opportunity. I know there is at least one city of the first class who has delayed the appointment of the officials a couple of months after the mayor takes office, so there is some time lap, the mayor would have some time to do it. Most of them do it, though, at the organization meeting after the election, so. [LB969]

SENATOR WHITE: Okay. [LB969]

SENATOR ROBERT: I would follow... [LB969]

SENATOR MCGILL: Yep. Senator Robert. [LB969]

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Transcriber's Office

Urban Affairs Committee
February 16, 2010

SENATOR ROBERT: ...just follow up with that. I know, Senator White, in Tekamah we've had four mayors in 18 years and just one clerk. It seems that if they're doing their job, they get reappointed. [LB969]

GARY KRUMLAND: Yeah, and... [LB969]

SENATOR WHITE: If it's working, it's working. [LB969]

GARY KRUMLAND: ...that's fairly typical. [LB969]

SENATOR ROBERT: But I agree with (inaudible). [LB969]

GARY KRUMLAND: There's not a whole lot of turnover in smaller communities. [LB969]

SENATOR MCGILL: All right. Well, thank you very much. [LB969]

GARY KRUMLAND: Um-hum. [LB969]

SENATOR MCGILL: Other proponents. Any opponents? Anyone neutral? That will close the hearing then on LB969. And we'll move on to Senator Nelson and LB1064. [LB969]

SENATOR NELSON: Thank you, Chairwoman McGill and members of the Urban Affairs Committee. For the record, my name is John Nelson, spelled J-o-h-n N-e-l-s-o-n. I represent District 6 in midtown Omaha and I'm here today to introduce LB1064. LB1064 creates a limited purpose sanitary improvement district. LB1064 was originally introduced in 2005 by then-Senator Chris Beutler as LB651. The purpose of LB1064 is to allow cities and SIDs to work together to better facilitate the annexation of unincorporated SIDs. Under LB1064, cities can annex an SID, but a limited purpose SID would remain to provide continuous maintenance, preservation, and enhancement of some of the real property. Because city property tax levies are almost always lower than the property tax levies of costly SIDs, some Nebraskans will see property tax cuts under LB1064. The two main differences between LB1064 and Senator Beutler's LB651 are, first, that LB1064 mandates that the property tax levy of the SID cannot rise beyond the preexisting property tax levy and, secondly, LB1064 prohibits cities from imposing their will on SIDs and requires the SIDs and cities to work together before a limited purpose SID can be created. Testifying after me are experts on the subject. They will be able to give greater detail about the specifics and legislative history of LB1064. I thank the committee for its time and would answer any initial questions that you might have at this time. [LB1064]

SENATOR MCGILL: Questions? Nope, I don't see any. Thank you. [LB1064]

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

Urban Affairs Committee
February 16, 2010

SENATOR NELSON: Thank you. [LB1064]

SENATOR MCGILL: We'll take our first proponent then. [LB1064]

LARRY FORMAN: (Exhibit 4) Madam Chairman, members of the committee, my name is Larry Forman, F-o-r-m-a-n. I'm an attorney representing SID 206 of Douglas County, Nebraska, which consists of the Eldorado, Stonehenge, and Farmington Woods subdivisions in Douglas County. We originally drafted this bill several years ago but it's coming back now and in what we think is a new and improved format. The purpose of LB1064 is twofold. First of all from the standpoint of annexing cities, this bill would remove an impediment to annexation of subdivisions that otherwise would qualify allowing growth without assumption of duties that cities simply aren't set up to handle. A prime example would be if you have a lot of small common areas instead of big park-like areas, cities simply aren't set up to be able to come out and do the fine mowing that would be needed to maintain the appearance of those areas. And so that's one of the areas of focus here that the city could still annex the district but leave that function then to the limited purpose SID. But the other purpose from the standpoint of the subdivision and its residents is that it would permit a reduction in taxes while allowing for continued maintenance of subdivision features with tax revenues rather than with revenues paid to home associations which are not tax deductible. The point being that if an area is annexed and if some of these features are not taken care of by the city, then it would fall at this point on a home association to which you would pay voluntary dues or you may pay dues that may or may not be collected. But it creates sort of a problem. From a benefit standpoint, we feel this would benefit annexing cities because it would increase their territory, it would increase their population to permit them to have increased federal benefits once you have the census every ten years. And from the subdivision and residence standpoint, there would be what we consider an opportunity for a fairly significant reduction in total property taxes. Senator, you look like you have a question. [LB1064]

SENATOR LATHROP: I do. [LB1064]

LARRY FORMAN: Go ahead. [LB1064]

SENATOR LATHROP: But you get to finish first. [LB1064]

LARRY FORMAN: Oh, all right. But if you'd like to jump in, please do. [LB1064]

SENATOR MCGILL: Senator Lathrop, if you want to go ahead. [LB1064]

SENATOR LATHROP: Well, I do. I'm thinking about this and let's take just, you know, your average SID and it has a bunch of little tiny parks in it which look really attractive to people when they moved out there. [LB1064]

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

Urban Affairs Committee
February 16, 2010

LARRY FORMAN: Right. [LB1064]

SENATOR LATHROP: And the city of Omaha is going to come along and absorb them. Now they're going to pay city...they're paying property taxes, right, like everybody else? [LB1064]

LARRY FORMAN: Right. That's correct. [LB1064]

SENATOR LATHROP: But we're going to exempt out some aspect of the SID and make them continue to pay for it. [LB1064]

LARRY FORMAN: They would have the opportunity. And the one thing that we need... [LB1064]

SENATOR LATHROP: Well, let me ask you this. [LB1064]

LARRY FORMAN: Okay. [LB1064]

SENATOR LATHROP: You call it an opportunity and I'm thinking if it was me and you annexed my neighborhood and didn't take all of it and assume all of the responsibilities associated with my neighborhood, I'd probably be upset with it. [LB1064]

LARRY FORMAN: And you justifiably would be upset. The benefit here though is that if in your example a city wants to take in the area and have the benefit of that additional head count and the additional geography that's brought in, then it's better it seems to us to have the opportunity for this limited purpose district to be created if it's approved by the city and if it's approved by the people within the neighborhood because there's the two-prong test that wasn't here six years ago. [LB1064]

SENATOR LATHROP: That the people in the neighborhood have to buy off on it. [LB1064]

LARRY FORMAN: They have to agree to it. The city can simply authorize. In the prior bill back in '05, we made the mistake of having the city be able to direct. But the city now... [LB1064]

SENATOR LATHROP: Yeah, that would really be a unilateral, we're going to take you in, we're going to tax you, we'll give you... [LB1064]

LARRY FORMAN: But you're going to have to take care of this stuff. But what it is now is the city could come to the district and say, okay, we want to annex you, we want to have you continue to maintain these little private areas, and...but if you look, for

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

Urban Affairs Committee
February 16, 2010

instance, at Omaha's tax rate right now, it's 47 cents. If you look at the typical SID rate, it's somewhere in the 80- to 90-cent range. So if the SID then is given the opportunity to have a continued existence of a limited purpose district that is brought in only to do those things the city is not designed to do, you've got the benefit because if the city was going to maintain those areas but wasn't going to do so very adequately, it can't bring in, you know, mowers for fine tuning and trimming and stuff, then the duty would fall on the people to have a home association do it. Any money paid to the home association would not be tax deductible, whereas with the limited purpose district, you would have the benefit of being able to have tax deductible dollars that would be going in to take care of those functions. And you'd still have the opportunity for a significant decrease in taxes because the other thing that Senator Nelson suggested was that we put in a provision where no matter what, the combined levy of the limited purpose district and the city can't be in excess of what the former levy was for just the SID. And basically you would have a formula that's provided in this thing to limit the amount of money that the limited purpose district could generate so it couldn't say, oh, goodie, we can have the entire, you know, differential between the city rate and the old SID rate. They'd have to justify it by the amount of work they had to do. [LB1064]

SENATOR LATHROP: Okay. I think I get it. It requires an agreement. [LB1064]

LARRY FORMAN: It requires...yeah. [LB1064]

SENATOR LATHROP: I just wonder if it isn't the beginning of a new way for the city of Omaha to do business, which is they want to annex somebody and they go out to the neighborhood and entice them a little bit and say, by the way, we want you to maintain your parks indefinitely and you need to keep this limited use SID around instead of city gets something out of annexing them. And now they're saying we want the benefit of annexing you, we'll give you some of the services, but we want you to take care of the parks and we could make them take care of the garbage collection, we could...and city service, we could put on that list of things they've got to continue to do, couldn't we? [LB1064]

LARRY FORMAN: No that...no, we need to correct that because this is limited to maintaining real estate type interests... [LB1064]

SENATOR LATHROP: Okay. [LB1064]

LARRY FORMAN: ...whether, for instance, the district that is sponsoring this doesn't have any lakes but one thing that was brought up several years ago was Lake Candlewood, and the opportunity there so that if you had a body of water within your boundaries and you wanted to maintain that at a certain level of quality either with treatment or whatever, you know, embankments around the shore, you can do that. But, no, you can't pawn off any other normal governmental function. It would simply be

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

Urban Affairs Committee
February 16, 2010

limited to doing those kinds of things that are specifically required here which deals primarily with the maintenance of... [LB1064]

SENATOR LATHROP: Common areas. [LB1064]

LARRY FORMAN: ...of common areas or lakes, waters, ponds, things like this. [LB1064]

SENATOR LATHROP: Okay. That explanation was helpful. [LB1064]

LARRY FORMAN: Okay. Thank you. Just to give you...and I don't want to drag this out so I don't know if my time is running, but... [LB1064]

SENATOR MCGILL: No, go ahead since we let Senator Lathrop interrupt you. [LB1064]

LARRY FORMAN: Okay. Basically this thing goes back to 1999 when we first started to approach the Unicameral. And at that time, LB804 was introduced but we didn't have any city approval. And they said, well, you need to talk to the city and make sure that this is something that they're compatible with. We had a number of budgetary issues in the intervening years, so we didn't come back until '05. And at that time, Senator Beutler, now Mayor Beutler from Lincoln, was kind enough to advance our cause. And we had Jack Cheloha who is the lobbyist from the city of Omaha who came down and was able to testify on our behalf. This time we found out that the city is taking a neutral position. And I don't pretend to know what the current administration in Omaha is doing, but they say they're not opposed, they're not yea, they're not nay, but they're still looking at it. But like I say, with the...I think the two biggest changes were suggested by Senator Nelson. One, to eliminate the cram down danger where no longer can the city come in and under the old language of LB651 they could direct the creation, they have to authorize it, but the old district has to agree to it in its reduced form. And, secondly, there's no danger for a tax total being greater than the SID tax and in most instances we think there would be a significant reduction because of, again, the fact that the limited purpose district would have to justify its tax rate as dealing with only those limited things that it's authorized to deal with. So I don't want to overstay my welcome. If you have any questions, I'll be happy to address them. [LB1064]

SENATOR MCGILL: Are there other questions from the committee? No. Thank you very much. [LB1064]

LARRY FORMAN: Thank you. [LB1064]

SENATOR MCGILL: Are there other proponents here? Anyone in opposition? [LB1064]

JOHN BACHMAN: Senator McGill, members of the committee, my name is John

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

Urban Affairs Committee
February 16, 2010

Bachman, J-o-h-n B-a-c-h-m-a-n. I'm here on behalf of the Eastern Nebraska Development Council. We are an organization of attorneys, engineers, SID underwriters, accountants that are involved in the development of land in eastern Nebraska. I am an attorney and our law firm represents currently approximately 70 sanitary improvement districts. On behalf of our law firm and ENDC, we're in opposition of this proposed LB1064. Essentially what LB1064 does is provide public tax dollars to pay for private benefit improvements such as nondedicated streets and roadways. This adds an additional tax to the taxpayers of an SID after annexation. It also currently expands existing SID law which prohibits payment for nondedicated streets and roadways. As far as I know, LB1064 would affect only one current SID which is Mr. Forman's SID which was developed approximately 35 years ago. Zoning ordinance and development regulations within the city of Omaha have changed, essentially restricting the type of developments that might benefit from this law. As indicated, there was a bill introduced by Senator Beutler a number of years ago. That bill did not advance out of committee. We don't believe there's any reason to advance this bill out of the committee at this time. Also, in discussions with Senator Lathrop, I've had a number of SIDs that have been similar with common areas, nondedicated streets. That has not been an impediment to the city of Omaha for annexation. They have been annexed when they were right to be annexed and the city has gone in and maintained the things that the city should. So I see no extra benefit for this particular bill other than for this one particular SID. [LB1064]

SENATOR MCGILL: Senator Lathrop. [LB1064]

SENATOR LATHROP: Can you give me an example of the problems that you've just described? You kind of gave us the theory. Can you...nondedicated streets, I'm not following you very well. [LB1064]

JOHN BACHMAN: Well, those are streets...30 to 35 years ago there was a concept of development where the streets were narrower, weren't constructed to city standards that provided different types of setbacks. Those were nondedicated streets. In the city of Omaha they're called plazas. The city will not come in and maintain those plazas after annexation. It belongs to the homeowners association. There's also common ground associated with those type of developments that either the SID or the homeowners association maintains until annexation, and then subsequent to that, either the homeowners association or the SID would...or the city would maintain. [LB1064]

SENATOR LATHROP: So where's the harm? [LB1064]

JOHN BACHMAN: It adds an additional layer of tax to the taxpayers after annexation for the extra SID. [LB1064]

SENATOR LATHROP: So they're picking up the normal load any taxpayer would pay in

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

Urban Affairs Committee
February 16, 2010

Omaha and then they're picking up the cost to... [LB1064]

JOHN BACHMAN: Yes. [LB1064]

SENATOR LATHROP: But if they agree to do it, what's the harm? [LB1064]

JOHN BACHMAN: If they agree to do it, I haven't detailed how they would agree to do it. It's just... [LB1064]

SENATOR LATHROP: But isn't that in the bill? [LB1064]

JOHN BACHMAN: It could be. [LB1064]

SENATOR LATHROP: And I have to admit I haven't read the whole thing. [LB1064]

JOHN BACHMAN: I haven't read the whole thing either. So yes, I mean, if they would agree to it, if the mechanism is set up for them to agree to have an additional tax, I guess that's the taxpayers choice. One of my concerns though, too, is this expands current SID law to permit an SID to maintain and repair nondedicated public improvements which would be the plazas. [LB1064]

SENATOR LATHROP: Okay. It seems to me and if we looked at Candlewood just as an example, if you lived in the Candlewood subdivision, I could see where those people would say we want to have one of these limited SIDs so we can take care of the lake ourself because we think it will be better maintained if the homeowners do it rather than expecting the city of Omaha to spend money to dredge that pond out once in a while. Is there any harm with that? [LB1064]

JOHN BACHMAN: No, but I think...and I could be wrong, I believe the lake was owned by the homeowners association and not the SID... [LB1064]

SENATOR LATHROP: Okay. [LB1064]

JOHN BACHMAN: ...which in that event this bill doesn't help. [LB1064]

SENATOR LATHROP: But if they have the narrow streets that you call plaza streets, I think there's one of those...isn't Oak Hills like that? [LB1064]

JOHN BACHMAN: Yes, and they have a homeowners association that maintains those areas. [LB1064]

SENATOR LATHROP: Okay. [LB1064]

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

Urban Affairs Committee
February 16, 2010

JOHN BACHMAN: Those are private streets and so they have an association that would maintain that. [LB1064]

SENATOR LATHROP: Are they in the city? [LB1064]

JOHN BACHMAN: Yes. [LB1064]

SENATOR LATHROP: So the city of Omaha won't go in there because they're plaza streets and not... [LB1064]

JOHN BACHMAN: Correct. [LB1064]

SENATOR LATHROP: ...built to code or whatever the standard is. And does this change that? [LB1064]

JOHN BACHMAN: It would for existing SIDs that are currently SIDs that would have the opportunity to elect to carry on limited functions of their SID after annexation. It won't help anything that's currently within the city of Omaha. [LB1064]

SENATOR LATHROP: But I'm having trouble finding out what the harm is in this and I appreciate that you're somebody who by reputation is someone who knows their way around real estate work, so I'm going to try and better understand it while you're here. The very things that somebody might maintain a limited SID for, that's not done as a homeowners association? [LB1064]

JOHN BACHMAN: Or as an SID depending upon the makeup of the property that is being maintained at this time. [LB1064]

SENATOR LATHROP: Well, let's back up. Typically we develop, in Omaha at least, somebody sets up an SID, probably you or somebody that does work like you do, you set up an SID, they put the roads, the sewers in. They sell the lots. It's developed, and after a certain period of time the debt gets paid down and it looks attractive to the city. [LB1064]

JOHN BACHMAN: Um-hum. [LB1064]

SENATOR LATHROP: There's more revenue to be made than what they'll spend on providing services. So the city would elect at that point typically to annex them. [LB1064]

JOHN BACHMAN: Typically, yes. [LB1064]

SENATOR LATHROP: Okay. And what is it that would be the object of a limited SID?

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

Urban Affairs Committee
February 16, 2010

Larry Forman says it's the postage-sized parks. [LB1064]

JOHN BACHMAN: It could be the common areas of developments which in, like I said, in the last 20 to 25 years, common areas have not been approved by the city of Omaha. It has been either dedicated or nondedicated park areas that are either maintained by the SID that becomes the obligation of the city upon annexation or its a private park that the homeowners association is responsible to maintain. What this bill does is permit additional tax dollars to be put to continued maintenance, if you will, of nondedicated streets and roadways, the plazas, and any common areas that may exist within a development which would be real estate common areas. [LB1064]

SENATOR LATHROP: Okay. Well, I'll have to read it again or read it more closely, but from the explanation that I heard it sounds like the city of Omaha would essentially come to Oak Hills and say, we'll absorb you, we'll annex you, you'll have our tax rate, but you need to maintain one of these limited SIDs on the backside to take care of the common areas and these plaza streets that we're not going to maintain. [LB1064]

JOHN BACHMAN: That...essentially that's correct to the extent that you still have subdivisions that are functioning like that. We don't have too many plazas that have been developed within the last 20 to 25 years. We don't have too many common areas that have been developed in the last 20 to 25 years. It's been either publicly dedicated or not. A situation that is similar to what you're talking about is the regency situation where the city and regency have an interlocal agreement to maintain the regency parkway drive and green areas whereby the city gives regency a certain number of hours, and then the homeowners association expends additional funds to maintain it to the standards that they want. This bill would be very similar in concept to that. [LB1064]

SENATOR LATHROP: And that's bad. [LB1064]

JOHN BACHMAN: We don't see a need for it because it really only takes on one SID that is in that particular situation at this time. [LB1064]

SENATOR LATHROP: Who's the...what's the SID? [LB1064]

JOHN BACHMAN: It's the Eldorado SID, SID 206. [LB1064]

SENATOR LATHROP: Okay. And they have a lot of these small common areas out there? [LB1064]

JOHN BACHMAN: I don't want to speak for Mr. Forman, but my understanding is they do. They have a number of plazas in common areas. [LB1064]

SENATOR LATHROP: Okay. [LB1064]

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

Urban Affairs Committee
February 16, 2010

SENATOR MCGILL: Thank you. Other questions? None. Senator Rogert, you look perplexed. [LB1064]

SENATOR ROGERT: No, I'm fine. [LB1064]

SENATOR MCGILL: Okay. [LB1064]

SENATOR ROGERT: That's my normal look. [LB1064]

SENATOR MCGILL: Thank you for your testimony. [LB1064]

JOHN BACHMAN: Thank you. [LB1064]

SENATOR MCGILL: Is there anyone else here in opposition? Anyone here neutral? Senator Nelson, would you like to close? [LB1064]

SENATOR NELSON: Yes, Madam Chairwoman, I certainly would. [LB1064]

SENATOR MCGILL: I thought you might. (Laughter) [LB1064]

SENATOR NELSON: I want to say that I appreciate Senator Lathrop's questions because the person who's an expert in finding harm wherever there is harm, he doesn't think that he sees any at this point, and I don't want to speak for him, but I don't see any harm either. I see some real benefits here to this. And I think it would not...you know, we've talked in terms of perhaps just one SID at the current time. But having this law in this form, in this improved form, this bill, would lend itself to helping a lot of areas not only in Omaha, but in Lincoln and other places. I fail to understand the concept that this is going to cause tax money to cover these undedicated streets or these common areas. Essentially that's going to continue to be paid for by the levy of the SID. I think Mr. Forman said this removes an impediment. There is an impediment for the city. When they're looking at SIDs to annex, they might very well like to annex the SID but they've got all these small common areas and all these additional expenses that makes them reluctant to do so. Now we have a vehicle here where the city can come in and say, we are willing to talk about annexation if you as a limited SID can take care of some of these areas that we aren't prepared to deal with. We have this set up so that from the standpoint of the people living in the SID and the homeowners, that they aren't going to experience any additional tax. It's just it's going to be divided between the city at a lower tax levy and also the SID itself. What happens right now is that on some of these common areas and everything where they have to be maintained by the SIDs, they're dependent on homeowner's dues to do that. And some people say I'm not going to pay my homeowner's dues. So a homeowners association can put a levy on there, but what good does that do? What the result is that the rest of the homeowners who are

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

Urban Affairs Committee
February 16, 2010

paying are going to pay increased dues to cover these things, so we alleviate that with this bill. And it seems to me that for those SIDs that have some of these maintenance situations and problems, cul de sacs that the city doesn't want to deal with or they're not prepared to, here we have a perfect vehicle. It was a really good bill when Senator Beutler was here with it, but there were some questions along these lines and we have corrected those now. And I think we have a really pretty good vehicle here to proceed. So I want to thank the committee for its attention. I think probably I've addressed some of the comments that were made in opposition, and I would certainly urge the committee to vote LB1064 out of committee and onto the floor. And thank you very much for your attention. Do you have questions? [LB1064]

SENATOR MCGILL: Senator Lathrop. [LB1064]

SENATOR LATHROP: I just want to see if I understand this right because I do not...and you know this, John, I don't practice in this area so this is all kind of new to me. But it seems like if the city is coming out to a neighborhood that has some of these small parks or areas between houses that would require a lot of maintenance and not a lot of public use in them--and I'm familiar with those, I think my neighborhood has some of these as a matter of fact--the city can come out...the first run at the neighborhood is to say, we'll annex you, but you guys need to keep one of these limited SIDs in place to take care of these strips of land in between the houses and the boulevards that go through your neighborhood. If the SID or the people that live there say no, nothing happens or the city can elect to go ahead and annex them and then they have to... [LB1064]

SENATOR NELSON: That's right. [LB1064]

SENATOR LATHROP: ...start mowing that stuff and taking care of it. And that's...it's all completely voluntary, isn't it? [LB1064]

SENATOR NELSON: Right, right. It's my understanding that...well, unless I'm...they call it a cram down, the city can't come in and just cram this down the residents of the SID. If we're going to... [LB1064]

SENATOR LATHROP: Well, they do that all the time, though, don't they? [LB1064]

SENATOR NELSON: Yeah, yeah, but now...I mean, if they... [LB1064]

SENATOR LATHROP: They did it to an entire city. (Laughter) [LB1064]

SENATOR NELSON: Yeah, okay. So, but with regard to an SID that has these common areas and nondedicated streets and things like that where it's an impediment, why here by agreement between the city, and that helps the city out to a certain extent. I would

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

Urban Affairs Committee
February 16, 2010

think that all SIDs in return for being annexed by the city and still having to do some of their own maintenance as long as it's no additional cost to what they are paying at the present time, that they ought to welcome that. [LB1064]

SENATOR LATHROP: Does this change the dynamic though? As soon as somebody looks like they might get a little bit of something out of being annexed by the city, the city comes out and says, well, we'll cut a deal with you but you've got to maintain the park and... [LB1064]

SENATOR NELSON: I don't really think so, Senator. I don't think it changes the dynamic. [LB1064]

SENATOR LATHROP: Okay. All right. Thanks, John. [LB1064]

SENATOR MCGILL: I wish Senator Krist would have still been here because I know this is an issue that's near and dear to him, too, the whole SID and transitioning into the city. But thank you, Senator Nelson. [LB1064]

SENATOR NELSON: All right. Thank you Senator McGill. [LB1064]

SENATOR MCGILL: That ends the hearing on LB1064 and we'll move on to LR297CA. Senator Karpisek. [LB1064]

SENATOR LATHROP: For Karpisek, everything is a constitutional amendment. (Laughter) Most of us jack around with statutes, Karpisek amends the constitution.

SENATOR ROBERT: Twenty-six votes isn't enough him. He needs (inaudible).

SENATOR KARPISEK: I like to let the public voice their opinion on it.

SENATOR LATHROP: Yeah. You can pass statutes, you don't need to amend the constitution every time you want to do something.

SENATOR MCGILL: You must think your ideas will fair better out there than in here. (Laughter)

SENATOR KARPISEK: It can't do a lot worse, obviously.

SENATOR LATHROP: All right.

SENATOR KARPISEK: Madam Chair McGill, members, I don't think I've got the...you've had the misfortune of having me in front of you before, so I don't know who's on the Referencing board. I didn't realize we were coming here today, but that would be me,

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

Urban Affairs Committee
February 16, 2010

Senator Rogert. (Laughter) This is a proposed constitutional amendment to amend Article XIII, Section 2 of the Nebraska Constitution regarding municipal economic development. Article XIII, Section 2 currently allows the Legislature to authorize cities and villages to use local sources of revenue for an economic or industrial development project or programs subject to approval by a vote of the voters of the city or village. Under this section, local sources of revenue mean only funds raised from general taxes. The Local Option Municipal Economic Development Act, LB840, was adopted as a result of this constitutional provision. This proposed amendment would modify and expand the limitation on the source of revenue that cities and villages could use for economic development. The amendment lists the sources of revenue in it. If enacted, the Legislature could authorize the funds for municipal economic development could come from sources other than general taxes such as surplus utility funds, others that are in there, if approved by the voters of the city or village. A similar provision was before the voters in 2008. The proposal failed to be adopted but received 46 percent of the vote. The language in LR297CA has been modified from that proposal to clarify the intent. So this has been up not too long ago. I feel that we have changed the language in here to make it more clear what it was for. Also, I think talking to the League of Municipalities may be our...I'll say, their strategy at the time. Getting the word out didn't work as well as they had hoped. And I would say that this time around they know what they're talking about. They knew what they were talking about, to whom (laugh) they are trying to sell it to and how to do it better. How's that? And I also think that times have changed. Cities, villages are looking for ways to do economic development. Even two years ago, things were not quite in the shape that they are today, so that's why we have brought this back hoping to get it in front of a vote of the people again. Again, to maybe do a better advertising, selling campaign to show what can be done by this. Again, the League will be behind me to do a better job of explaining it than I have. So I can try to take any questions. [LR297CA]

SENATOR MCGILL: Are they hoping for a primary or a general election ballot?
[LR297CA]

SENATOR KARPISEK: You know, Senator, it is in here and as I went down from Ag, I was running late. I mixed it all together. [LR297CA]

SENATOR MCGILL: The general. Okay. [LR297CA]

SENATOR KARPISEK: Thank you. Yes, general. That's right. [LR297CA]

SENATOR MCGILL: Oh, sorry. Didn't look at that. Okay. All right. (Laugh) [LR297CA]

SENATOR COASH: I don't think you stated your name, spelled it for the record, Senator Karpisek. [LR297CA]

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

Urban Affairs Committee
February 16, 2010

SENATOR KARPISEK: Oh, I didn't. Sorry, Senator Coash. My name is Senator Russ Karpisek, for the record. How could I forget. [LR297CA]

SENATOR COOK: Could you spell that for us, please? [LR297CA]

SENATOR KARPISEK: It would be R-u-s-s (laughter) K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. [LR297CA]

SENATOR MCGILL: Thank you for humoring us in Urban Affairs. (Laugh) Thank you very much. [LR297CA]

SENATOR KARPISEK: No questions? [LR297CA]

SENATOR MCGILL: I don't see any questions. [LR297CA]

SENATOR KARPISEK: Good. [LR297CA]

SENATOR MCGILL: Any additional ones other than who you are. (Laugh) Proponents. [LR297CA]

LYNN REX: (Exhibits 5, 6) 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 appreciate the fact that Senator Karpisek was willing to introduce this measure for us. And as soon as the page gets done distributing the information, I'd like to review with you what this constitutional amendment...proposed constitutional amendment would, in fact, do. This is dramatically different than the language that was in LR229CA. In 2008, the Legislature due to the work of Senator McDonald, Senator Flood, and others passed LR229CA which then was placed on the ballot as Amendment 3 in the November general election in 2008. You may remember that unfortunately in August 2008, that's when the Nebraska Accountability and Disclosure Commission rendered a decision that basically impaired our ability to communicate with our members, our ability of mayors elected and appointed officials to basically state what their position was on ballot questions. There was a lot of concern about whether or not we could even e-mail to our members information about the ballot question. So this was the first time ever the League has been placed in a position due to that opinion of the NADC at that point, that we literally could not really communicate with our members. And in fact our typical way of working ballot questions that have an impact on municipalities is to ask our mayors to go to rotary clubs, talk to various civics groups, ask for city administrators to get information out to various folks, and we were precluded really from doing that. The Legislature has addressed that issue with passage of LB626 in 2009. That was a major initiative that was done by the Government Committee. Senator Avery and others worked very hard on that with Frank Daley, and of course it was Senator Karpisek's priority bill last year. And that bill basically clarified it to make it abundantly clear that, in

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

Urban Affairs Committee
February 16, 2010

fact, when you're dealing with ballot questions, it is not a ballot question until the local governing body puts it on the ballot. That's why Mayor Beutler and others are being very effective in trying to educate the public on the arena in Lincoln, Nebraska. In addition, because of all the great clarifications that you've made in the law, people actually know as we do now, what we can and cannot do. We thought we knew before, but when the NADC rendered its opinion in August of 2008, it contravened everything that they had told us in the past relative in terms of what we could do on those issues. With that, if you'd be kind enough to look at LR297CA, you'll note the language if you go to the bottom of page 2, lines 21 through 25. So if you look at the bottom of page 2, lines 21 through 25, and I'm looking at the green copy here because what I've handed out is I'm going to talk about that in a little. So in the green copy, lines 21 through 25, and then if you go to page 3, the language, lines 1 through 11. That was all language that was placed in the constitution in 1990. It was placed in the constitution with passage of LR11CA. Sandy Scofield then was a state senator that worked on that. And this provision happened to be the constitutional amendment which allowed cities to have LB840 plans. This committee has on repeated occasions looked at LB840 plans for local economic development strategies. And LB840, even though it's called LB840 plans, LB840 programs, LB840 was enabling legislation for amendment...for this constitutional amendment that was placed in the ballot and passed by voters overwhelmingly. And what it does is basically say, the language is in the current constitution says that the Legislature may grant municipalities the authority to use local sources of revenue for economic or industrial projects or programs sent to a vote of the people. That's essentially what it says. And it defines what local sources of revenue are. And now if you would look...and by the way, we have about 50 municipalities in the state that have adopted LB840 plans. Those plans are adopted not unlike a local budget is adopted, which means that you have a proposed plan on what you want to do with the economic development funds, how you want to do it. You submit that to the voters and you go through a public hearing process. You get comments. You then submit that to the voters, and if it passes, you are bound by what you have in that plan. That is how Blair was able to secure Cargill. That is how Nebraska City was able to secure Excel. But we have other municipalities like Grand Island and they did not limit it to a company. It was not company-specific, it was a...it is a much broader LB840 program. So the voters there approved a program which allows them to have \$750,000 that they used for economic development on an annual basis. And in LB840 when that enabling legislation passed, this committee put in place caps on how much money could be used. So second-class cities and villages can only use \$1 million annually; first-class cities, \$2 million; Lincoln and Omaha, \$3 million. And those caps are in place with LB840 programs. So what's in the current constitution has been used but there has been a problem and a challenge, and that is that right now the way that local sources of revenue have been identified as general taxes, you're limited to two types of taxes, either property taxes or local option sales tax, and that's it. Well, we have so many of our cities that have already adopted local option sales tax and obviously going to the voters to say, do you want to increase property taxes for economic development gets

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

Urban Affairs Committee
February 16, 2010

you nowhere. I mean, folks are not into increasing property taxes. So we had cities that were exploring can we use, for example, in leverage CDBG funds? And the answer is no because if you look at current law on page 3 and this is language that we would be deleting. So on page 3 of the green copy, you'll note that we're striking the language that says the following, this would be deleted with proposed LR297CA, "For purposes of this provision, funds from local sources of revenue shall mean funds raised from general taxes levied by the city or village and shall not include," and by the way, general taxes meaning as defined property and sales tax, "shall not include any funds received by the city or village which are derived from state or federal sources." That has been problematic. We've had cities that have been...that could have leveraged TARP Funds. I mean, they took the funds that they could from the TARP program, the federal stimulus program, and they've used it effectively, but they could have done much more with it had they been able to leverage it. In addition, CDBG programs are obviously federal funds and on the reuse dollars, they could have used those and could be using those now, but this precludes them from doing it. We've had cities that have had donations given to them, significant donations. We're talking donations that are in the millions of dollars that they could have used for this sort of thing assuming, again, if the donor says it's got to be used for a park, then that's where it's going. If it's going to be used for a library, then they're bound to do it for whatever the donor...conditions the donor would put on it. But that aside, there are cities that have been faced with situations where they could have really leveraged funds and grants and other sorts of things, so they're precluded from doing that. The language...now I'd like you to look at the language which was not successful in 2008 and I would like to believe it is solely because of our inability to communicate with our members and I think in large part it was. I will tell you we have since done some polling--and I'd be happy to share that with you at some point--indicating that Nebraska voters are more than willing--and it was in the large percentiles, well over 50 percent--to allow municipalities to have the option as long as they get a vote on the local level which, of course, they would still be required to have to do under the proposal. They are happy to have the choice. They want the choice, and this is all about choices. So, regrettably, LR229CA which was, with the assistance of Senator McDonald and Senator Flood and many others, placed on the ballot in 2008, you'll notice that on the very last page, page 3, the white copy now, what that amendment did, it simply eliminated the words from local sources of revenue on line 2, eliminated that. It also eliminated lines 6 through 9. What we didn't have in this was language describing what other sources of revenue we're talking about. So because of the NADC opinion in August 2008, Senator McDonald...and we also wanted to have another individual with us, so former-Governor Thone was involved with us, so we had a Democrat and a Republican who were very committed to this and working on these issues. And we had other Democrats and Republicans across the state working with us and had a bipartisan effort. But again, there's only so much you can do when you can't communicate directly with your members. But we did a series of press events across the state of Nebraska. We just could not get the word out fast enough. And the problem with LR229CA is the continual need to have to explain, what does this mean. That was

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

Urban Affairs Committee
February 16, 2010

the dilemma. And so those that were kind enough to work with us said, for heaven sakes, let's put this in again and actually say what we mean so people know what we're voting on. And I will tell you that the vote was 312,125 for; against, 371,664 against, so, and that was in 2008. We would appreciate this being advanced out of committee. We would like to ask Speaker Flood to select it as a Speaker priority proposal. And so that's why we do think it's very important to get this going. We do think we still have some momentum out there. As I said, we've just completed a survey. They have not even put it all together yet, but as soon as we get it in a format, we're happy to share that with you because we thought there's no point in going forward if the poll results really show that this was in the tank and there were other reasons. But at the end of the day after seeing what voters in Nebraska are prepared to do, we think this is a very important proposal. I will tell you that this has been used for job retention, job creation across the state of Nebraska from the smallest of cities to the largest. With that, I'd be happy to answer any questions you might have. [LR297CA]

SENATOR MCGILL: We appreciate all the leg work and research you've done to show that this would stand a chance if put on the ballot again. [LR297CA]

LYNN REX: Yes, we think it will pass. [LR297CA]

SENATOR MCGILL: Are there any questions? No. Thank you, Lynn. [LR297CA]

LYNN REX: Thank you very much. We really appreciate it. [LR297CA]

SENATOR MCGILL: Um-hum. Yeah. Are there any other proponents? Any opponents? Anyone neutral? Senator Karpisek waives closing. So that ends our hearing for the day. Thank you very much. [LR297CA]