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Urban Affairs Committee
January 28, 2014

[LB702 LB915 LB924 LB968]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 28, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB968, LB702, LB924, and LB915. Senators present: Amanda McGill, Chairperson; Sue Crawford, Vice Chairperson; Brad Ashford; Colby Coash; Russ Karpisek; and Bob Krist. Senators absent: Scott Lautenbaugh.

SENATOR MCGILL: Now we have a committee. Now I've got almost...everyone is accounted for now.

SENATOR SCHEER: Welcome to your committee, guys.

SENATOR MCGILL: Senator Scheer has been patient, as have the folks...

SENATOR KRIST: In my defense, I've been here since the beginning.

SENATOR MCGILL: He has been. And he was on the phone.

SENATOR KARPISEK: I saw him on TV.

SENATOR MCGILL: We have Senator Ashford from Omaha here on my far right; Senator Bob Krist; Laurie Holman, who is our research analyst on the committee. I'm, of course, state Senator Amanda McGill. To my left is Senator Russ Karpisek and Senator Colby Coash, and Katie Chatters, down there, is the committee clerk, keeping the record. And our page today is Drew. And so if you have any handouts to give to us, you can have a seat there and Drew will come over and pass those out to the committee. And with that we can open on LB968 and, Senator Scheer, thanks for joining us.

SENATOR SCHEER: Thank you, Chairwoman McGill and committee members. My name is Jim Scheer, S-c-h-e-e-r, representing Legislative District 19 in the Nebraska Unicameral. LB968 is to provide additional powers for certain sanitary improvement districts within the state. The bill was brought to my attention by SID 1 in Stanton County, which is actually a part of my district now since the reapportionment. And it was worked on with the SID, the city of Norfolk, and the League of Municipalities in conjunction with Stanton County. LB968 would provide some additional powers to certain sanitary improvement districts subject to a municipal approval. The additional powers outlined in LB968 would apply only when an SID is too close to municipality to be incorporated, yet too far away from the municipality to be annexed; and there will not be many of those within the state. In order to have the additional powers provided in this bill, the SID would have to: (i) be located in a county with a population greater than 5,000 and less than 18,000. Located in a different county than the county of the municipality within the zoning jurisdiction such as a sanitary improvement district is

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located; (iii) unable to incorporate due to its close proximity of a municipality. And (iv) unable to be annexed by a municipality zoning jurisdiction because the sanitary improvement district is not adjacent or contiguous to that municipality. Not many will meet this criteria. I am also providing you an amendment to this bill that would be providing the county board also to have jurisdiction as far as control of any additional powers that would be issued to the SIDs. This SID would have the power to regulate and license dogs and animals, of which I'm assuming some of you might have received some e-mails in reference to. (Laughter) It also would regulate and provide for streets and sidewalks, including the removal of the snow, obstructions, and encroachments; regulate parking on the public roads and rights of way relating to snow removal and access for emergency vehicles; and regulate the parking of abandoned motor vehicles. A lot of the things that any of us would take for granted that live within a municipality that has enforcement and are able to enforce those and, unfortunately, because the proximity of this particular SID that I'm talking about, really doesn't have those and, to a certain extent, some of the people know that and take advantage of that situation. It is somewhat, probably, technical. This is not an area of my expertise. I would be glad to try to answer any questions that may arise. If not, I'll let those behind me that have some specific knowledge testify. And if there's anything left, I'll be glad to answer those at closing if that would work. [LB968]

SENATOR MCGILL: Any questions? This is the...it's just the one SID that you know of that...it seems pretty concise. [LB968]

SENATOR SCHEER: As far as we are aware, this would be exclusive. But, you know, I suppose history could repeat itself somewhere and there may be another one at some point in time. But right now, this is the only one that we're familiar with. [LB968]

SENATOR MCGILL: And then is there anything like...like you said, we've gotten some e-mails on the animal element of it. Is there anything you'd like to share, rebuttal about that? [LB968]

SENATOR SCHEER: (Exhibit 1) Well, this really is not about animals, per se; it's about trying just to have normal conveniences and enforcement of things that you would expect in the neighborhood. You know, I mean it would be giving them the ability to have control of animals within there. However, bear in mind, this is a secondary authorization for them to be able to have these restraints put in, they have to be approved not only by the city closest to it, and in this case, the city of Norfolk's council would have to approve those before they're enforceable. And based on the amendment that I'm providing you, it would also have to be approved by the commissioners of the county, in this case, Stanton County. So maybe some of the e-mails that at least I received, and you may have received more, talk about, well, we're going to have dog haters or cat haters and they're not going to allow that. Well the fact of the matter is, they can't do anything that is not approved by two other jurisdictional entities. So they

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aren't going to be able to do anything that I would perceive out of the norm, or you aren't going to get two other governmental bodies to agree to it and both would have to have that happen based on the second amendment. [LB968]

SENATOR MCGILL: All right. Not seeing any...oh, Senator Karpisek. [LB968]

SENATOR KARPISEK: Sorry, thank you, Senator McGill. Thank you, Senator Scheer. Being fairly new to this committee, if I ask something completely stupid, I'm sorry. [LB968]

SENATOR SCHEER: This is my first time here, too, Senator Karpisek. [LB968]

SENATOR KARPISEK: I never knew what an SID was until I came to the Legislature being from more outstate Nebraska, I guess, a whole 30 miles away from Lincoln. Shouldn't we look at our definition and so an SID could become a municipality or be annexed rather than going this way? [LB968]

SENATOR SCHEER: Well, I suppose you could. But part of the problem lies, with this particular one, most of the SIDs that I think you probably are familiar with may be truly within the confines of a municipality. There are several inside of Omaha, inside of Bennington, Elkhorn, that exist and, evidently, for development purposes didn't want to wait for the city to catch up, so it defined itself as an SID. This actually is a community that formed as an SID that is approximately...I'm going to guess, two and a half, three miles outside the city of Norfolk. It is on the very northwest corner of Stanton County. And it grew much larger, probably, more quickly than they anticipated. It now, I think, has several thousand residents, maybe 2,500, I would say. It's not contiguous to Norfolk. There are several miles of vacant ground. There, actually, is another SID about a mile, mile and a half south of it that is much smaller, you know, maybe 70 people, you know, 15 houses, as a lot of them are. So I don't know that addressing the statutes that provide for the SIDs would probably work in this particular case simply because it's not what the norm would be, it started a long, long time ago. When I was on the...first on the school board in Norfolk, back in the late '70s, it was already up and existing. And it's actually part of the Norfolk school district because it, you know, those grounds can move outside the city limits, so it is contiguous as far as the school district is concerned, but not as is the city, which happens on occasion. So, Senator, I just don't see that as a workable option in this particular case. [LB968]

SENATOR KARPISEK: Thank you. And I think someone from the League will, maybe, answer...not that you didn't answer my question. One more question, were you on the school board when you were in high school? [LB968]

SENATOR SCHEER: Pretty close. [LB968]

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SENATOR KARPISEK: Yeah, that's what I thought. Thank you. [LB968]

SENATOR MCGILL: Senator Krist has a question. [LB968]

SENATOR ASHFORD: You must be kind of a popular guy. (Laughter) [LB968]

SENATOR KARPISEK: Well, it depends. [LB968]

SENATOR SCHEER: There was only person on the ballot. [LB968]

SENATOR KRIST: The concept of an SID is legally...not throughout the CONUS, is very specific to a few states, I think, don't want to talk to how many states it would be, but there are amazing number of SIDs out there in the state of Nebraska that are outside of Douglas County. A few questions come to mind that I'll ask just in terms of dialogue between you and I, and I know that there's experts behind you. I don't know how this differs from any number of SIDs that I could name around the Omaha area which are separated by cornfields from Omaha city limits. And in every one of those cases, including SID 1 in Cass County that I was actually president of for several years, we own property down there, the homeowners association provided 90 percent of what you're asking for in this SID. So does this SID not have a homeowners association? [LB968]

SENATOR SCHEER: No, no it does not. [LB968]

SENATOR KRIST: Okay, but others do and they've worked with the state law that says there's some limitations for the sanitary improvement district that can be filled in by the homeowners association, so I'll ask the experts why this is not a workable solution. The other thing I would ask is, is this SID providing for its own sanitary...I mean, its own snow removal, its own sewer system, its own this, its own that, or are they tied into the Norfolk sanitary system? [LB968]

SENATOR SCHEER: They're not a part of the Norfolk...well, let me preface, the sewer...they have their own water system. The sewer is contracted through the city of Norfolk and, although, that is somewhat of a dispute right now and they're looking at, perhaps, putting their own sewer system in. That hasn't been decided as far as that specific portion. As far as the snow removal, I do not...the city of Norfolk does not do that, obviously. I'm not sure if that is handled via Stanton County at this point in time and it's not satisfactory, or if they're just trying to do it themselves. Their chairman is here, as well as their legal representative from their community. [LB968]

SENATOR KRIST: Okay. Well, the follow on to those questions would be, is this special legislation, because we're trying to solve an issue for a community? If they can't regulate themselves and they're having problems with sidewalks and pets and those

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kinds of things, again, the homeowners association does sometimes do that. And if it is special legislation, then we have a constitutional issue that we need to answer. And this is the place to do it, in committee, so we don't end up with that on the floor. [LB968]

SENATOR SCHEER: I don't perceive it to be a single issue because I believe it can and may come up at some other point in time. They don't have remedies that may be available to others. It's not that they don't want to take care of theirs, but from a practical standpoint, Senator, they are about as far away as you can get from the capitol seat of Stanton County which is Stanton, and the services that are available to them via the county have diminished like a lot of counties have. And they would like to be able to have the ordinances that are enforceable in other communities be enforceable within their SID as well. [LB968]

SENATOR KRIST: Okay. Well, the questions that I will ask and the experts who will come up, how does this differ from Deer Creek or any number of communities that are SIDs in the Douglas County area that I'm familiar with. How does it differ from Cass County, number one; how does it differ...I mean, it really comes down to, are we playing peacemaker for a community that can't regulate itself and won't regulate itself; one or two bad actors? Or is there legitimately a purpose for this, as opposed to encouraging them to do the homeowners association? Questions that I think we need to air out here rather than doing it later. And so I appreciate you bringing it forward, but those are questions that I hope will be answered. Thank you. [LB968]

SENATOR SCHEER: Thank you. And I'm sure somebody at some point will be able to. [LB968]

SENATOR MCGILL: Senator Ashford. [LB968]

SENATOR ASHFORD: Jim, is this...maybe I'm missing...it was interesting, because I've spent quite a bit of my legislative life thinking about city-county merger and one of the issues that when we went to Louisville, all the SIDs were actually small cities, to Bob's point. I mean, so when they did the city-county merger in Jefferson County, that's neither here nor there, but they...all those...they acted as SIDs in a way, they weren't...they were actually municipalities or villages. Is this...it's not adjacent... [LB968]

SENATOR SCHEER: No. [LB968]

SENATOR ASHFORD: ...it's in the county. [LB968]

SENATOR SCHEER: It is in a different county than... [LB968]

SENATOR ASHFORD: Than Norfolk, it is in Stanton County, you know, what you're asking for is that this particular...if it fits that criteria, that it gets to these two or three

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powers, or four powers that you've listed. It doesn't have them now because it's not an SI...why doesn't it have the powers now exactly? We're creating a new SID out of this. What's going on here? Is this a... [LB968]

SENATOR SCHEER: As far as I know, SIDs do not have the ability... [LB968]

SENATOR ASHFORD: Okay. [LB968]

SENATOR SCHEER: ...for that. And so what you're doing is providing... [LB968]

SENATOR ASHFORD: Okay. It's sort of...you're giving them some municipal and village powers. [LB968]

SENATOR SCHEER: Correct, correct. [LB968]

SENATOR ASHFORD: Interesting concept, because you're, in effect, almost creating a village or a municipality out of a...what is an SID. It's interesting. Isn't that what you're doing? I mean...it's effectively... [LB968]

SENATOR SCHEER: Absolutely. [LB968]

SENATOR ASHFORD: Or like that anyway. Okay. Good, okay, thanks. [LB968]

SENATOR MCGILL: All right. Let's get to some proponents. [LB968]

SENATOR SCHEER: Thank you. [LB968]

MARK D. FITZGERALD: Senator McGill, members of the committee, my name is Mark Fitzgerald. I'm a lawyer in Norfolk. I have represented SID 1 for 10 years. With me today is Darrold Lidgett. He served on the board of trustees for SID 1 for over 30 years. He said: If this bill passes, he wants to be here. He addressed, over his tenure, as...and much of that time as chairman of the board of trustees, these issues again and again. Let me tell you a little bit about SID 1. SID 1 is a residential community. I think there are about three businesses along Highway 35, but it is, essentially, a residential community. I think there's about 550...560 houses in Woodland Park. Most of them were built in the 1960s. Lots of them have single-car garages. Lots of them are starter homes. The population of SID 1 would be 2,000 people roughly. There is an elementary school that was built during the time that Senator Scheer was on the Norfolk School Board. Unlike homeowners associations, I believe that the powers that we're talking about here are traditionally called police power types of powers: dogs, cats, cars, abandoned cars, parking, and so forth. I'm thinking...I believe that...and a homeowners association would not have those types of police powers. And as a matter of fact, villages have those types of police powers, and cities of the second class have those types of police powers

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because of specific statutes in the municipal corporation statutes that say a village will have the power to regulate dogs and cats; a village will have the power to regulate abandoned cars. Unfortunately for SID 1, it is now entirely within the zoning jurisdiction of the city of Norfolk. That's not unfortunate. And the city of Norfolk enforces the zoning ordinances of the city within Woodland Park. But Norfolk does not have extraterritorial police powers into Woodland Park. And Woodland Park SID 1 doesn't have those powers because the statutes don't permit it to have those powers. So we're stuck in this situation. And I represent some other SIDs that surround Norfolk; some of them on lakes, and they have homeowners associations and they are 50, 60, 70 homes including the one that Senator Scheer mentions that is between Norfolk and Woodland Park now. And those are very different SIDs; those are much smaller. They have active homeowners associations. But again, they cannot pursue the police powers that we're talking about here, these four limited police power items that we're talking about. While I have been the attorney for SID 1, and certainly during Darrold's tenure as chairman of SID 1 and being on the board for all the years that he was on the board, consistently people come in and say: Would you do something about my neighbor's abandoned car? Would you do something about cars obstructing sidewalks in, essentially, a residential community; can you do something about that? So and so is a long-haul truckdriver and they're parking their truck in the street and we can't get to the school because of that truck. And we try to, in a diplomatic manner, handle those things. But we don't really have the power to enforce anything. And the same thing about dogs and cats; we love dogs and cats in Woodland Park, but we have had, essentially, an ad hoc arrangement as far as taking care of dogs at large. Essentially, one community member has volunteered to be the dog pound and the Stanton County Sheriff delivers the dogs to his house and he takes care of them. It works, but it's pretty temporary. So we're asking this committee to favorably consider LB968. The board of trustees of SID 1 is comprised of five members of the community that are elected by sealed ballot. They are long-term community members. They are all residents in the community. They understand what it means to enact appropriate ordinances. They do not object to Norfolk looking at the ordinances. And myself, as the party who might be asked to draft the ordinances, I'd certainly look at Norfolk's ordinances before I went to any other resource. Thank you for your time. [LB968]

SENATOR MCGILL: Go ahead, Senator Krist. [LB968]

SENATOR KRIST: I can't quote chapter and verse of the law; we will do that as soon we start considering this. However, having been a member of the homeowners association of SID 1, which was Lake Waconda, you're familiar. We've talked at length about SIDs and I have the statutes in my office, the issues that we've talked about in the last few years. The police powers, as it was presented during the flooding season, of having someone to actually patrol and lock down the SID could not be supplied because the SID 1, nor the homeowners association, had the power to lock it down and had the police power to control the area, granted. State Patrol had to come in; the county sheriff

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had to come in and do that. But I can tell you for a fact that the covenants on the homeowners association of Waconda controls dogs, cats, junk cars, how tall your grass could be, whether or not you could put a sidewalk in, whether or not you could build, you had to apply for a dual permit from the homeowners association and from Cass County in order to build anything. So it does exist. Those opportunities to regulate yourself internally do not exist in the SID in SID law. There's no question about that. My fear, sir, is that we open up this book on SID and we allow this for this SID which I think...again, I go back to the constitutional issue of special legislation, we'll have to look at that, then there will be others, potentially, to follow. Your unique situation is that you're right on a county edge; they're not going to be able to annex you, yet, there are services that could be provided from the city of Norfolk which are, right now, utilities, etcetera. So you have a really interesting relationship, but not dissimilar from others. I mean, how many SIDs did we figure there actually were across the state? There are hundreds of SIDs. So not that it's...it would be unique to yours, but this is opening up statutes and changing law in SID process which this committee needs to be very careful of. And then I've said what I need to say, so please respond in any way that you'd like to. [LB968]

MARK D. FITZGERALD: The covenants, if there were covenants for SID 1, they would have expired, typically, covenants 20 or 30 years. This SID was build in the 1960s or lots of it was built in the 1960s. [LB968]

SENATOR KRIST: As was Waconda...as was Waconda, as you know. [LB968]

MARK D. FITZGERALD: And now we have a diverse population of 2,000 people, roughly. I doubt we're going to be able to put covenants back in now at this juncture. And I am...I understand your point, Senator, about being very careful about police powers for SID boards. But I will tell you that this board is a very concerned board. This is a very longstanding SID that has existed for a very long time and has virtually no chance in the next 20 years of being annexed by the city of Norfolk and is continually stuck in this situation that it's in. [LB968]

SENATOR ASHFORD: Can it ever be, Mark? [LB968]

SENATOR KRIST: It can't be because you're on a county edge that can be. Are you on the other side of the county from Norfolk? [LB968]

MARK D. FITZGERALD: It's in Stanton County and Madison County. Norfolk is in Madison County. [LB968]

SENATOR KRIST: Okay. And everything that you said I understand, but again I have this realistic example of my own life history and I can say Lake Waconda as an SID was formed...SID 1 was formed in the '60s. They have a homeowners association. My real

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problem with this, I got to tell you, you have an SID board and then you have really no elections at large for people who are going to run, which is the format or is the model of a homeowners association that has recurring elections, you're represented by the people who are on the board. So...I'm not...I'm not shooting this idea down because, obviously, you have an issue and you brought it to us, we need to pay some attention to it; but I think this is...this requires a lot of thought. [LB968]

MARK D. FITZGERALD: Some developers use the SID as a way to bring in infrastructure over the years and, at the same time, had covenants that, ultimately, turned into a homeowners association. As time went on, it had both of them existing at the same time. Unfortunately, SID 1 does not have strong covenants; there is no homeowners association and I don't think we can create one at this point. [LB968]

SENATOR KRIST: Okay. Thank you. [LB968]

SENATOR MCGILL: All right. Other questions from the committee? No? Thank you very much, Mr. Fitzgerald. [LB968]

MARK D. FITZGERALD: Thanks. [LB968]

SENATOR MCGILL: Next proponent. [LB968]

SENATOR KRIST: It's just...I need to make a point, Senator McGill. [LB968]

SENATOR MCGILL: Yeah, go ahead. [LB968]

SENATOR KRIST: I don't believe that there's an option to annex across county lines for SIDs. [LB968]

LYNN REX: Yes. [LB968]

MARK D. FITZGERALD: There is. [LB968]

SENATOR KRIST: There is? You're absolutely sure? Legal counsel (inaudible). [LB968]

SENATOR ASHFORD: Lynn's going to clarify this for us. [LB968]

LYNN REX: What was the question? I'm sorry. [LB968]

SENATOR KRIST: Go ahead, I'm sorry. [LB968]

SENATOR MCGILL: Can an SID be annexed over a county line? [LB968]

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LYNN REX: Yes. [LB968]

SENATOR KRIST: I don't think you can. I think it's clearly in the law that you can't annex across a county line. But we're going to have to... [LB968]

LYNN REX: Well, I will check and get back to you. [LB968]

SENATOR KRIST: We're going to have to look at it. [LB968]

LYNN REX: Senator McGill, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. The reason, Senator Krist, why I said yes is because the city attorney of Norfolk made it very clear on Monday in a conversation that we had with the city of Norfolk that they want to maintain their ability to, ultimately, annex down the road this SID. [LB968]

SENATOR KRIST: Okay. [LB968]

LYNN REX: That being said...now I realize that there are different annexation powers...and I will check on that, you may very well be right. So I will check on that. But I was just basing my response on what he told us on Monday. That being said, this bill is not unconstitutional on its face. This bill clearly allows for any SID that fits the purview of these requirements to be eligible for these very, very limited, additional police powers. And we thank Senator Scheer for introducing this measure. I've been with the League for over 30 years and I can tell you that there have been four, five, possibly even six attempts before this committee to resolve this issue for this SID. This is the only time since I've been affiliated with the League of Nebraska Municipalities, which started back in law school, that there's been any resolution that has been...that has reached a consensus. This has. So I realize this may not be a hallmark day for the Urban Affairs Committee, but it certainly is a hallmark day for the city of Norfolk, for SID 1, and Stanton County. So clearly, what we have before you here is a very, somewhat unique situation, but one that can occur again. For example, when Senator Scheer said that there is another SID about a mile, mile and a half south of this particular one, as Norfolk grows, that also then becomes an issue for them. So what we're asking for in this bill is a very limited authority of police powers for those SIDs. And to our knowledge, there is only one at this time, but there could be others that fit the qualifications of...with a county of a population of greater than 5,000, less than 18,000, this clearly does not take into account any of the...it doesn't take into account Sarpy, Douglas, Lancaster, the larger counties, and it was intended not to take those into account. SIDs and Sanitary Improvement Districts clearly were legally structured so that they would be, ultimately, part of a city. They were intended as that. Now back in the days when David Newell was Chair of this committee, and George Fenger and others, there was significant legislation put through, and the key author of that happened to be John Cavanaugh, to clean up SID legislation because it was being...SID statutes, rather, those statutes were being, in

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my view, abused by some, a very small handful, but some developers which created situations where homeowners were coming into SIDs thinking they were part of a city and then finding out they weren't. That is not this situation. This is a situation where this SID was formed back in the 1960s. I talked to the Chair during the testimony of his city...of his SID attorney, and, basically, he said that there were no covenants. I think that the more sophisticated SIDs clearly have those covenants. For this one, that ship has sailed, and the SIDs typically...I mean the covenant situation...and I live in a neighborhood in Lincoln, Nebraska, with covenants. That works when you have covenants in place on the front end in terms of what kind of roof you're going to have; what kind of...size of lot, everything is tied into that. And you're right, Senator Krist, if the covenants were done properly, it does handle all those other issues; can and does and should handle those issues. Unfortunately, that's not the case that we have before us. So this is a very limited situation where you have an SID located outside the county with a city with a zoning jurisdiction. It is a county different than the county in which the SID is located. It is a county only of a certain size; and it's a county in which...SID rather in which it is too far away to be annexed, and yet too close to incorporate. Senator Karpisek, the question that you posed of, well, what about just letting them incorporate? I can assure you, the League will be opposing that effort a lot, and we have in the past. This room would be full of people if that was the solution proposed today because there's a great deal of concern about that, just because of what that means for SIDs in the state of Nebraska, ultimately. So we do ask this committee, and we know that you will seriously consider this option because we do think that the powers that are here are very limited powers. These are powers that second class cities and villages have, very limited police powers. And again, I want to underscore the fact...not...with the amendment that's being offered today by Senator Scheer, it would take the county approval of Stanton County, and it would take the approval of the city within whose jurisdiction SID 1 is, and that would be Norfolk, Nebraska. So it takes Norfolk City Council, plus Stanton County Board to say, yes, we're okay with you having these very limited powers. So with that, again, just thanks to Senator Scheer. I just want to underscore the fact, this is the first time in over 30 years there's been any consensus of the players involved on what might be a viable option to resolve this very unique situation, but one that could occur again. And with that I'd be happy to answer any questions you might have. [LB968]

SENATOR MCGILL: All right. Any other questions? No, thank you very much. [LB968]

LYNN REX: Thank you very much. [LB968]

SENATOR ASHFORD: Well...Lynn, what is this...excuse me, what is the problem with SIDs like this one? I understand a development-focused SID is the reason for...Senator Krist made that point, but if you...if there is something...you have this sort of odd...what...why does the League oppose the incorporation of an area that is separated from a city and another county that wants to incorporate and make itself a second-class

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city or a village or whatever? [LB968]

LYNN REX: No, I understand. It is... [LB968]

SENATOR ASHFORD: You mentioned the League was traditionally opposed, what's the reason why they're traditionally opposed? [LB968]

LYNN REX: Yes, the policy reason behind that is because, first and foremost, we're driven by what our members want. And, obviously,... [LB968]

SENATOR ASHFORD: Aside from that. [LB968]

LYNN REX: ...obviously, this would give us another member, if you look at it from a different perspective. [LB968]

SENATOR ASHFORD: That's what I was thinking, you get another member over here. [LB968]

LYNN REX: So...but that's not what the concern is of the municipal officials across the state. Their concern is, simply, that SIDs, certainly in the beginning, in the middle, and now, were intended to become part of a city, ultimately. Now, La Vista was an SID and became, obviously, and is a city of the first class now. But there are SIDs around the Omaha area that many of you may be familiar with those SIDs; they have tremendous unfunded liabilities, debts, some of the... [LB968]

SENATOR ASHFORD: This probably doesn't though. [LB968]

LYNN REX: My guess...I don't...I can't speak to that. Their legal counsel could; but I can't speak to that. My guess is that's not the issue. [LB968]

SENATOR ASHFORD: Right. [LB968]

LYNN REX: My guess is if they... [LB968]

SENATOR ASHFORD: They just want to run their affairs. [LB968]

LYNN REX: Well, yes. If they were close enough to the city of Norfolk, they would be annexed. But they're not. So as a... [LB968]

SENATOR ASHFORD: I'm just having a hard...and I'll let it go, but I'm having a hard time getting my... [LB968]

LYNN REX: And, again, Senator Krist may be right that they can't annex across county

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lines. That may very well be the case. Matter of fact, we'll...I'll check before I leave the hearing today to verify that. [LB968]

SENATOR ASHFORD: Well, I'll let it go. I just can't get my head around the idea why you can't... [LB968]

LYNN REX: Just let them incorporate? Well, because there are...because I think that people are concerned about the precedent of that. They're concerned that these...the SIDs were not intended for that purpose. [LB968]

SENATOR ASHFORD: I get that part. But this seems, as you said, very unique and... [LB968]

LYNN REX: You're right; you're correct. But that is, historically, been the board's position. [LB968]

SENATOR ASHFORD: Okay, okay. [LB968]

LYNN REX: And, in fact, other...just as a response to your question, Senator Ashford, which is a very good question... [LB968]

SENATOR ASHFORD: Of course it is. (Laughter) [LB968]

LYNN REX: Of course it is. That... [LB968]

SENATOR ASHFORD: It's a brilliant question. I just...I'm just trying... [LB968]

LYNN REX: ...that when this issue has been discussed with our legislative committees comprised of all first class cities, Lincoln and Omaha; the larger cities legislative committee internally at the League, it was unanimous. The same thing with the second-class cities and villages. [LB968]

SENATOR MCGILL: Senator Krist, did you have a question? [LB968]

SENATOR KRIST: A sanitary improvement district is by itself recognized as a political entity. [LB968]

LYNN REX: Yes. [LB968]

SENATOR KRIST: Okay. If you allow it to become a village, then it cannot be annexed by Norfolk as a political entity. And I need to have somebody point out to me in the law where it says that an SID can now be annexed by a city; because if your point is that the next chance that Norfolk has to annex, it will now be a city in two counties because it

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will have annexed that SID. And I know there's somebody with his hand up that is going to answer this question for me. [LB968]

LYNN REX: Okay. [LB968]

SENATOR KRIST: But I just...we have to get by that part of it, first of all, before we get to the point where we're able to say that we're going to entertain this. And even with that, I still haven't gotten an answer why we can't get back to those folks and say: You know what your problem is? You can't regulate yourself, form a homeowners association, because with or without covenants, a homeowners association can do everything you're asking to do here, and does, in many other SIDs across. They do, they do. And I gave you the example of one of them. So, I'll reserve judgment. I just need to be...you need to prove to me that, first of all, it can and then we'll go from there. Thank you. [LB968]

LYNN REX: Well, Senator, I will do some research and get back to you on that issue. [LB968]

SENATOR KRIST: Well, legal counsel will take a look at it too. So, thanks. [LB968]

LYNN REX: Yes. Yes, you're welcome. [LB968]

SENATOR MCGILL: Any other questions? Okay, thank you, Lynn. [LB968]

LYNN REX: Thank you very much. And again, thanks to Senator Scheer. [LB968]

SENATOR MCGILL: Of course. Next proponent. [LB968]

MICHAEL NOLAN: Senator McGill, members of the committee, my name is Michael Nolan, spelled N-o-l-a-n. I'm the executive director of the League Association of Risk Management. My board supports this piece of legislation. I hadn't intended to testify, but I have to tell you a couple of stories that I think may address a little bit of the concern that Senator Krist has. Years ago, when Senator Schellpeper was representing this district, there was an entity called Barjenbruch's that was east of Norfolk, a huge truck retailer. And he...I should say they were trying to buy a property east of Norfolk to relocate their business. And the Norfolk planning commission took a very, very narrow view whether that should occur and they had a lot of opposition from people in Stanton County to it. Senator Schellpeper called me on the phone and he said if we did anything to stop this rezoning from going through, he was going to introduce legislation that would take away our extraterritorial jurisdiction in Stanton County and would prevent us from annexing anything contiguous to the city of Norfolk. I recognize that Senator Schellpeper felt strongly about this issue, so we went to the planning commission and the city council and got it fixed. And by the way, I guess I didn't tell you that I was the

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city administrator of Norfolk for 28 years. So, I'm very familiar with this SID. And on that occasion and on the...and now, the city of Norfolk would have the authority to annex this SID. The reason the annexation hasn't occurred is because the city hasn't wanted to annex this SID. And this SID has not wanted to be annexed by the city. And there has been a study on at least two or three occasions to look at the cost effectiveness of that. I could probably find the old study and share it with you; it's probably 10 or 15 years old. But it has been evaluated on a couple of occasions. It is not contiguous. I would tell you that another city of the first class...there was a city of the first class, well, I might as well tell you, I think you could figure it out pretty easily if I said it was in Adams County, and Senator Ashford remembers this, because he was in the Legislature when it happened. Went down the road, wasn't contiguous and tried to annex an SID and it created quite a furor. In fact, the set of statutes that we have now about annexation came from that annexation, if you'll recall, Senator Ashford. And so we have been very, very careful, all of us, about doing any annexations that don't meet what we think is the definition of contiguousness. I will tell you that there's an amicable relationship between this SID and the city. But right now, given everybody's budget constraints, the preference of both the county and the city and the SID is that the SID take care of this problem themselves. And the only caveat that the city of Norfolk asked was to grant their permission in some type of formal process and have that included in statute. And so that's the way that it was written. I don't know about homeowners associations, Senator Krist. I just know there's not an SID...and there are about five or six of them around Norfolk that has a homeowners association. This one here, I think, is very curious, because this one by itself has a larger population than either of the two incorporated communities in Stanton County. The county seat, Stanton, is half the population of this SID. The other community is one of my clients. And I think they've got about 300 or 400 people. So Stanton County considers itself a pretty large population. The other thing that is significant about Stanton County is that Nucor Steel is there and I don't know where in the priority of taxation that SID 1 fits compared to the other two communities. But, obviously, Nucor is a huge contributor to the tax base of Stanton County and a whole lot of the people who work at Nucor Steel live in this SID. What this SID has provided for the city of Norfolk over all of these years, unsolicited by the city of Norfolk, is a source of affordable housing for the whole community. And despite the fact that we have...sometimes I think boundaries are more about sentiment than they are about practicality, despite the fact that SID 1 is in Stanton County and the rest of the population of Norfolk is in Madison County, it's as much a part of Norfolk, Nebraska, as the rest of the population is. And certainly those people who live in that SID and work at Nucor Steel are huge contributors to the economy of that community. And I would just encourage you to help us solve the problem. This hasn't been just something they just thought of. We've been trying...as Lynn indicated, this...we've been to the Legislature on three or four occasions trying to solve the problem. And I think the thing that makes the thing a lot more...have a lot more credibility is there's amicability both with the county and the city and the SID that this is a way to solve it. So I would encourage you to report the bill out of committee. [LB968]

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SENATOR MCGILL: All right. Thanks, Mr. Nolan. Any questions? [LB968]

SENATOR ASHFORD: Who would have to approve the annexation? [LB968]

MICHAEL NOLAN: The annexation? The city would. By the way, Senator, I want to tell you something... [LB968]

SENATOR ASHFORD: But the SID would...could...would have no... [LB968]

MICHAEL NOLAN: The SID would not have to give their permission if the city wanted to annex them. [LB968]

SENATOR ASHFORD: Right. [LB968]

MICHAEL NOLAN: I do want to point this out to you as well, not to prolong this, but I took a beating in this committee room one time on this very discussion because cities of the first class can annex across county lines. And by the way, Tilden is built on two counties; they're part of Antelope County and part of Madison County. There are some other cities in the state that are like that. The only city I know of in the entire state of Nebraska that cannot annex across county lines is the city of Omaha. [LB968]

SENATOR MCGILL: Yeah. [LB968]

MICHAEL NOLAN: And the beating that I took here was having the temerities to suggest in front of some of my Sarpy County colleagues that maybe Omaha should have that authority since cities of the first class have it. [LB968]

SENATOR ASHFORD: That's the question that came to my mind is why can't we just annex part of Sarpy County? [LB968]

MICHAEL NOLAN: If you define...Senator, if you define contiguousness much differently than it is now, maybe even Norfolk could annex something in Sarpy County. [LB968]

SENATOR MCGILL: Senator Krist. [LB968]

SENATOR KRIST: Let's leave it for a minute that we are arguing about...that the argument is about annexation, because I didn't bring that up, that was...you all brought it up. Let's go back to the original conversation, the powers of an SID. We are opening up the book and we are saying, we are granting special privilege or special consideration to this one SID. Now, you're a really smart guy and I trust your opinion, and I mean that sincerely, do you think that in any way this is special legislation or can you point to one

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other SID out there that's going to come on-line and say, boy, if they can have police power, I want police power? [LB968]

MICHAEL NOLAN: I don't know. I have to tell you something, Senator, I think for the most part, not to avoid your question, that the SID statute has served a Nebraska real estate development pretty well. [LB968]

SENATOR KRIST: Agree. [LB968]

MICHAEL NOLAN: And I personally don't see...even if it is special legislation, I'm not sure that it is, given the fact that...this is a special set of problems that we have is...as well as...as the special legislation. I really don't see that there would be any harm if you gave the authority to all SIDs, if you're asking me personally. But I think we would have a much bigger political conflict than we're going to have by just having this SID have that. And I...and your legal counsel can tell you that I came over last summer to talk to her when we started this process, because I found this little statute that says...it's a statute that's been enacted by the Legislature now that says that SIDs have the authority to pass ordinances. And that just did not align with what I knew to be true. And I...I asked her to do the research and she agreed with me when we were done having the discussion, that there is no legislative intent that she could find anyplace that says that the Legislature ever intended police powers to be invested in an SID, and the SIDs would have the authority by ordinance to do this. And I...mostly what I've been trying to do here is...because these folks are my clients and I'm trying to use that relationship of some real value because I think there is a whole lot of other populations served by SIDs that are...that, probably, don't have the competitive advantage when it comes to their insurance that this SID does, because I think we're very competitive. And so I'm looking at that whole series of relationships as adding value to SIDs and for me to bring this piece of legislation through the League to you is...I look at it as lost control and marketing for a client that I would do for any client trying to help them solve a problem. And this problem has been going on forever. I wish I could tell you...I don't know enough about the homeowners association to know exactly how that mechanism might help part of the problem. One the things I know that a homeowner association doesn't have the power to do is to issue general obligation debt. And SIDs have that authority. And they have an authority to levy assessments too. So you've given them some mechanisms to help aid and abet the development of homes, of residential homes in Nebraska, but you haven't given them all authority. And they've got a problem. And there are 2,200 people out there who frequently tell the board about some of these problems that they don't have the authority to solve now. So I just would ask you to consider that in the context of how you make the decision. [LB968]

SENATOR MCGILL: Why don't you go ahead and prolong it, Senator Ashford. [LB968]

SENATOR ASHFORD: Well, I don't...when I...you know, historically then, Mike, if you

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were the resistance to...there had to be some resistance to SIDs having those enlarged, enhanced authorities. And that resistance would have to have come from cities and villages that did...that would say, you know, we're not...SIDs don't get to be like us. They don't get to have police powers; they don't get to have some of these other authorities, they're SIDs. So we're...I'm sure historically that's...I mean... [LB968]

MICHAEL NOLAN: That's probably the case. [LB968]

SENATOR KRIST: Well, and I...and I think part of that inherent problem with that relationship is the elected officials, as opposed to the way the SID boards are set up. Now if you're suggesting that an SID board, the way things are set up right now, should be able to levy police powers that's where we're going to divide the road because homeowners...you're absolutely right, we didn't...the state did not give the SID the complete power to regulate, but in combination with the SID and the homeowners association, that became the issue for many others. So I'll stop my example of the homeowners association and just say, there is a reason why I think...if you have an elected official, if you have a mayor in the city, if you have a city council or a village board that is regulating and administering police powers, that's a whole lot different than what that SID board is constructed to do. And what we're doing is marching down a path, opening up this statute and saying, it's okay for you to do that. And I would suggest that at a minimum that SID structure would have to change that would put elected officials in place. [LB968]

MICHAEL NOLAN: The one thing that I would say in response to that, Senator, first of all, that is all contingent upon the authority of the county and the city agreeing to the delegation of those powers. That's not the only time that the Legislature has dealt with that kind of issue. You may remember years ago in the early and the mid-'70s when there really weren't any constraints on how SIDs issued the distribution of special assessment and general obligation debt. The thing that created a lot of furor with citizens in Sarpy County and Omaha was that issue. And the Legislature in its wisdom passed a piece of legislation that said that all of those issues of dividing costs between special assessment and general obligations were going to be decided by the city in who they had jurisdiction. And I think we're trying to protect the municipal interest and the SID interest, accommodating those citizens to have some kind of service on those issues. And that's all we're asking you to do. So I hope... [LB968]

SENATOR KRIST: Okay. [LB968]

MICHAEL NOLAN: If this isn't the way to solve the problem that you won't come back with a solution that kills this bill, but that you'll solve it in a way that they can get their issue accommodated. [LB968]

SENATOR MCGILL: All right. Any...okay, all right, thanks, Mike. [LB968]

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MICHAEL NOLAN: Thank you. [LB968]

SENATOR MCGILL: Any other proponents? Okay, any opponents? Anyone here to testify neutral on LB968? All right, Senator Scheer, would you like to close? [LB968]

SENATOR SCHEER: Thank you, Chairwoman. A couple of things in closing. First, is it unique, are we special legislation? I can't say for certain for the rest of the state of Nebraska, but is there, technically, the availability of that? And the answer is yes, Senator Krist. There is another SID that is located about a mile and a half, two miles south of this particular SID. It is, indeed, in Stanton County; it is, indeed, within the two-mile jurisdiction of the city of Norfolk. It is growing as well. So will this at some point in time allow this to do the same thing, the same powers for that? It might. Is that in 2 years or 20 years? I don't know. But it's certainly available to that at that point in time. There may be others in other areas of the state as well. I don't disagree that covenants and homeowners association rules might have been a better avenue to look at. But if we do nothing, we're penalizing a group of 2,200 people because two brothers in 1962 decided to put an SID together because they were builders and they wanted a cheap way to build houses and provide affordable housing for the area. They didn't see a need. And now we're over 50 years later. They have a problem and we're trying to find a solution for them and anyone else who would have a similar problem within the state of Nebraska. So I don't disagree with anything you've said, Senator, but that horse left the gate a long time ago. And, unfortunately, we shouldn't penalize those that are there now because you have fourth, fifth, and sixth generational owners of homes out there now. And for us to simply say we should have done it better 50 years ago, I think we're better than that. I think we need to find a solution. If there's any other questions? [LB968]

SENATOR MCGILL: Senator Krist. [LB968]

SENATOR KRIST: For all of you that have been listening to my tirade or listening to my words, I want to say this. Senator Schilz came in here last year... [LB968]

SENATOR MCGILL: Um-hum. [LB968]

SENATOR KRIST: ...and proposed something that was untenable, in my mind. And we worked it out and we found a solution to the problem which was completely out of the box that we have never done before. [LB968]

SENATOR MCGILL: Um-hum. [LB968]

SENATOR KRIST: This committee worked with him. I promise you that we will do that. But the way that it exists right now I have some serious problems with taxation without representation in a lot of ways...maybe there's some issues. But I'm not...when I argue

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these points so fervently it's because having the experience with the SID and the experiences that I do, it can be done and we will work hard at doing it. I'm not saying that I'm not going to support it for sure, but...this committee has a reputation under Senator McGill's leadership to look for options to solve problems and we will certainly do that. At least I... [LB968]

SENATOR SCHEER: I appreciate that, Senator. And I certainly would expect nothing less from any of the committees within the legislative body. We're here to try to solve problems. And I appreciate the fact that you question the ability and the content...certainly, nothing that I know I've ever presented is perfect that can't be improved upon at some point in time. And so I will leave that in your hands to try to reflect your thoughts and wants as far as meeting their needs in your legislative capacity. [LB968]

SENATOR MCGILL: I echo everything that Senator Krist just said. I know you're not the first person to bring a bill to try to solve this problem, and now does seem like the right time to try to fix it. So thank you very much. [LB968]

SENATOR SCHEER: Thank you very much. [LB968]

SENATOR MCGILL: All right, that closes the hearing on LB968. And Senator Johnson has been waiting very patiently here for about the last hour so he can open on LB702. Thank you for your patience, Senator. (See also Exhibit 4) [LB968]

SENATOR JOHNSON: (Exhibit 2) Thank you, Chairperson McGill and members of the Urban Affairs Committee. My name is Jerry Johnson, J-e-r-r-y J-o-h-n-s-o-n. LB702 was introduced to clarify and standardize the procedure for a village to change to a city of the second class other than a population change. Under current law, the citizens of a village may vote to retain the village form of government, even though it becomes a city of the second village (sic-class) because of its population increase over 800 people. However, there is no procedure in the statutes that if the citizens of such village later decide to become a city of the second class. LB702 establishes a procedure for the citizens to vote on changing the municipal classification form of village to a city of the second class. This procedure is found in Section 6. The bill provides that the issue may be placed on the ballot either by resolution adopted by the board of trustees of the village or by petition signed by one-fourth of the registered voters in the village. The procedure laid out in the bill was discussed with the Secretary of State's Office and the office's suggestions were included. Other sections of the bill amend existing statutes that standardize the procedure for voting to change municipal classification and other similar situations. There is an amendment to the bill and it is a typing error. On page 5, line 15, the words "city of the second class" was inserted in there and it should have said "village", simple correction there for that. So that is the intent of my opening. If you have any questions, there are people behind me that are affected by this and represent

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villages. So some of those questions I might defer to them. [LB702]

SENATOR MCGILL: Okay. Thanks, Senator Johnson. Any questions? No? Thank you very much. [LB702]

SENATOR JOHNSON: Thank you. [LB702]

SENATOR MCGILL: We'll take the first proponent. [LB702]

GARY KRUMLAND: (Exhibit 3) Senator McGill, members of the committee, my name is Gary Krumland, it's K-r-u-m-l-a-n-d, with the League of Nebraska Municipalities in support of LB702. As Senator Johnson mentioned, this has to do with changing from one classification of a city to another. And under normal circumstances, as this committee knows, a village is a city with a population up to 800. When the decennial census is taken and if a village population goes over 800, under the state law they automatically become a city of the second class. They're required to notify the Secretary of State and there's a process for changing their form of government from a village board to a mayor/council form of government. And then there is also procedures for other classes of cities when their population grows, so they jump into the next range. There is a situation though that statute allows a village which exceeds a population of 800 to, by petition, put a vote to the people to say let's retain our village form of government. And several cities across...several villages across the state have done that. And there is a handout that has a list of those villages that have done so. If you look at that list just briefly, you'll see that the top part of the list are villages that voted to retain their village, even though their population went above it. And some of them have continued to grow, they're all above 800. Those that are on the second part of the sheet are those that, at one point, their population exceeded 800; they voted to retain village status, and since then their population has dropped. So they are now below 800, so they would normally be a village. However, the statutes say that if a city of the second class drops below 800, there is no automatic change to a village. There is a process in the statutes where they can go to vote to change to a village, but they don't automatically become so. So that's just kind of background. The immediate situation we've run into is for those cities on the top half of that sheet who have voted to become...remain a village even though by population they could be a city of the second class. If later they decide, well, we're large enough now, let's become a city of the second class, there's no procedure for them to do so. It's kind of implied, but there's nothing specific in the statutes. And so that's what the intent of LB702 is to do it. And Section 6, all the new language sets up a procedure for citizens of a village to say, you know, we're growing, we're above 800, we want to become a city of the second class. And that can be put before the voters by either a resolution of the village board or by a petition. And because the Secretary of State gave some ideas...Secretary of State's Office made some suggestions on how to do it on petitions, on the election, on all that sort of thing. There are other statutes that had similar sorts of procedures, that's what

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those other parts of the bill are, is they said, let's be consistent, let's change it for the other statutes too. So the intent of the law though is to allow a city that retained village form of government at a later point to decide to become a city of the second class, and standardize the other procedures. I think you'll have...hear some people here who are specifically facing this issue right now. But that's the general policy behind what's going on. [LB702]

SENATOR MCGILL: Good. [LB702]

GARY KRUMLAND: I'd be happy to answer any questions. [LB702]

SENATOR MCGILL: Any questions? I don't see any. Thank you very much, Gary. Next proponent. [LB702]

JOHN SURMAN: Thank you, Senator McGill and fellow members of the Urban Committee. My name is John Surman, that's S-u-r-m-a-n. I'm currently a member of the village board of Eagle, board of trustees. I've been in that position since I was appointed to it in 1995. Originally, I moved into town in 1980, we were a small town at that point, but growing rapidly before we started into the recession of the '80s. But 1981, then we were notified, basically, that we had exceeded 830 people at that point and we needed to do something about becoming a second-class city, per the law, or going ahead and voting in a special election and saying, no, we wanted to remain as a village. Village board members came around at that point to most of us newcomers that didn't know a whole lot, and, obviously, they must not have either, you know bless their souls, but said: don't you like the way this village is and do you want to keep it this way? And, of course, since we just moved into town it was our opinion...for most of us that, well, yeah, it would be nice to keep it this way. We see no problem here. So we did have an election in October 13, 1981. We had 99 votes cast for it to remain as a village; 85 said, no, they wanted to not remain a village; there were 2 votes that were not counted because the ballots were spoiled. That's doesn't mean, you know, that, hey, that it was an overwhelming success, but by a 54 percent, roughly, we remain a village and we're still there. I've been reelected to that position on the board many times since then and recently it's come up that, hey, and by recent, I mean within the last three years, that, perhaps, we needed to become a second-class city. We were up to 1,024 people now. That, surely, shouldn't be considered a village any longer. And we're close enough to Lincoln that we will probably continue to grow. But the point was that according to the law, we were not allowed to do that. Now the board had originally considered putting forth a resolution to say, let's put it back to the voters; and that's when we found out, to our chagrin, that we couldn't do that. And since we didn't know it, obviously, the original board, probably, did not either. This should not be something that's put into force and then, hey, it stays that way for the next 300 years, as an exaggeration. It should not be permanent. I feel that the people who we represent should have the right to go ahead and say no, we want to change to a second-class city. Presently, that is not the case.

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LB702 addresses that and I'm a proponent to go ahead and change it to where, hey, the people have the right to determine as to whether we are a village yet or whether we become a second-class city. Thank you. [LB702]

SENATOR MCGILL: What do you see as the advantages for Eagle to become a second-class city? [LB702]

JOHN SURMAN: I think I'll let our attorney address that, perhaps. [LB702]

SENATOR MCGILL: Oh, okay. [LB702]

SENATOR ASHFORD: That's just nuts, isn't it? I mean... [LB702]

SENATOR MCGILL: Yeah. [LB702]

SENATOR ASHFORD: That you can't become a second-class city. [LB702]

SENATOR MCGILL: That you can't...it's crazy, yeah. [LB702]

SENATOR ASHFORD: That's craziness. I mean, these statutes are generally perfect, but there seems to be (Laughter) (inaudible). [LB702]

SENATOR MCGILL: Why haven't you fixed this already, Senator Ashford? [LB702]

JOHN SURMAN: There must not be a loophole there because nobody has found one. [LB702]

SENATOR ASHFORD: Okay. [LB702]

SENATOR MCGILL: Well, thank you very much for coming. [LB702]

JOHN SURMAN: Thank you. [LB702]

SENATOR MCGILL: Were there no other questions? Just making sure. [LB702]

SENATOR ASHFORD: Thanks for your service for all those years. [LB702]

SENATOR MCGILL: Thank you very much and we'll take the next proponent. Senator Crawford, our Vice Chair, has made it over here today; the first time she has made a hearing; she keeps having really important bills elsewhere that keep her busy. [LB702]

SENATOR CRAWFORD: Thank you. Thank you. [LB702]

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MAUREEN FREEMAN-CADDY: Good afternoon. My name is Maureen Freeman-Caddy. I'm the village attorney for the village of Eagle. My last name is spelled F-r-e-e-m-a-n, hyphen, C-a-d-d-y. I am the village attorney for Eagle, but I've also...my office also has represented two other municipalities on the top half of the form that Mr. Krumland gave you. So we are familiar with this situation. I've represented the village of Eagle for the last ten years myself and I think on no less than three occasions have I had board members ask me: Can we become a city? And when we looked it up and found out that they had voted in 1981, I said, well, it doesn't look like it. And when we consulted the League, they felt the same way. And so we've just kind of gone on and at some point knew that we probably wanted to come to the Legislature and see if this could be changed. The issue...really not so much the issue of what the advantages and disadvantages of being a city of the second class versus a village is is more so...we could actually get...we can quintuple in size and still be a village, because a village goes up...or a city of the second class goes up to 5,000 people. So when you look at the populations that you have with some of these villages, a lot of them are above a thousand. Ceresco and Eagle, particularly, which are villages I represent, are just north of and just east of Lincoln and so we see population growth. We might not see it...a huge population growth, but Waverly, which is in our school district with Eagle has grown significantly. And so if we see that kind of growth, it just seems to us that our municipal citizens should have the right to vote again. And that's why this has been proposed. The one thing that we've talked about is, one of the advantages of being a second-class city, possibly, would be the need to maybe spread out the representation in the town. Right now, all of the board members are voted at large. And so...though we have a population of a thousand, you could have, literally, have four neighbors that are side by side that are representing four-fifths of the representation of the town. If we were to go to a city of the second class, we could divide into wards and spread out that representation of the town. That's just one example. And I think as you grow larger, it's nice to have the ability to elect a mayor to do more of the administrative duties than a volunteer chairman can do. And so those are just examples of where it could go. I don't know that all the villages you see listed right now are interested in doing this, but I know that they should have the ability to do that if they wish. And that's why we're proponents of LB702. We thank Senator Johnson for bringing this before you today and we hope that you vote for us. Do you have any questions? [LB702]

SENATOR MCGILL: Thank you, Maureen. Any questions? [LB702]

SENATOR ASHFORD: Good idea. [LB702]

MAUREEN FREEMAN-CADDY: Thank you. [LB702]

SENATOR MCGILL: Thank you very much. Anyone else here to testify in support of LB702? Anyone here opposed to LB702? Anyone here to testify in a neutral capacity? No? All right, Senator Johnson, would you like to close? [LB702]

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SENATOR JOHNSON: Very quickly. I sat in on that first hearing and I...as a former mayor, I learned a lot and I enjoyed it. I'll put it that way. (Laughter) You don't always enjoy hearings. I wasn't sitting up there though. But, no, just close. This is a situation that has come because of one community, but other communities are definitely affected by it. And it will give them an opportunity to vote to become a second-class city. So that's all my closing. [LB702]

SENATOR ASHFORD: I just have one...I mean, it is just amazing this gentleman has served since 1981, has seen a lot of things and, certainly, his service is valued, no matter whether you're a first class...I wonder if it would be appropriate to have...if you vote to be a first-class city, then what happens if you want to be a village again? Do you just never get to be a village? (Laughter) [LB702]

SENATOR JOHNSON: I suppose not. [LB702]

SENATOR ASHFORD: The answer is no, let's (inaudible). [LB702]

SENATOR MCGILL: Probably not unless your population falls back down. [LB702]

SENATOR ASHFORD: (Inaudible) get one shot at it. [LB702]

SENATOR MCGILL: It's if the population falls back down again, Senator Ashford. [LB702]

SENATOR ASHFORD: Oh, is that what happens? [LB702]

SENATOR JOHNSON: You can still stay a second-class, but I suppose you... [LB702]

SENATOR ASHFORD: But that's unlikely to happen to Eagle where you're by Lincoln. The population is going to continue to get larger. [LB702]

SENATOR JOHNSON: Yeah. No, I see...yeah. And Ceresco is in my jurisdiction as far as constituents. So, go from there. Thank you. [LB702]

SENATOR MCGILL: All right. Thank you, Senator Johnson. Senator Crawford, are you prepared to take over the hearing? [LB702]

SENATOR CRAWFORD: Oh, sure. [LB924]

SENATOR MCGILL: My bill is up next; the big debut. You can stay seated there if you'd like. [LB924]

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SENATOR CRAWFORD: Okay. [LB924]

SENATOR ASHFORD: You seem to have cleared the room though, Senator McGill. There's not (inaudible). [LB924]

SENATOR MCGILL: Oh. This isn't a very exciting bill. [LB924]

SENATOR CRAWFORD: I didn't think about that. [LB924]

SENATOR ASHFORD: It's probably...no (inaudible). (Laugh) [LB924]

SENATOR MCGILL: (Inaudible). Maybe I'll just move back there when I'm done opening. Okay, let people move out for a second. [LB924]

SENATOR CRAWFORD: All right. Excellent. Well thank you and welcome, Senator McGill, to Urban Affairs Committee. [LB924]

SENATOR MCGILL: Vice Chair Crawford, oh, it looks like it's down to you and I now because there goes Senator Ashford. They're not missing much. Okay, good afternoon, Senator. For the record my name is Amanda McGill, M-c-G-i-l-l and I represent the 26th District here in Lincoln. I'm here today to introduce LB924 which is a bill intended to make it more clear that the money given through an LB840 program for approved economic development activities is intended specifically to go to qualifying businesses. There were a couple of different sections that I wanted to ensure that cities understood that the grants or loans for job training or providing relocation incentives for new residents were to go specifically to the qualifying business providing that training or relocation incentive. The bill also adds a new section to the definition of what constitutes a qualifying business by stating that a qualifying business does not include any political subdivision, state agency, or any other governmental entity. I hope that this bill will help clarify the intent of the LB840 program and ensure that cities use the funds appropriately. We have seen in a couple of cases that maybe some governmental entities or community colleges have been given some of this money and I do not believe that that is the intention of LB840 dollars. [LB924]

SENATOR CRAWFORD: Thank you, Senator McGill. Questions? [LB924]

SENATOR ASHFORD: Is the LB840 for economic development (inaudible). [LB924]

SENATOR MCGILL: Um-hum. Yep. [LB924]

SENATOR ASHFORD: So it's...what year did we pass that? [LB924]

SENATOR MCGILL: Ninety-one, for the record. [LB924]

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SENATOR ASHFORD: I was here. I remember that. [LB924]

SENATOR CRAWFORD: I have a question. [LB924]

SENATOR MCGILL: Um-hum. [LB924]

SENATOR CRAWFORD: What about a nonprofit organization? Is that...in other statutes defined out as not a business or is that an issue? [LB924]

SENATOR MCGILL: (Inaudible) a qualifying business. I would have to get verification on that. I would imagine the League knows behind me for sure. Honestly, that wasn't in my head when I came up here. [LB924]

SENATOR CRAWFORD: Okay, just thought...as long as we're clarifying that it's not a political body. [LB924]

SENATOR MCGILL: Yeah, what define...I know there is an explicit definition of a qualifying business, but we'll get the answer to that for you. [LB924]

SENATOR CRAWFORD: Okay. [LB924]

SENATOR MCGILL: All right. [LB924]

SENATOR CRAWFORD: Senator Coash, do you have a question for Senator McGill? [LB924]

SENATOR COASH: Nope. (Laughter) [LB924]

SENATOR CRAWFORD: Excellent. Thank you so much. [LB924]

SENATOR MCGILL: All right, thank you. I'm going to go ahead and just sit back here. [LB924]

SENATOR CRAWFORD: Are there proponent testimony? [LB924]

SENATOR ASHFORD: Nobody is for the bill. [LB924]

SENATOR CRAWFORD: Opponent testimony? Any neutral testimony? [LB924]

SENATOR MCGILL: I know how to bring them. (Laughter) [LB924]

SENATOR ASHFORD: No, nobody is for it or against the thing. [LB924]

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LYNN REX: Senator, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here in a neutral capacity, frankly, because our board has not yet had a chance to consider the proposal. But let me just suggest to you that we do think that this is a good idea to clarify and make express how the funds can be used. With that and in answer your question that nonprofit corporation would have to meet all the qualifications of qualifying business which is outlined on page 3 of the bill,... [LB924]

SENATOR CRAWFORD: Okay, excellent, thank you. [LB924]

LYNN REX: ...in current law, lines 9 all the way through that page and beginning the next page. [LB924]

SENATOR CRAWFORD: Excellent, thank you. [LB924]

LYNN REX: But we do think this is a clarification that makes it abundantly clear how these funds are to be used and that's always a good thing. I'd be happy to respond to any questions you might have. [LB924]

SENATOR CRAWFORD: Excellent. Thank you so much. Questions? [LB924]

LYNN REX: Thank you. [LB924]

SENATOR CRAWFORD: Thank you for that clarification. Would you like to close? [LB924]

SENATOR MCGILL: I'm going to waive closing. That was maybe one of the quickest hearings we've ever had. [LB924]

SENATOR CRAWFORD: Thank you. This closes the hearing of LB924. [LB924]

SENATOR MCGILL: Nice job, Senator Crawford, great Vice Chairman. And now I will turn the ball over to Senator Crawford for opening on LB915. [LB915]

SENATOR ASHFORD: I'm just glad I'm here to watch all this. [LB915]

SENATOR MCGILL: I know, it's just magic. (Laughter) [LB915]

SENATOR CRAWFORD: That was a good start to a hearing. [LB915]

SENATOR MCGILL: Nice job. [LB915]

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SENATOR CRAWFORD: Good afternoon, Chairwoman McGill and fellow members of the Urban Affairs Committee. My name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d and I represent the 45th Legislative District in Bellevue, Offutt, and eastern Sarpy County. LB915 creates a process for cities to work with banks when a home is foreclosed upon due to a missed mortgage payment or unpaid property taxes and in need of maintenance. Without frequent care, vacant foreclosed properties can fall into disrepair. This bill creates a tool for cities and banks to be proactive about addressing some of these problems early on before they become larger, more serious concerns. Under the bill, when a foreclosed property is in need of maintenance due to code violations, a city or village can request the name and address of a person designated by the bank or trustee to accept these notices. The bank trustee or their attorney shall then provide this information within five business days. And this is notification only. Often banks and trustees are unaware that the foreclosed property in question has fallen into disrepair. Once the city or village notifies those responsible for property management within these organizations, the problems are sometimes taken care of quickly. Cities and banks want these properties to be in good condition for the safety of the neighborhood, as well as the value of the property. This issue was first brought to our attention by the city of Bellevue. We have learned since that this is an issue for many cities across Nebraska. This tool will be helpful in reducing city's maintenance costs for these types of properties and improving the quality of our neighborhoods. In the city of Bellevue, administrators estimate approximately \$15,000 each year in costs for mowing, tree removal, and other cleanups. There are several people here today to testify in support of the legislation including the League of Municipalities and I appreciate their support and testimony today. I also want to thank Bob Hallstrom with the Nebraska Bankers Association for his willingness to work with us on these issues. Some of you may recall a bill introduced several years ago by Senator Lambert, LB1029. We have worked hard to address the concerns raised during the hearing on that bill and to ensure that our bill creates a process that works both for cities and banks. Thank you again for the opportunity to be here today. I'm happy to answer any questions you might have. [LB915]

SENATOR MCGILL: All right. Any questions for Senator Crawford? I don't see any. Thank you very much. We'll take the first person in support for LB915. [LB915]

GARY KRUMLAND: Senator McGill, members of the committee, my name is Gary Krumland, it's K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities appearing in support of LB915. As Senator Crawford said, this is a situation where a property is foreclosed; the property owner has left the property; things start to deteriorate and the city just doesn't know who to contact to let them know that there is a problem. In a way, last year, this committee took care of the grass and weeds; this is a situation where...generally, the problem is the grass doesn't get cut, the neighbors start to complain, it makes the...if the neighborhood looks worse, especially if you have a couple of properties like this; the city comes in, tries to give to notice to the property owner and finds out the property is in foreclosure, but just don't know who to give the

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notice, especially if it's a institution that may not be in the state. So what the attempt to try to do is to find a contact so that the city, if there is a potential violation of a nuisance ordinance, weeds are too long, they have somebody to contact and say, this property is a problem, the weeds are too long, can you get somebody here to clean it up. I mean, the alternative is if you give notice to the property owner and you can't get a hold of anybody. The city at some point down the road can come in and clean it up? But then all they can do is file a lien and if it's in foreclosure, it's very likely they will never collect the money so that comes out of the general tax revenue. So, basically, it's just to...on those properties that are under foreclosure, that would be vacant, that are causing problems for the neighborhood, you create a process so at least you can find a contact to notify that there is something going on and the property needs to be cleaned up. I'd be happy to answer any questions. [LB915]

SENATOR MCGILL: Any questions for Gary? Senator Karpisek. [LB915]

SENATOR KARPISEK: Thank you, Senator McGill. I appreciate very much what this says. However, so you get a hold of them, just say it's ABC Repossession, and you say, hey, this needs to be cut. And they say, yeah, whatever. [LB915]

GARY KRUMLAND: Well, and you get into a lot of issues, if you can show that they...if they have an ownership interest in them, at least you can give them the official notice and start the process to do it yourself. And I think for the most part though, if you actually find somebody,...to protect their own property, I mean, at some point they're going to need to resell it, they would want to take care of it. [LB915]

SENATOR KARPISEK: I think what we've seen, and I'm sure you have too, is these on-line loan companies who loan somebody \$5,000 and the property probably isn't worth it, so they just wash their hands of it. And I realize this problem...there's probably nothing that can help that other than a way to start...the city start to reclaim it. [LB915]

GARY KRUMLAND: Yeah, and it's not going to solve all the problems, but it will be a tool. Two years ago, the Legislature adopted two bills that were kind of designed to help with this. And let's see, one of them was LB729; that was a bill that allowed removal of unsafe buildings and cleanup of property under the community development law which is kind of another tool. And then LB1137, to create the land banks which is another tool. And that was, specifically, just for Omaha right now, kind of as a model. But all these together, we're hopeful that, you know, not any one of them will take care of the problem, but if you have enough tools, you might...you can at least address this. So that's kind of what we're shooting for. [LB915]

SENATOR KARPISEK: And I do appreciate that. And I appreciate the bill trying to do something; it is a problem. So thank you. [LB915]

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GARY KRUMLAND: Um-hum. [LB915]

SENATOR MCGILL: Thank you, Gary. I don't see any other questions. Next person here to testify in support. [LB915]

LARRY BURKS: Good afternoon, Senator McGill and members of the committee. My name is Larry Burks and that's L-a-r-r-y B-u-r-k-s. I am here on the behalf of the city of Bellevue, I'm the assistant city administrator for the city of Bellevue. Senator Crawford had mentioned that some of the costs that were associated with abandoned property, nuisance abatement, if you will; and it is...in 2011 we spent over \$17,000; 2012 over \$14,000; and 2013 over \$15,000. Keep in mind that also could be higher if we were more aggressive or if the budget allowed us to be more aggressive. Over three years it's almost \$47,000 and that doesn't account for the demolishing expenses, if there are any associated with that. Of the 56 houses that do not meet minimum housing standards now in the city of Bellevue, approximately 20 of those are vacant properties. At an average cost of \$8,000 to \$10,000 to demolish a property, that's over \$200,000 in demolition costs. These costs do not account for the deterioration of the tax assessments in the immediate neighborhood. And some of the important points to keep in mind is...it's a four-lettered word, it's "time." And if we can find a way to simplify and shorten the time to notify a property owner and shorten the time to take care of the issue at that property, be it mowing, be it fence repair, be it...whatever the issue is, that would be helpful because this is not only a tax base issue, it's also a life safety issue. At our last public hearing regarding budgets, we had citizens asking why they couldn't just go on and mow the neighbor's property. And we do have citizens that just do it. They take the initiative; they're tired of looking at it. And, you know, when there is an issue like that and if someone were to become hurt, who are they going to point fingers at? So that is one individual point to keep in mind. Also, it's also the point of cost. How much more economic development will be created if the private sector takes care of these issues instead of the city taking care of these issues with tax payer dollars and waiting several years to get reimbursed for that cost through assessments and sale? And to touch on...I'm sorry, you...Senator... [LB915]

SENATOR KARPISEK: Karpisek. [LB915]

LARRY BURKS: Karpisek, I'm sorry. [LB915]

SENATOR KARPISEK: That's all right. [LB915]

LARRY BURKS: That's a new one to me. [LB915]

SENATOR KARPISEK: We'll try to make it more common. [LB915]

SENATOR ASHFORD: Not to us. (Laughter) [LB915]

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SENATOR MCGILL: Unfortunately, not to us. [LB915]

LARRY BURKS: To touch on your comment regarding on-line banking and things of that nature, an individual can pick up houses at auction for several thousand dollars; go on-line, find an old photo of when it was in a little bit better shape, or even better yet, photoshop their own photo and send it in to the lending agent and get a loan at a much higher value than what the house is actually worth. Those are some of the things that I've seen, not only here in Nebraska, but in Iowa as well. And finally, one other point to make as far as notification goes, is some communities are able to notify property owners once a month through the...via the newspaper, that if your property is not maintained well or the grass is higher than 12 inches, the city will go ahead and mow it and then your property will be assessed. And that notification, whether or not it meets standards for the state of Nebraska, maybe it's something to consider along with some other things that you're talking about on this bill. [LB915]

SENATOR MCGILL: All right. Other questions, thoughts? Don't see any; thank you very much, Larry. [LB915]

LARRY BURKS: You bet. [LB915]

SENATOR KARPISEK: Good job. [LB915]

SENATOR MCGILL: Other proponents. [LB915]

JACK CHELOHA: Good afternoon, Senator McGill, members of the Urban Affairs Committee, my name is Jack Cheloha; the last name is spelled C-h-e-l-o-h-a. I'm the lobbyist for the city of Omaha. I want to testify and make the record in favor of LB915. You've heard most of the reasons for the bill now, so I don't want to repeat those. Just wanted to let you know that this issue cuts across all lines and all sizes of cities. In fact, metropolitan class, we've had even the higher percentage of those that may fall into foreclosure. And anything we can do to open lines of communication and help keep property kept up and, you know, the neighbors from not having to look at eyesores, etcetera, is a good thing. And so for those reasons we support the bill. Thank you. [LB915]

SENATOR MCGILL: All right. Thank you. Any questions? Don't see any. Thanks, Jack. Other proponents. Anyone here in opposition to LB915? Anyone here in a neutral capacity? Looks like we got one. [LB915]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry Stilmock, Jerry, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska Bankers Association, in a neutral capacity. Our association has not yet met with its

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government relations and its board...and our board, so we're in a neutral position. We've had an opportunity and thank Senator Crawford for engaging the Nebraska Bankers through this issue. And she had asked previously to just briefly go through what happened in Senator Lambert's bill, LB1029. That bill had elements in it that required in a complaint for foreclosure, if a mortgage or deed of trust was going to be foreclosed through a court proceeding, or in a notice of default if the deed of trust was going to be extinguished through a power of sale that both of those items include a specific element as to where notice should be sent for making demand for payment of expenses. And that was problematic for the bankers for several reasons. So we were encouraged when Senator Crawford brought this new measure to us and worked through it realizing that we still had to get the consent and agreement with our client, which we don't have at this point. But what the bill does has been explained and though it is requesting a contact person so which notices may be sent to a lender or to the attorney representing the lender, just to share with the committee that one of the legal principles when a lender holds a mortgage or a lender holds a deed of trust, it doesn't have ownership of the property. That lender is not responsible for the property; that lender holds an equitable title. And that's all that the lender holds at that point until and unless that property would be foreclosed and then the lender takes the property back. So we've circulated the bill to several bankers and attorneys in advance of our bodies getting together, the government relations and the board getting together, and it's kind of trending towards opposition to the measure for a couple of reasons. One principle is the issue of what happens when a lender receives notice of some violation of an ordinance? And that property is later sold, there's...if that bank takes the property back...and I have notice of something that was maybe done improperly by the legal owner of that property, but now the bank has notice. And as you might imagine, if a bank has to take that property back and then puts it back, now as the owner, puts it back on the property, now that property is going back as is. It's going back on the market as is, however...whatever condition it is. But it's not highly unusual, probably for you to imagine if somebody, through whatever process, finds out that the bank at some point in time got notice that there was some problem with the property, why didn't the bank make that known. And so, you know, it looks like it may be an issue with our client. But yet, you know, we've worked with Senator Crawford up to this point and we're encouraged to try to keep working to make sure that we have legislation that does what the senator intends, but, hopefully, also looking at what the bankers in Nebraska are looking at as well. So somewhat...somewhat of a difficult position to come up in because we have worked with the senator; we want to continue to work with the senator. But at this point it's a neutral position, but it looks like it's gravitating toward opposition. And we won't know that for a couple of weeks. Thank you, Senators. [LB915]

SENATOR MCGILL: Well, thank you for your honesty. Any questions? Senator Karpisek. [LB915]

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SENATOR KARPISEK: Then it looks like we better move fast. (Laughter) [LB915]

JERRY STILMOCK: I know there's a response there, but it's probably not appropriate. (Laughter) [LB915]

SENATOR KARPISEK: Of course I hear it. [LB915]

SENATOR MCGILL: Other comments, questions? I don't see any. Thank you very much, Mr. Stilmock. [LB915]

JERRY STILMOCK: Thank you, Senators. [LB915]

SENATOR KARPISEK: Might have something to do with my gainful employment. [LB915]

SENATOR MCGILL: Any other neutral testifiers? Senator Crawford, would you like to close? [LB915]

SENATOR CRAWFORD: Thank you. Thank you for your attention and for your good questions. I would like, in closing, just to reiterate a couple of the points that were raised and answer a question. Senator Karpisek asked, well, what if they don't care; what if the bank doesn't care? And really this bill is a tool for those cases where the bank does care and where there is a cooperative relationship between the two. What we've heard over and over again is quite often when the city is able to get the right person, then, actually, the relationship is a very cooperative one. So this bill is really to facilitate cooperative relationships where they exist and to try to repair things as quickly as possible in those cases. And that's really what it is aimed for. The bank that doesn't care, we need a different bill to deal with that. And also, on that front, one of the concerns of the banks was to make sure that the bill does not legally create a sense that the code violations are the responsibility of the bank. And if you look on page 4 of the bill, you'll see some of the language crafted to address that concern. And so I'm hoping that that will also help in the discussion with the bankers as they go forward in terms of clarifying what the bill does. If you notice on page 4, we talk about the person to accept notices of violations of ordinances by the owner, so we try to very carefully say if the grass is not being cut, that's a violation of the owner and the owner's responsibility, not the bank's responsibility necessarily. And then also...we also put in there...in the language on lines 10, 11, and 12, clarification that this does not invalidate the notice of default and similar language in (inaudible) section of the bill to clarify that it does not get in the way of the foreclosure or default. So those are important protections in the bill to protect the banks in those situations and to clarify that the code violation is the owner's code violation. Just to address the last question that's raised: I think, you know, if you think about what the cities have talked about in terms their concerns; we're talking about...most of the concern I heard was grass being mowed, right? So I do not

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think that's going to get in the way of a sale or there will be a suit for not telling somebody their grass wasn't mowed in the property. And so we'll continue to work with the banks and make sure, especially if they're being sold "as is," and we're looking at the code violations that are things that are clearly visible or mowing the grass where it really won't be something that would make banks liable if it's sold afterwards as a condition not disclosed. I really don't think that's going to be a serious concern when we look at what these violations are that are happening on these properties. But we'll be happy to make sure that the people who are dealing with these violations regularly are in communication with our office and we can be in communication with the banks to make that very clear that these are unlikely to be violations that would really get in the way of...or that would be a problem later in terms of being able to sell the property as is. Any other questions? [LB915]

SENATOR MCGILL: I don't see any. Thank you very much. [LB915]

SENATOR CRAWFORD: Thank you. [LB915]

SENATOR MCGILL: And with that, that ends our hearing for the day. Have a good one, everybody. [LB915]