

Transcript Prepared by Clerk of the Legislature Transcribers Office
Urban Affairs Committee January 18, 2022

WAYNE: We're ready to open up the Urban Affairs hearing. Are we on? All right, we're on. Good afternoon and welcome to the Urban Affairs Committee. My name is Senator Justin Wayne. I represent Legislative District 13, which is north Omaha and northeast Douglas County, and I serve as the Chair of Urban Affairs. We will start off having members of the committee introduce themselves and staff do self-introduction and starting to my right with Senator Briese.

BRIESE: Tom Briese, I represent District 41.

HUNT: I'm Megan Hunt and I represent District 8 in midtown Omaha.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

M. HANSEN: Matt Hansen, District 26 in northeast Lincoln.

ARCH: John Arch-- [COUGH] excuse me, John Arch, District 14. Papillion, La Vista and Sarpy.

LOWE: John Lowe, the southeast half of Buffalo County.

ANGENITA PIERRE-LOUIS: Angenita Pierre-Louis, committee clerk.

WAYNE: Thank you. Also be assisting the committee are our committee pages. Resista-- Ritsa-- she's not here. How do you say her last name? Giannakas from Lincoln, who is a political science and economic major, and Kennedy Rittscher from Lincoln, who was also a political science major at UNL. In light of COVID and the pandemic, res-- respectfully requests you wear a mask or face covering while in the hearing room. Testifiers may remove their mask during the testimony to assist the committee members from hearing and transcriber's from hearing and understanding the testimony correctly. This afternoon, we will have four bills and we will be taking them up in the order listed outside the room on a-- on a-- on the table. Near the rear entrance, you will find blue testifier sheets. If you are planning on testifying today, please fill out one of those and hand it to Angenita when you come up. This makes sure we have an accurate record for the hearing. Please note if you wish to testify-- if you wish to have your position listed-- listed on the committee statement for a particular bill, you must testify during that position during that bill hearing. If you do not wish testify but would like your position recorded on that bill, please fill out a gold sheet near the entrance. I will also note the legislative policies are all letters for the record must be received via the online commerce portal by the committee the noon the prior day to the hearing, any handouts submitted by-- how does that work if it's

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a holiday before? No. Since we're the committee that always starts on the holiday, on the holiday before we will take them to-- Angenita, 11 a.m. work?

ANGENITA PIERRE-LOUIS: Yeah.

WAYNE: 11 a.m. if it's a holiday preceding the hearing. So that's what we're going to do in this committee. That is what it is. Testimon-- test-- testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from the supporters of the bill, then from from those in oppositions, followed by those speaking in a neutral capacity. The introducer of the bill will be given the opportunity to make a closing statement if they wish to do so. We ask that you begin your testimony by spelling your first and last name for the record. We will also be using the four-minute light system. When your testimony begins the light will be green. Yellow means there's one minute left and red means please wrap it up. I would like to remind everyone, including senators, please turn off or silence your cell phones. With that, we will begin with LB820. Welcome Senator Hansen. Welcome to your Urban Affairs Committee, Senator Hansen.

M. HANSEN: Thank you, Senator Wayne, and members of the Urban Affairs Committee. For the record, my name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26, which is in northeast Lincoln. I'm introducing LB820, which is a straightforward bill that would raise the population threshold for cities of a metropolitan class, from cities with a population of over 300,000 to cities with a population of over 400,000. This would mean the population threshold for cities of the primary class would be changed to cities with a population of over 100,000 and less than 400,000. Currently, the city of Lincoln is the only primary class city in Nebraska, and they are quickly approaching the 300,000 person threshold, having a census population of 291,082 people in the 2020 census. If they were able-- if they were to cross over the three hundred threshold they had before we changed it, we would have no cities with the primary class here in Nebraska. I've worked closely with the city of Lincoln on this bill and they will have somebody here behind me to testify why the benefits of staying in the primary city class at this time. With that, I'll close. I'd be happy to answer any questions.

WAYNE: Any questions from the committee? All right, thank you.

M. HANSEN: Thank you.

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WAYNE: First up for proponents. Welcome to your Urban Affairs Committee.

YOHANCE CHRISTIE: Thank you. Good afternoon, Senator Wayne, and members of the Urban Affairs Committee. My name is Yohance Christie, Y-o-h-a-n-c-e C-h-r-i-s-t-i-e. I'm the city attorney for the city of Lincoln. I'm here on behalf of the city of Lincoln in support of LB820. I want to thank the members of the committee for your time today on this matter and thank you to Senator Hansen for working with the city of Lincoln on the introduction of this bill. LB820 seeks to change the population thresholds for cities of the primary class and for cities of the metropolitan class. Currently in the existing law, cities of the primary class are those with population between 100,000 and 300,000 as stated by Senator Hansen. And again, Lincoln is the only city that falls within that population threshold and-- and is therefore the only city of a primary class. As laid out by Senator Hansen, again, we would like to bump the population threshold for cities of the primary class up to 400,000 people. In the most recent census, Lincoln's population was approximately 291,000 people. Obviously, this is below the 300-- 300,000 limit within the statute. However, it did exceed our projections of where we thought the population might be. We believe it's time to come to the Legislature before the next census. If Lincoln had been over 300,000 people, then we would have become a metropolitan class city, and that would have made our life as a city very difficult. This is why I'm here supporting this bill to move the population maximum up to 400,000 for city of primary class. Even though both Omaha and Lincoln have adopted home rule charters, there are still very practical changes that would take place if Lincoln were to become a metropolitan class city. This change would impact our continuity of operations. There are a lot of things that I think would change, but some of the more obvious changes would be that the composition of the Lincoln City Council would change. The council seats would need to be divided by districts. It's not something that we do now. Cities of the metropolitan class also have a separate transit authority that's different than what we currently do in Lincoln. The current public transportation model resides in our Transportation Utilities Department, which is a department within the city. If Lincoln were to implement a land bank, we would have different thresholds than what we've negotiated in the compromise legislation from a few years back. There are other things on the list as far as structural changes, including changes to the Board of Plumbers, annexation ability, utility structure and many other policy areas. The city of Lincoln reached out to both the city of Omaha and the League of Municipalities in drafting this bill to

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make sure that the proposed population thresholds worked for everyone. I believe that you will hear from the city of Omaha and I-- and that they support this change. This current system works for the city of Lincoln, it works for the city of Omaha, and it works for the state of Nebraska. Thank you again, Senator Hansen, for introducing this bill and to the committee for your time. I'd be happy to try and answer any questions you may have.

WAYNE: Senator Hunt.

HUNT: Thank you, Chairman Wayne. Hi, Mr. Christie, thanks for being here today.

YOHANCE CHRISTIE: Sure.

HUNT: If we don't pass this bill, how long would Lincoln have to comply with, you know, the-- the transportation changes and all the-- all the stuff that you would have to do in order to be compliance with the law as a city of the metropolitan class? What's like the buffer time?

YOHANCE CHRISTIE: Thank you, Senator Hunt, for your question. While I don't have a specific timeframe to tell you right now, I'd be happy to follow up with you and give you an exact timeframe. I mean, certainly we have not been in that situation before. And so I'm not sure off the top of my head what--

HUNT: Sure.

YOHANCE CHRISTIE: --sort of buffer period we would have.

HUNT: I can look that up to-- I wonder or I could talk to the committee counsel. I wonder if that's in statute or something like if a city transitions between classes, you know, obviously that would be a very expensive change, but how much time would you have to implement that change?

YOHANCE CHRISTIE: I'd be happy to follow up.

HUNT: Maybe then the answer is forthcoming, actually. But yeah, hopefully we can get this done. Thank you.

YOHANCE CHRISTIE: Thank you.

WAYNE: Senator Arch.

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ARCH: Thank you. A couple of questions. How's metropolitan defined?

YOHANCE CHRISTIE: By population and right now, it's what, over 300,000.

ARCH: So are we proposing a change for the metropolitan--

YOHANCE CHRISTIE: Correct.

ARCH: --class as well?

YOHANCE CHRISTIE: Correct.

ARCH: So both would be-- both would change if we--

YOHANCE CHRISTIE: Correct.

ARCH: --bumped that up. And second question. Are you aware is there-- is there any other city that's bumping up against the 100,000?

YOHANCE CHRISTIE: I'm not aware. I think that, yeah, I was going to say, I don't think that any city is close--

ARCH: OK.

YOHANCE CHRISTIE: --enough to be asking for legislation.

ARCH: Last threshold isn't a problem, the top threshold is the problem.

YOHANCE CHRISTIE: Correct.

WAYNE: So right now, I don't believe, but we'll just check with the League to send out an email to them to verify if we had. Since this opened up part of section of law, we'll just look at it for an amendment if there is.

ARCH: Thank you.

YOHANCE CHRISTIE: Thank you.

WAYNE: Any other questions from the committee? I sent you some cool pictures.

YOHANCE CHRISTIE: Thank you, I appreciate it. [LAUGHTER]

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WAYNE: Thank you. Next proponent. Welcome to your Urban Affairs Committee.

LYNN REX: Thank you, Senator Wayne, 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 strong support of this bill. This is very consistent with what this body has done over a period of years, with cities going a little bit up or a little bit under. In this case, we strongly support this because this is what needs to happen. There's a lot of cost involved when you're switching cities and Senator Hunt, to your point, there is no-- no space in-between. In other words, it's magic. You get to 300,000, you're it. And the same thing with municipalities. When Ogallala, a bill was passed, which came through this committee years ago, as they went below 5,000 and they want to retain their status as a city of the first class. Falls City, Fairbury, other changes have been made over the years to allow cities to have some flexibility in the same way that villages, even if they drop below 100 or go above one-- 800, can retain their status. There's a process for that, and it's a little bit different for every municipality in those classes. And as you know, we have five classes of cities, five forms of government. The classifications of cities are based on population only. The other classifications are first-class, second-class, village, metropolitan-class and primary-class. There is a tremendous cost to go back and redo all your ordinances and comport with everything else as you go from one class to the next, which is why everybody really goes to the mat to try-- to try to not do that. So we strongly support this. We think it is a-- the right thing to do, not only for the citizens of Lincoln, but obviously for Omaha as well. And I believe the question was, is anyone else getting up to the 100,000 threshold? The two closest cities would be the only cities that would be around 50,000, Grand Island and Bellevue, and neither one are even close to 100,000. They would love to be, but they're not there yet. I'm happy to answer any questions you might have.

WAYNE: Any questions from the committee? I just want to come up with a different name than second-class so if we could--

LYNN REX: We do too.

WAYNE: --say [INAUDIBLE] over that.

LYNN REX: Oh my gosh.

WAYNE: We'll figure it out.

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LYNN REX: It would be a magic bullet. I will tell you that we've got two legislative committees internally. The smaller cities legislative committee comprised of about 30 to 40 representatives of second-class cities and villages. The larger cities, large-size committee, Senator, comprised of representatives of Omaha, Lincoln, and all cities of the first class. There's about 60 on there when you consider the mayors and the city administrators and so forth. Cities of the second class this has been a burr under their saddle forever. [LAUGHTER] OK? Then we came up with some great ideas. They did. Cities of the premium class. [LAUGHTER]. And I'm not kidding. You think I'm kidding, I'm not kidding. I got other sorts of examples. And then the first-class cities like, like Kearney and Grand Island would say, oh, no, no, no. Then we're the premium-plus class. So it's-- it's-- it's-- it's a little more difficult than one would think, but being cities of the second class has not been a walk in the park and we're not-- I don't know how that came about. I can-- Christy and I can honestly say we had nothing to do with it or it would have been different. We're visionary. We're not going to let that happen. But thanks for the question.

WAYNE: Thank you. Any other questions? Seeing none, thank you for being here today.

LYNN REX: Thank you so much for your consideration.

WAYNE: Any other proponents? Welcome to your Urban Affairs.

JACK CHELOHA: Good afternoon, Senator Wayne, members of the Urban Affairs Committee. My name is Jack Cheloha, that's J-a-c-k, last name is spelled C-h-e-l-o-h-a. I'm the lobbyist for the city of Omaha, and I want to testify in favor of LB820 this afternoon. First of all, Lincoln was very gracious and reached out to us in advance of this bill being introduced and-- and wanted to get our thoughts on it since Omaha was the only metropolitan-class city in the state right now. I think-- I think in order to not upset the applecart of the classes of city, this is a good bill. It's forward looking. And one last tidbit that I wanted to share with you, Omaha's official population after the 2020 census was 486,051 people, so we're 86,000 above what would be the new threshold of 400,000. So I think that's appropriate. And for those reasons, we want to support Lincoln and-- and this bill, LB820. I'll try to answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

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JACK CHELOHA: Thank you.

WAYNE: Any other proponents? Welcome to your Urban Affairs Committee.

BUD SYNHORST: Good afternoon, Senator Wayne, and members of the Urban Affairs Committee. My name is Bud Synhorst, B-u-d S-y-n-h-o-r-s-t, and I'm the president and CEO of the Lincoln Independent Business Association. We represent over a thousand businesses in Lincoln and Lancaster County and pride ourselves in being involved in policy matters, which we believe benefit and impact Lincoln and the surrounding area in our local businesses. I want to thank you for your time today. I'm here to support LB820. This obviously has been said, updates the threshold for cities of the primary and metropolitan class. These changes made in this bill will be beneficial for the city of Lincoln. This would help avoid unnecessary and significant challenges for our city if Lincoln were moved to a metropolitan classification. Obviously, the requirements to change processes in multiple areas, utility services, land banking provisions and elections, all of those types of things seem to be a way to clean up this bill and avoid some of these unnecessary and unforeseen logistical burdens on the city of Lincoln. Historically, because of the unique natures of Lincoln and Omaha, the Legislature has chosen to separate them by class to ensure there's no violation of the special class rule by singling out any one city in legislation. Lincoln is unique partially because of our state being our state's Capitol city. It makes sense to be able to classify these cities with their unique needs from one another. As was previously mentioned, this was something that was discussed pretty extensively during negotiations here in the past couple of years over the land bank bill, and so we were waiting for the census to be completed in order to-- to see where Lincoln fell in that capacity. So for those reasons, we stand in support of advancing LB820 out of the committee to General File. Thank you for your time and I'd be happy to answer any questions.

WAYNE: Any questions from the committee? Seeing none, thank you for being here.

BUD SYNHORST: Thank you very much.

WAYNE: Any other proponents? Any opponents? Anybody testify in the neutral capacity? Seeing none, Senator Hansen.

M. HANSEN: Thank you. I'll close real briefly to say we've worked a lot on population threads-- thresholds in a lot of places, and this is

kind of a continued effort of that. The thought of like what would happen if you hit the threshold? It does kind of appear that it's magically overnight, you're supposed to just be in compliance. And so that's partially where we've moved the threshold. We've also clarified that it's as of the census count, so you can't necessarily be forced to change threshold. This is prior legislation based on estimates. That was an issue that happened to look at Lancaster County's where everybody thought they were near the threshold, but no at the end it's in-between censuses. We didn't actually truly know. And totally on board with renaming the classes of cities if we want to be a Capitol class or something.

WAYNE: Any questions from the committee? Seeing none, thank you for being here. We have nothing for the letter of support. So we'll close the hearing on LB820 and open the hearing on LB724.

M. HANSEN: All right. Thank you, Chairman Wayne, and fellow members of the Urban Affairs Committee. For the record, my name is Senator Matt Hansen, M-a-t-t H--a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB724, which would make changes to the Local Option Municipal Economic Development Act, often referred to as LB840. Specifically to be utilized for development and importation of an affordable housing action plan, as well as construction of housing as a part of affordable housing action plans. For background, in 1991, the Legislature passed LB840, which authorized cities and villages to appropriate local sales and property tax revenues for certain economic development purposes. In 2016, we authorized LB840 to be used for workforce housing under workforce housing plan. In 2020, we passed the Municipal Density and Missing Middle Housing Act, which incentivizes affordable housing projects by requiring affordable housing action plans. These plans are a key step to promoting the growth of housing options in our cities, so I believe it makes sense to incentivize the creation and implementation of these plans through utilizing LB840 funds if that is the direction the city wants to go. LB724 would also add that economic development program can include the construction of housing as part of Affordable Housing Action Plan, including any plan required under the Municipal Density and Missing Middle Housing Act. LB724 also restructures some of the section, as suggested by committee counsel and the Revisor of Statutes Office. For example, previously some components of LB840 programs could be used for grants and loans, while others could be used for grants, loans and funds. With the distinction between those two lists being unclear, the new language standardizes these terms and restructures the section of it to accommodate that clarification. In closing, this bill is an opportunity to further support our cities in

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their pursuit of affordable housing that best fits their needs and their community. With that, I'll close and be happy to take any questions.

HUNT: Thank you, Senator Hansen. Any questions from the committee? Seeing none, thanks for your introduction.

M. HANSEN: Thank you.

HUNT: I'd like to welcome up any proponents of LB724. Welcome to your Urban Affairs Committee.

CHRISTY ABRAHAM: Thank you, Senator Hunt. It's good to see all of you. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m. I'm here representing the League of Nebraska Municipalities, and I want to start by thanking Senator Hansen and his office for reaching out to the League about this bill. We were very anxious to review it. And I know that you have all heard the League say multiple times to this committee, affordable housing is such a big issue for most every municipality out there, and so we're so grateful for Senator Hansen to come up with some creative and different ways for municipalities to address that issue. Senator Hansen did a great job in his opening explain what the bill does and the LB840 program. This committee has heard many bills on LB840 and typically it's a situation where local funds are being used to a qualifying business to help that business get started in that municipality. And this is expanding it just a little bit to allow that those funds to be used for cities to create their affordable action plan. As Senator Hansen mentioned, this committee helped pass the-- and I never get the name right, the Municipal Density and Missing Middle Housing Act a couple of years ago. And so there are several municipalities that are required to create these plans now. And so allowing them to use the LB840 funds will be helpful for them. So I'm happy to answer any questions you might have about this bill, but we certainly support it, and again, thank Senator Hansen for bringing it to you.

HUNT: Thank you, Ms. Abraham. Any questions from the committee? Senator Lowe.

LOWE: Thank you, Vice Chair. Thank you, Ms. Abraham. How many programs are there to help affordable housing, whether it's state, local, federal?

CHRISTY ABRAHAM: Wow.

LOWE: Do you have any idea?

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CHRISTY ABRAHAM: OK, you-- you are taxing my memory. There-- there's going to be-- there's going to be several. Certainly, LB840 is one of them. I would count Tax Increment Financing, TIF, to be in that category. There's community block grant funds that's on the federal level. There are probably a couple of state programs. I'm forgetting the Affordable Housing Trust Fund. Senator Lowe, I'd be happy to research that further and get you a more comprehensive list. But there are-- there are several on the-- both the state and federal level.

LOWE: Is there any way that we can get all these programs to work together so that it may help better the outcome of affordable housing in Nebraska so that instead of competing against each other and instead of trying to infringe on another program, which may happen, to maybe work together so that we can use the dollars best spent.

CHRISTY ABRAHAM: Sure, I certainly appreciate that sentiment, and I-- I will tell you that municipalities are-- they're looking at all of these programs and are trying to work with them and do the best they can to-- to work within the parameters of those programs. With LB840, as Senator Hansen said, this was developed in 1991 and it didn't start out as an affordable housing bill. It started out as a-- I live in the city of Kearney and we need a supermarket. LB840 funds are going to help encourage the development of a grocery store in Kearney. And so I think its origins were very different than affordable housing. As you mentioned, over the years affordable housing has been added to this act to-- to help with that issue because it has become such a great need. But it wasn't-- LB40, that wasn't the origins of these funds. So I understand your concerns. They're sort of different elements and processes you have to go through for different kinds of programs.

LOWE: OK. Thank you.

HUNT: Any other questions from the committee? Seeing none, thanks so much for being here today.

CHRISTY ABRAHAM: Thank you so much.

HUNT: Any other proponents for LB724? Welcome.

CAROL BODEEN: Good afternoon. Going to take these masks off. Members of the Urban Affairs Committee, my name is Carol Bodeen, C-a-r-o-l B-o-d-e-e-n, and I'm the director of policy and outreach for the Nebraska Housing Developers Association. NHDA is often what we are referred to. I am testifying in support of LB724. A little bit about NHDA. We are a membership organization with over 70 members from

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across Nebraska and our mission is to champion affordable housing. We do this by supporting statewide renter and homebuyer education programs, offering assistance to affording-- affordable housing developers and by advocating for policies that support safe and affordable housing. It's our goal that Nebraskans of every income have the cornerstone foun-- cornerstone foundation of a healthy and affordable home. Our members include nonprofit and for-profit developers, nonprofit organizations that provide housing services, government agencies and economic development organizations. We work collaborative-- I knew I would stumble on that word, collaboratively with the Nebraska Economic Developers Association, NEDA. NEDA is a professional membership organization made up of more than 300 developers, utility representatives, and city and regional professionals from across Nebraska. I'm here today on behalf of the Nebraska Housing Developers Association and the Nebraska Economic Developers Association in support of LB724. As you're aware, following the successful passage of LB866, the Municipal Density and Missing Middle Housing Act, cities with a population of 20,000 or more are working to develop affordable housing action plans. LB724 will assist cities with the Local Option Municipal Economic Development Act, LB840 funds, to be able to more easily use these funds to help plan for and fund affordable housing. Amendments to the Local Option Municipal Economic Development Act in 2016 with LB1059 authorized uses of these funds for the construction or rehabilitation of housing as part of a workforce housing plan. LB724 will move-- more fully define those uses to include affordable housing action plans. LB840 funds, as you know, are a valuable local economic development tool, which allows communities to exercise local control over how to spend their tax-- tax dollars in ways that are best suited to meet their own specific economic development needs. Housing in general and specifically affordable housing is a real and current need in all of our Nebraska communities, and LB724 will ensure that communities utilizing the LB840 programs will be able to use these funds for planning, implementing, developing, constructing, or rehabilitating affordable housing. I ask that you support and advance LB724, and I thank you for the opportunity and would take any questions from the committee.

HUNT: Thank you, Ms. Bodeen. Any questions from the committee? Seeing none, thanks for taking the time to talk to us today.

CAROL BODEEN: Thank you so much.

HUNT: Any other proponents for LB724? Seeing none, any opponents? Anyone here to testify in the neutral capacity? Seeing none, Senator Hansen, you're invited up to close on LB724.

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M. HANSEN: Thank you, Vice Chair Hunt, and members of the committee. And I thank the testifiers who came in. So this bill very specifically, you know, is to clarify a little bit of the existing LB840 status, as well as give a small expansion to the amount of housing they can already do with those funds. There's some start in some authorizations for workforce and low income, and this is just going to clarify a broader category of affordable housing. I wish Senator Wayne was here, Senator Lowe, to your point, the lack of coordination state housing programs has been an issue that several of us, including Senator Wayne, have already identified. He's introduced a bill to create a housing department just today that I know, myself and some other senators have co-sponsored. So that is a concern that we have so many different programs split across state agencies. Specific to this one, though, this is a solely local program where it's, you know, local cities using their own local resources to administer the program. So this, in any instances, would still be [INAUDIBLE] municipality. And with that, I'm happy to answer any questions.

HUNT: Thank you so much, Senator Hansen. Any questions from the committee? Seeing none, we have no letters for the record--

M. HANSEN: Thank you

HUNT: --on this bill, so I'll close the hearing on LB724 and we'll move on to LB799. This is a committee bill, and so we'll have our committee counsel, Trevor Fitzgerald, introduce it.

TREVOR FITZGERALD: Good afternoon, Vice Chairwoman Hunt, and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB799 on behalf of the committee. In 2020, the Legislature passed LB866, which, among other things, adopted the Municipal Density and Missing Middle Housing Act. Among-- among the requirements in the act are before July 1, 2021, and every two years thereafter, each city of the metropolitan class, city of the primary class, and city of the first class with a population of over 20,000, must submit a report to the Urban Affairs Committee regarding its current efforts to address the availability of and incentives for affordable housing. During the 2021 interim, the Urban Affairs Committee received the first set of required reports under the act, which were presented at a pair of interim study hearings on LR69, an interim study to receive reports and public input under the act. LB799 is designed to clarify and update the reporting provisions under the act based off feedback provided by various municipalities during and after the hearings on

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LR69. Current language in the act uses the phrase "in the city" to describe information to be included in reports to the committee. In compiling and submitting their reports this summer, several cities expressed confusion over whether "in the city" meant simply the corporate limits of the city or whether "in the city" should also include the extra territorial zoning jurisdiction, or ETJ of the city. LB799 would clarify that "in the city" means within the corporate limits. The bill also clarifies how city should report the percentage of the city, which permits the construction or multi-- of multifamily housing or middle housing, by providing that the city should identify whether areas are specifically zoned for residential use or generally allow residential use, as well as whether construction is permitted, quote unquote by right, or requires any additional permitting, such as a conditional use permit. Finally, LB799 changes the definition of affordable housing in the act to update the income limits set forth by the United States Department of Housing and Urban Development under federal law. I believe several individuals are behind me to testify, but I'd be happy to answer any questions the committee may have at this time.

HUNT: Thank you, Mr. Fitzgerald. Any questions from the committee? Seeing none, thank you. I'll invite up the first proponent of LB799. Seeing none, any proponents? Uh-huh. No, that's OK.

LYNN REX: Thank you very much.

HUNT: Welcome back.

LYNN REX: Thank you, Senator Hunt, and members of the committee. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities, and we support this bill as written. We do have some municipalities that have a concern about extending it to the ETJ and including that. I know Omaha would like that and we would support having a metropolitan class city have that authority. We've just heard from other cities that they're concerned about it. But with that, we think this is a good bill and we appreciate the explanation of committee counsel and I'm happy to answer any questions you might have.

HUNT: Thank you, Ms. Rex. Any questions from the committee? Seeing none.

LYNN REX: Thank you very much.

HUNT: Thanks for being here today.

LYNN REX: Thank you.

HUNT: Any other proponents of LB799?

JACK CHELOHA: Good afternoon, Senator, and members of the Urban Affairs Committee. My name is Jack Cheloha. That's spelled J-a-c-k, last name is C-h-e-l-o-h-a. I'm testifying on behalf of the city of Omaha in support of LB799 today. First of all, we support the cleanup within the bill itself. I think-- I think it's a good thing that when I talked to Omaha's planning department that they were aware of the bill and they were aware of some of the questions they had on the original bill passed in 2020. And to me, that makes me feel good because that means they take it seriously and they're working hard and they want to give you, the committee, a good report. And-- and for those reasons, I'm glad that they're engaged and most of our suggestions were taken and made within the reporting requirements. However, I did want to take a look at-- on page 3, line 27, so obviously the bill clarifies now that it would be within the corporate limits. Our planning department asked me to make a request, and it's not necessarily something that, you know, would be a huge difference to us, but we feel it would give a better picture of Omaha as a whole, if you will, relative to affordable housing and, you know, municipal density, etcetera. Omaha, in order to do its development, typically relies upon SIDs which are-- are plotted and planned and approved by the city within our ETJ or three-mile extraterritorial zoning limits. And-- and with that, when we provide, you know, the report on what policies and programs we have in place to make sure we're meeting the need, we want you to, you know, be aware of not only within the corporate city limits, but with an Omaha's structure in how we do housing. We wanted you to also see what we had planned relative to those plots that we approved within our ETJ. And for us, we just thought it would give you a better, broader picture of it. And so for that, we'd make the request, but you know, we'll be happy to comply either way. We just-- we just thought it might be more meaningful to you if you included the ETJ for metropolitan class cities. That's all.

HUNT: OK.

JACK CHELOHA: I'll try to answer any questions for you.

HUNT: Thanks, Mr. Cheloha. Any questions from the committee? Senator Arch.

ARCH: OK, so--

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JACK CHELOHA: Yes, sir.

ARCH: --not familiar with the technical. ETJ is that the same as saying zoning jurisdiction?

JACK CHELOHA: Correct. I mean, we have more authority in the ETJ other than zoning, but that's what we've called it and I think it's a recognized term of art by this committee, extraterritorial zoning jurisdiction, ETJ. And for metro-- metroclass cities, that's three miles outside the city limit.

ARCH: Thank you.

HUNT: Thank you, Senator Arch. Thanks for being here today.

JACK CHELOHA: Thank you.

HUNT: Are there other proponents of LB799? Anyone here in opposition? Anyone neutral? Seeing none, Mr. Fitzgerald, are you interested in closing? While, he gets to the mike, we also have a letter for the record on LB799 from Jina Ragland, who is a proponent representing AARP Nebraska.

TREVOR FITZGERALD: Thank you, Senator Hunt, and I don't usually close on committee technical bills, but the testimony raised an issue that I probably should have raised in my introduction. The city of Omaha did reach out to Senator Wayne's office about the potential addition of the ETJ language to the bill. At Senator Wayne's direction, I reached out to the League of Municipalities to make sure all of the affected cities would be OK with that. Some cities were concerned that they might not have the capabilities to provide data on the ETJ as well, which is why there was not an amendment in your packet to add the ETJ. But if that's something the committee wanted to do, either for all cities or just for cities of the metropolitan class, that's obviously a policy decision for the committee, but just wanted to provide that explanation and answer any other questions that committee members might have.

HUNT: Thanks so much. Any other questions? Seeing none, appreciate that. Next up, we have LB800 and I think that's our final bill today.

TREVOR FITZGERALD: It is. Good afternoon, Vice Chairwoman Hunt, and members of the Urban Affairs Committee. Again, for the record, my name is Trevor Fitzgerald, T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB800 on behalf of the committee. As I think everyone on the committee knows, in 2015, the Urban Affairs Committee began a

multiyear effort to update and modernize statutes governing the various classes of municipalities. Over the past few years, the committee has introduced bills to update statutes governing cities of the first class in Chapter 16, cities of the second class and villages in Chapter 17. Some, but not all, classes of municipalities in Chapter 19, cities of the primary class in Chapter 15, and all classes of municipalities in Chapter 18. In 2021, the committee introduced LR122, an interim study to examine chapt statutes in Chapter 14 governing cities of the metropolitan class. LB800 is the work product of the LR122 interim study and would have been various sections of statute in Chapter 14 to make a variety of cleanup changes. And I will note that yes, this is the last chapter of municipal statutes, so theoretically this would be our last massive cleanup bill. I know you're all heartbroken. Because LB800 amends more than 300 separate sections, I will not review each individual change contained in the bill. A section-by-section summary is contained in your materials, and the changes can largely be grouped into 11 different categories. First, the bill changes and corrects terminology. For example, changing governing body to city council, municipality to city, metropolitan class city to city of the metropolitan class. Second, the bill changes subject verb agreement in a number of places, i.e. singular and plural, and vice versa. Third, the bill clarifies references to cities, corporate limits and extraterritorial zoning jurisdiction, or ETJ. Currently, statutes refer to the ETJ in several different ways. Some use the phrase extraterritorial zoning jurisdiction, some use zoning jurisdiction, and some use a lengthy reference to all property located within a three-mile radius of the city. Similar to how past cleanup bills have handled this issue, LB800 would change all references to the ETJ to use the consistent term extraterritorial zoning jurisdiction. And I will note because of the question Senator Arch asked on the previous bill, sometimes the phrase zoning jurisdiction can refer to both the corporate limits and the ETJ, which is why using the phrase extra territorial zoning jurisdiction is what we've done in these cleanup bills. Fourth, the bill clarifies references to various types of improvement districts. Several sections in Articles III and V of Chapter 14 refer to various types of improvement districts, street improvement district, sidewalk improvement districts, etcetera. LB800 attempts to consolidate the references to the various types of improvement districts so that it's clear which statutes govern which types of district. Fifth, the bill clarifies references to legal newspapers. As the committee has found with previous cleanup bills, the various sections of statute refer to newspapers used for legal notices in different ways. Located in the city, published in the city, of general circulation of the city.

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Additionally, some statutes specify that the notice must be published in a legal newspaper, while others just specify a newspaper. LB800 would use the same phrasing in all cases, published for period X in a legal newspaper in or of general circulation in the city. The bill uses the term legal newspaper since there is an existing statutory definition of legal newspaper. And according to the Nebraska Press Association, every newspaper in the state of Nebraska currently meets that definition. I would note that unlike other class of municipalities, cities of the metropolitan class have a procedure for designating a quote unquote official newspaper, which can be found in Section 205 of the bill. Because of the use of the term official newspaper, there are fewer overall references to legal newspapers, but there was one unusual quirk that needed to be addressed. On page 134, there was-- there's a provision for what the city should do in cases where the official newspaper refuses or neglects to publish a required notice. Current language provides that the city should post that notice at a conspicuous place in City Hall and LB800 would require that the city also post the notice on their website and again, the extremely unlikely event that the official newspaper doesn't publish the required notice. Going back to the list of changes. Sixth, the bill corrects references to various city officials, clearly identifying the city councils, city clerks, city attorney, etcetera. Seventh, the bill corrects gender references typically replacing his with his or her or them, or some kind of non-gendered reference. Eighth, ninth and tenth, the bill corrects internal statutory references, eliminates a number of run-on sentences and harmonizes references to other statutory sections within Chapter 14. And finally, LB800 replaces or eliminates antiquated, obsolete or unnecessary language in a number of places. As returning committee members may recall, passed cleanup bills have similarly eliminated a number of antiquated and archaic terms, including mule, horse and oxen teams, telegraph poles, hitching posts and rails, night soils. My personal favorites, [LAUGHTER] and police matrons. As noted in your materials, LB800 outright repeals several obsolete sections of statute in Chapter 14. These sections are Section 14-114, which provides the authority for the establishment of a municipal coal yard. Section 14-126, which contains antiquated references to a board of public welfare that no longer exists in the city of Omaha. Section 14-223, which contains obsolete references to City Council members having superintendency over city departments, and Section 14-554, which contains duplicative language regarding compensation for the county treasurer for the collection of taxes and assessments within the boundaries of a city of the metropolitan class. I will note the provisions that are currently in 14-554 mirror the provisions in Section 33-114 of state statute, a

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copy of which is included in your materials. After the bill was introduced, several additional cleanup changes were identified in Sections 25 and 155 of the bill. It was also discovered that in Sections 36 and 205, the word "daily" was inadvertently struck from previ-- provisions requiring publication in the-- either the official newspaper or a daily legal newspaper. Committee members should have received a copy of AM1603 this morning, which would make those additional cleanup changes, as well as restore the word "daily" in those two locations in the bill. Prior to the introduction of LB800, the bill was reviewed by various city officials from the city of Omaha, including city legal department and the city clerk's office that provided feedback and suggestions. There are several individuals here to testify behind me, including the city of Omaha and the League of Municipalities, but I would be happy to answer any questions the committee may have at this time.

HUNT: Thank you, Mr. Fitzgerald. Any questions from the committee? Are you going to miss cleaning up Chapter 14?

TREVOR FITZGERALD: Technically, the bill doesn't clean up all of Chapter 14. There-- the provisions related to metropolitan utilities district are at the tail end of Chapter 14. We left that out of this one, but so I suppose if I'm bored--

HUNT: So you have some more to do.

TREVOR FITZGERALD: --we've got something for next year.

HUNT: Thanks, Trevor. Anyone here to testify in support of LB800? Welcome.

JACK CHELOHA: Good afternoon, Vice Chair Hunt, and members of the Urban Affairs Committee. My name is Jack Cheloha. That's J-a-c-k, last name is C-h-e-l-o-h-a. I'm the lobbyist for the city of Omaha, and I want to testify in support of LB800 this afternoon. First of all, thank you very much to the committee and to your staff, and particularly Trevor, for all his hard work on this bill. You know, we have-- we have plenty of warning that Omaha's turn in the barrel was coming because, as he mentioned, they did the other classes of cities the prior year. So we knew-- we knew this bill was coming. I guess I didn't realize it was going to end up being 207 pages worth of bill, but you know, that's-- that's a lot of cleanup. But nevertheless, it's almost rewriting the whole, you know, Chapter 14 and-- and-- and putting it back in the front of you in LB800. So when Trevor reached out to us and he gave us good notice in order to look at the draft and

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to work through it, so as he mentioned, I shared it with our city clerk's office, our city law department, our city planning, our city finance and our public works department because we felt those were the city departments over probably the ones that deal with the state law, mostly within Chapter 14. They weren't quite as enthusiastic in terms of getting back to me on this bill as they were on the, you know, affordable housing and density issues. But nevertheless, they-- they did take a look at it and offer some helpful suggestions because, you know, the goal from the beginning was always to make sure that it truly was just a clean up and we weren't doing any substantive changes, if you will. To me, the things that I can recollect, the most substantive changes that we put within the bill are actually the naming of the city departments. We had, you know, as was mentioned, the welfare board or Health-- Health Department of the city. We no longer operate that. It's a domain of the county. And so it truly is a clean up and we recognize the departments that we have within our home rule charter. So that way it's within the statute and they mirror each other. We know-- we know what's going on there. And-- and like I said, I mean, we didn't want to change anything regarding at least substantively regarding the notices, etcetera. So-- so we're good with the amendments that have been offered to you as well. And-- and once again, you know, it's a lot of work. It took a lot of reading, but we made it this far and so we would support LB800 and the bill before you. Thank you. I'll try to answer any questions.

HUNT: Thank you. Any questions from the committee? Senator Lowe.

LOWE: Thank you.

JACK CHELOHA: Yes, sir.

LOWE: Thank you, Mr. Cheloha. After reviewing this and looking at it, are there-- is there anything that Trevor missed and should he start over? [LAUGHTER]

JACK CHELOHA: I think-- I think we're good at least with metropolitan class cities. I'll be anxious to see, you know, maybe next year when MUD is under the gun, you know, or public utility that operates the water and gas in Omaha and we'll-- we'll see if they can get their stuff figured out and cleaned up. But I mean, it's a thick bill. There's a lot of-- a lot of changes, but I feel fairly confident or almost 99 percent confident that we're not doing anything substantively and we're really cleaning it up, and so thank you, Senator Lowe.

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HUNT: Any other questions for Mr. Cheloha? Seeing none, thank you so much for your testimony today.

JACK CHELOHA: Thank you.

HUNT: Any other proponents for LB800?

CHRISTY ABRAHAM: Good afternoon, members of the Urban Affairs Committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, and I represent the League of Nebraska Municipalities. And we just want to say a big thank-you to this committee and your staff. When Trevor said you started this project in 2015, it reminded me that I still worked in the Bill Drafting Office in 2015, and I believe I started with the cities of the first-class bill. It's probably the worst drafted bill you had in your cleanup series, but that was mine. And ever since then, I've been working at the League and I just want to say as much work as I know this has all been, the League staff is looking at these municipal statutes all the time. We have cities calling us every day asking questions about these statutes, and I just want to tell you, they're so much easier to read. They're better organized, better written, easy to understand. And we're just so grateful for this committee that for the last seven years you've done that. I recommend you do SIDs next, Trevor, but I'm sure I don't get a vote on that. But we just wanted to say how much we appreciate it and fully support LB800. I'm happy to answer any questions.

WAYNE: How do I-- guess I missed that taking back over. Any questions from the committee? SIDs are a sore subject though.

CHRISTY ABRAHAM: Yeah. OK, sorry. I didn't mean-- yeah, you just got here. I'm sorry, Senator Wayne.

WAYNE: Yeah, that was me, Senator Arch. [LAUGHTER] Any questions from the committee? Seeing none, thank you for being here.

CHRISTY ABRAHAM: Thanks so much.

WAYNE: Any proponents?

HUNT: Yeah.

WAYNE: Any other proponents? Any opponents? Anybody in the neutral capacity? Seeing none, Trevor, you already closed.

TREVOR FITZGERALD: Yeah.

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WAYNE: While we're waiting-- uh, no letters. All right, that will close the hearing on LB800 and end today's hearing.