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Urban Affairs Committee
January 26, 2010

[LB848 LB863 LB919]

The Committee on Urban Affairs met at 1:30 p.m., on Tuesday, January 26, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB919, LB848, and LB863. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Tanya Cook; Bob Krist; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None. []

SENATOR MCGILL: We can go ahead and get started. We like to move quickly here in Urban Affairs. Thank you for attending our second hearing of the session. As a reminder, please put your cell phones on vibrate or off while we're in here so that a phone doesn't go off and get caught on our audio recording. As you come in and get ready to testify, if you could fill out one of the sheets with your name on them, they're by the doors. I felt like an airplane stewardess, by the doors. (Laugh) Then we can make sure that we have the proper spelling of your name for the record. As you come up we'll go through proponents, opponents, and neutral testimony. If you haven't been here before, we have a light system up there, but we really don't operate with it. I don't think the testimony today should go on too long. So I think we're okay for the day. And with that, I see both Senator Cornett and Senator Schilz are here. But Senator Schilz requested going first because of some commitments of some of his testifiers. So, with that, we'll open the hearing on LB919. I just realized I forgot to introduce my colleagues real quick. On far right we have Senator Tom White from Omaha; next to him is Senator Bob Krist from Omaha. We're still waiting on Senator Coash. This is Laurie Holman, she is the research analyst for the committee. To my left is Senator Kent Rogert from Tekamah; and our committee clerk is Katie Chatters. With that, Senator Schilz. []

SENATOR SCHILZ: (Exhibit 1) Great. Well, thank you, Senator McGill and members of the Urban Affairs Committee. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z. And I represent the 47th Legislative District. LB919 is an issue that was brought up in my district with the city of Ogallala, regarding first-class city status in the census count. LB919 provides a process so that a city of the first class which holds a county seat can remain a city of the first class even if its population falls below 4,500 as ascertained by the most recent census. Under current law, a city of the first class is a city with a population between 4,500 and 100,000. The statutory authority and responsibility of a city of the first class is somewhat different than that of other classes of municipalities. When the population of a city of the first class falls below 4,500 the city becomes a city of the second class upon certification of the Secretary of State. The city has one year to modify its ordinances or comply with the state law. LB919 would allow first-class cities which hold the county seat to continue to be governed by the first-class city statutes and the powers enumerated to it as a county seat. LB919 is similar to existing statute, Section 17-310, that provides that the mayor and the city council of a city of the second class can decide by ordinance to remain a city of the second class even though its population falls below 800, which is the population line between cities of the second

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class and villages. They are able to do so whether or not they hold additional powers and immunities as a county seat. Under this bill, the mayor and the city council can decide to adopt an ordinance declaring the desire of the city to remain a city governed by the first-class city statutes and certify that to the Secretary of State. And that is what you received is that amendment there. We notice that that wasn't in the bill so we switched that out. Existing statute provides no bottom line limitations in regards to second-class cities. So once the population drops below 800 they can drop all the way down and still remain a second-class city. This bill would still provide a bottom limitation for first-class county seats which must remain above 3,000 inhabitants. If the city drops below 3,000 it must become a second-class city and has one year to modify its ordinances or comply with state statutes. There's more than one form of government available for cities of the first class, including commissioners and city managers. And I've got a few people here to testify to give you more details on the issue. And thank you. And I'll be happy to answer any questions that you have. [LB919]

SENATOR MCGILL: Any questions for Senator Schilz? Seeing none, thank you. [LB919]

SENATOR SCHILZ: Thank you. [LB919]

SENATOR MCGILL: And we've been joined by Senator Coash from Lincoln, here on my right; and Senator Steve Lathrop from Omaha. We'll take the first proponent. Make sure when you come up here to say and spell your name for us. [LB919]

DARRELL BASSETT: (Exhibit 2) My name is Darrell Bassett, D-a-r-r-e-l-l B-a-s-s-e-t-t. I am the mayor of Ogallala. Ogallala is a small city in western Nebraska that relies a great deal on tourism and agriculture. With the largest lake in Nebraska just to the north and the limitations on irrigation, Ogallala has been hurt by the drought in both of these categories. The latest estimates on the population of Ogallala predict that the census will drop to 4,500 or below. With the current laws this will put us into the second-class city designation. Ogallala is a hub and gateway for people going to many destinations, whether it is the Sandhills, Lake McConaughy, the Black Hills, Yellowstone National Park, or locally to the sale barn, one of the largest in Nebraska. We are on the mainline of the Union Pacific Railroad. Interstate 80 passes through our city limits. We are on Highways 26, 30 and 61. To accommodate all of these travelers it is necessary for us to maintain our entire infrastructure, whether it be streets, water or sewer. And our police and fire departments are asked to make more calls and handle more emergency situations than the public services of most cities of our size. As a county seat, the citizens of Keith County expect us to provide many services and conveniences so they don't have to drive 50 miles to get what they need. Losing our first-class city designation would limit our ability to continue to maintain and replace the streets of Ogallala, making it impossible to present a positive impression. Last year, we hired an economic development director in an effort to increase development in Ogallala and halt the dwindling business climate, which leads to a decrease in population. A new endeavor,

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called Grow Ogallala and Keith County, a joint venture of the Keith County Chamber of Commerce, Keith County Area Development, the city of Ogallala and Keith County has been started in an effort to retain graduates of Keith County schools and bring them back to their hometowns. We have made a commitment to not only retain our population but to increase it over a period of years. We know this is something that will happen only with the joint effort of everyone concerned. LB919 would be one of the tools that would help us accomplish our mission and we are asking you to help us as we help ourselves. Thank you for considering our problem. Are there any questions? [LB919]

SENATOR MCGILL: Thank you, Mayor. Senator Rogert. [LB919]

SENATOR ROBERT: Thanks for coming in, Mr. Bassett. What are some of the things you're going to lose out on as a city by dropping down from a city of the first class to second? [LB919]

DARRELL BASSETT: The main thing is the money for our streets. Once you go to a second-class city it's our understanding that as a first-class city we are eligible for a pool of money, depending upon the population of the city. If you go to a second-class city then you go and you have to go to the county for any street development. And we're pretty sure that the money that we'd lose as a first-class city won't be put into that pool for the second-class cities. So then we will be competing with a lot more people for money for the streets and not only in our county but all over the state. [LB919]

SENATOR ROBERT: Okay, thanks. [LB919]

DARRELL BASSETT: You're welcome. [LB919]

SENATOR MCGILL: Senator Krist. [LB919]

SENATOR KRIST: Thank you, Madam Chair. Mayor, welcome and thanks for your testimony. Just rough figures, we won't hold you accountable for them. (Laugh) But what would you say the tourist season means to you with the lake? What is your population grow to on a typical summer day? [LB919]

DARRELL BASSETT: Last year it's my understanding, and we'll have somebody from the chamber that will verify this, but it's my understanding Lake McConaughy brought in like 895,000 people in the summer, which was up 160,000 from the year before. So all those people come through Ogallala or most of them do, and so they're using our services but we also certainly benefit from those people coming in. And we wouldn't want to lose them but we also want to make a good impression on what our town has to offer and what the state of Nebraska has to offer. [LB919]

SENATOR KRIST: So generally though the argument is that the population size should

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not be the only consideration for the class of the city and potentially the fact that you are a tourist draw would help us make that decision. [LB919]

DARRELL BASSETT: Yes, that's our contention because of the lake we draw certainly a lot of tourism there but also because we are so close to Interstate 80. Interstate 80 actually goes through our city limits. And we have a large number of convenience stores, fast food places, truck stops and those kind of things. So we have a lot of people stop in Ogallala but they don't live there so...but we still have to furnish the infrastructure to take care of those people. [LB919]

SENATOR KRIST: Thanks, Mayor. Thanks, Chair. [LB919]

SENATOR MCGILL: Senator Coash. [LB919]

SENATOR COASH: Thank you, Chairwoman. And thanks for being here today, Mayor. If your classification were to go down without this particular bill, as a city...you know, head of the city there, are you going to have to rewrite some ordinances to come into compliance with now having a new classification of cities? [LB919]

DARRELL BASSETT: Yes, we will. The city manager is here and I'm sure that he will address that. But it's my understanding we'll have to rewrite our whole municipal code, which we just did a few years back, but we'll have to go ahead and do that again. [LB919]

SENATOR COASH: Do you have any...and I could ask the city administrator, but do you have any idea what kind of cost that would be to rewrite all that for your...? [LB919]

DARRELL BASSETT: No, I don't, but hopefully he'll have an estimate at least. (Laugh) [LB919]

SENATOR COASH: Okay, all right. We'll let him answer that then. Thank you. [LB919]

DARRELL BASSETT: Okay, sure. [LB919]

SENATOR MCGILL: Have you talked to any other cities who may be in a similar position to yourself? [LB919]

DARRELL BASSETT: Well, we know there are other cities that are right on the bubble, Chadron, Wayne, Schuyler. But the city manager sent e-mails to all of them but he didn't get a response to any of them so... [LB919]

SENATOR MCGILL: Okay, all right. Well, thank you. Any other questions? Thank you, Mayor. [LB919]

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DARRELL BASSETT: Thank you. [LB919]

SENATOR MCGILL: We'll take the next proponent. [LB919]

APRIL THRAEN: (Exhibit 3) Good afternoon. My name is April Thraen, and it's A-p-r-i-l Thraen, T-h-r-a-e-n, and I am the current interim director of the Ogallala/Keith County Chamber of Commerce. And I'm here to show our support of LB919. As you heard before, Ogallala is the proud home of Lake McConaughy, Nebraska's largest lake. The lake boasted over 892,000 visitors in 2009. This is up by 130,000 visitors compared to 2008. Many of these visitors come from the Front Range area in Colorado. In 2008, Lake McConaughy ranked in the top five in the Nebraska Attraction Attendance and 70 percent of the total attendees came from out of state. It's important to have good infrastructure in areas with a high volume of tourists and visitors. And visitors to our area invest thousands of dollars in recreational equipment to spend time at Lake McConaughy. Traveling through Ogallala on their way to the lake they expect well taken cared for roads and streets. Visitors to Ogallala and Lake McConaughy spend money on hotels, restaurants, gas stations and other services and this has a huge impact on the overall economy of Ogallala and the surrounding area. According to the Nebraska Department of Travel and Tourism, each dollar spent by tourists in Nebraska is respent in the state to produce an additional \$1.70 in business and income, creating an overall economic impact of \$2.70. There are many businesses in Ogallala and by Lake McConaughy whose living solely relies on tourism. The Ogallala/Keith County Chamber of Commerce attends two sports shows in Denver and one in Omaha to promote Ogallala and the state of Nebraska as a great place to come and visit. Thousands of brochures and tourism publications are given to people in attendance to allow them to see all we have to do and see in our area. The appearance of our area and our state as a whole is important to those both living here and those who come to visit. It's also important to those who promote tourism destinations because you need areas that are marketable and desirable for people to come and visit. And in closing, on behalf of the Ogallala/Keith County Chamber of Commerce, I would just like to ask for your favorable consideration of supporting of LB919. [LB919]

SENATOR MCGILL: Thank you. Do we have any questions? Thank you very much for traveling up here. [LB919]

APRIL THRAEN: Thank you. [LB919]

SENATOR MCGILL: Next proponent. [LB919]

DOUG TEAFORD: (Exhibit 4) I am Doug Teaford, D-o-u-g T-e-a-f-o-r-d. I am one of the five county commissioners in Keith County. And I appreciate the opportunity to appear before your committee today. I know that it's...Urban Affairs Committee and what we're

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addressing is pretty much rural affairs and it's a pretty vital one. My testimony, which is summarized before you, has a little bit more to do with what would be the impact on the county. And, I guess, the big thing that I'm concerned with, as I point out here, the population decrease in Keith County is turning into a disturbing trend as the numbers would indicate. Where Keith County has from 1990 to 2000, has had a slight increase of 3.4 percent, while the state of Nebraska, based on our census, had an increase of 8.4 percent. From 2000 to 2008, and these are the best estimates that we could get, Ogallala's population is showing a decrease of almost 12 percent. So that is going to push it below the 5,000 threshold for a first-class city. When the Legislature uses population as a criteria for determining the level qualifying for a designation as first class at 5,000 and many communities, including Ogallala, fall well below that threshold, it is important to consider what some of the unintended consequences might be. And I think when this magic number of 5,000 was put in place probably the atmosphere was considerably different in our state than it is today. And, you know, I think some of the population centers in our state are still enjoying a very strong population increase, I would say strong based on what it is in most of the rural area. And one area of real concern for the county is the impact on funding considerations from the state highway department for the city's road budget. The city of Ogallala has roughly 155 miles of streets within its city limits; Keith County has 800 miles of roads to maintain, 70 miles being paved and about 90 miles are minimum maintenance, and the balance is gravel. The county also maintains 35 bridges. And as I understand it, Ogallala as a first-class city is eligible for state highway funding as a separate entity, which Mayor Bassett commented on. And should we lose and become other than a first class, the 155 miles would be added into the 800 miles of Keith County and we would then be competing in that pot. And I think certainly you folks are aware of what the state highway department is looking at today as far as revenue shrinkage. So probably we're going to be looking at fewer dollars coming from the state highway department even if we retain the present first-class city classification. The predictable result will be less state highway funding for Ogallala and Keith County's streets, roads and bridges. And as these funding burdens are shifted, local taxes will have to increase to maintain the city-county infrastructure. Taxpayers will be faced with an increase in their tax bills. And in Keith County the commissioners serve as the Board of Equalization when taxpayers receive their property valuations which determines what their tax levies are...tax levels are. And, you know, we are concerned, as I'm sure most people in the state are, because at these Board of Equalization hearings we sometimes have people say, well, you know, as these taxes continue to go up, you know, living in Wyoming appears to be much more favorable. I mean, I haven't said, well yeah, but you'd have to live in Wyoming. (Laughter) But, I mean, the burden is, you know, continuing to be a real concern. And if this shift is one more unintended consequence it can further erode the ability of our city and county to retain population. So with a dwindling population in most communities and counties outside of the state, several population centers further increases in taxes will place additional downward pressure on those communities falling below 5,000. As these obstacles to population maintenance and/or growth are identified, it behooves us

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to do what we can to modify or remove those obstacles. I encourage the committee to consider favorably the endorsement of LB919 and pursue its passage in this legislative session. Thank you. [LB919]

SENATOR MCGILL: Thank you. Do we have any questions? I don't see any. Thank you very much. [LB919]

DOUG TEAFORD: Thank you. [LB919]

SENATOR MCGILL: Do we have any more proponents? [LB919]

HAROLD STEWART: (Exhibit 5) Good afternoon. My name is Harold Stewart, H-a-r-o-l-d S-t-e-w-a-r-t. I am the city manager for the city of Ogallala. Most of what I was going to talk about today has been covered by the others and I don't want to spend a lot of your time rehashing a lot of that. But I would like to echo again the concerns regarding the state funding for the Department of Roads. As was mentioned by Commissioner Teaford, we do have a great amount of roads within our community that we are struggling to maintain, as are many rural communities. And although the population dwindles, the infrastructure does not disappear as those people leave our community and we are left with the burden of trying to continue to maintain that. Mayor Bassett also talked about our recent efforts in economic development. And that is a difficult issue to take on. And one of the main key pieces to economic development is having good infrastructure in place. And when people come to your community some of the first things they look at are what is the quality of your roads; what are the quality of your homes; what is the quality of your schools and your hospitals, those things that we take for granted on a daily basis. And those are some of the struggles that Ogallala is having in trying to keep up with that. Add on top of that the added budget pressures that we're all experiencing, both at the state and local level. We are constantly struggling to keep our taxes down for our citizens, but at the same time provide the services that they want. And any decrease in any of those revenues or any opportunity to lose any of those revenues often becomes a great deal of concern. And that's the issue that we face with the roads funding and how we understand it to work. At the same time, we also understand that we're a regional partner with our county and those kinds of things, and we don't want to continue to add pressure and competition to the funds that they compete for from the state level when it comes to maintaining their own (inaudible) structure. There was a question earlier regarding the municipal code. We would be functioning under Chapter 17 at that point, instead of Chapter 16. And as the mayor alluded to earlier, recently Ogallala did go through a revision of their municipal code. My understanding was that there was many meetings with the city attorney, to about \$100 an hour, there was weekly meetings with that, took about a year and a half to get that done. That does not include the cost that would be associated with staff time and re-evaluating our services and how we're providing those according to state statute and making those necessary changes as well. So it would be a significant impact for us and

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a significant process for us to go through and redevelop our municipal code to be in compliance with the state statutes. Another impact would be currently as a city of the first class we have jurisdiction over permitting processes and those kind of things within a two mile jurisdiction of our city limits. If we become a city of the second class that reduces down to one mile. And the county does rely on us to fulfill our obligation within that two mile radius. And I'm not completely sure that they'd be willing and ready to take on that additional mile of jurisdiction in that limit. And finally, although it's a minimal possible impact that we may have an opportunity to go around it, it does affect our public safety in the fact that as a city of the second class the requirements for civil service change. And my understanding of the statute is that if we were to become a city of the second class the civil service would remain in place for an additional four years. And at that time the council would be able to make a decision on whether or not we continue to provide that service to our public safety employees. Going along with that, you know, we've talked about infrastructure and we've kind of hounded on the roads part of it. But at the same time, as our chamber has presented and our mayor, with Lake McConaughy nearby us and Interstate 80, we are expected to offer a pretty high level of service out there when it comes to public safety. Our police officers help the county sheriff respond to incidences out at the lake, our fire department responds, they're trained in dive techniques and those kind of things with water rescue and all those kinds of things. And the equipment that's necessary to maintain to have those in place, those are all things that we're expected to have on hand to protect the public safety of not only those of our community but those that come and visit us. And as was mentioned before, we have about 890,000 people that come through our community to Lake McConaughy that we're responsible for helping keep safe. And so although our population is dwindling and we're at that brink of a first-class city becoming a second-class city, in many ways we're still expected to offer the services of a first-class city. And so I would hope that you would look favorably on LB919 and give us an opportunity to have some more time as we proceed forward with economic development to stop that population loss and reverse it around and begin growing again. So I'd be happy to answer any questions if you have any. [LB919]

SENATOR MCGILL: Any questions? Senator White. [LB919]

SENATOR WHITE: With regard to the money for the roads, there's only a limited pool of money. And essentially what I understand Ogallala to be asking for is to participate in a pool with more money even though it doesn't currently reach the criteria for that. [LB919]

HAROLD STEWART: Right. [LB919]

SENATOR WHITE: Who's the loser in that? Other first-class cities because Ogallala gets to swim in that pond? [LB919]

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HAROLD STEWART: I would imagine it would be other second-class cities because we currently do not compete with them. [LB919]

SENATOR WHITE: Or first class...you're first class. [LB919]

HAROLD STEWART: I'm sorry. Well, we're a city of the first class so my understanding of the formula is we've already been getting less and less money each year because our population is decreasing. That funding is still based off of your population. So we've been getting less and less of that each year. But the difference would be is that we would be actually competing against...in a different pool. So number one, we would have to get the county to prioritize our road projects, which currently we don't have to do. So now instead of competing against maybe other first-class cities, we're going to be competing with our own county versus communities such as Paxton or Brule for the county to prioritize our projects over and above theirs when they're submitting for road funding from the state. [LB919]

SENATOR WHITE: So the biggest issue is your ability to go to the Department of Roads by yourself to compete for money. [LB919]

HAROLD STEWART: Correct. [LB919]

SENATOR WHITE: Okay. And it's an indeterminate amount of money that you get or don't get based on how they do that. [LB919]

HAROLD STEWART: Right. [LB919]

SENATOR WHITE: And they don't do that by population, do they? Do they do it by volume, traffic volume? [LB919]

HAROLD STEWART: My understanding was that it was based off of population. [LB919]

SENATOR WHITE: Oh, it is? They don't take into consideration... [LB919]

HAROLD STEWART: So it does get smaller each year. There is a component to that formula that is based on population. That was my understanding. [LB919]

SENATOR WHITE: And would that component still be taken into account by the Department of Roads? [LB919]

HAROLD STEWART: My understanding is yes it would be. [LB919]

SENATOR WHITE: Okay, thank you. [LB919]

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HAROLD STEWART: Um-hum. [LB919]

SENATOR MCGILL: Senator Krist. [LB919]

SENATOR KRIST: I'm going to go back to the tourism question. Is there any component in the department of transportation...Department of Roads, sorry, into the Transportation Committee or the Department of Roads to take into account 285,000 people extra through the area? Do you know? Does anyone know? [LB919]

HAROLD STEWART: I'm not familiar of anything in the formula that takes into account seasonal influxes of population. [LB919]

SENATOR KRIST: Okay, thank you. [LB919]

SENATOR MCGILL: Any other questions? If not, thank you, Mr. Stewart. [LB919]

HAROLD STEWART: Thank you. [LB919]

SENATOR MCGILL: Any other proponents? Anyone opposed? Anyone here neutral? Oh, Senator Schilz, would you like to close? [LB919]

SENATOR SCHILZ: Thank you, Senator McGill and members of the Urban Affairs Committee. I appreciate the opportunity to come here and introduce LB919 for you. One of the questions, I just want to answer a couple of questions that were coming down. Somebody was asking, and I can't remember if it was Senator Coash, about how much it would cost to change the municipal code. And for some reason, I had it in my notes somewhere and I can't tell you exactly where it came from but around \$15,000 to \$20,000 is what it looks like it would cost the community to do that. So that's that question. As I first started with this bill, started talking about it and talking to folks and after I had it written up I started going around to other folks, other senators that represent first class cities. And at first they were like, well, why would we want to do this? Why would another first-class city step aboard this? And so I started asking, well, Senator Wightman was one of them, I said, well, what if Lexington would lose the Tyson plant? We haven't heard of any packing plants being closed lately, have we? What if the city of Sidney would lose Cabela's in the situation that we're talking about. All of a sudden you could have communities that...with just one employer leaving that could throw any of these communities in. So I was very pleased that, you know, senators that represent the communities of Lexington, Holdrege, McCook, even Grand Island stepped aboard to said, hey, this is important and we think that other factors besides population should be included. We believe that it's far too simple to just have a population threshold for cities of the first class. We commented on a village such as Arthur that's a county seat, that's able to maintain a city of the second class, I think there's...I mean

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there's 444 people that live in the whole county. So I mean there is precedent in other size communities to be able to do some of this stuff. The next question is, okay, here we are, now what's being done so that in 4 years, 10 years, 12 years we're not coming back and saying, oh gee, you know what, we were wrong again. And Harold Stewart commented on some of these, obviously, we really found out about the population decline as we've been going on, since the year 2000, okay? And so what we've done in ten years is some steps to try to solve this. A group called Keith County Area Development was founded. And basically, what it is, it's a nonprofit 501(c)(3) corporation that is in charge and tries to help facilitate economic development in the county. And we worked to get our foundation in place and get Ogallala ready for economic development. A few years ago, Ogallala was named a certified economic development community because of a lot of this stuff we have done. Along with that, Ogallala created a business park. We now have a fully functional business park that has infrastructure, everything ready to go so that if somebody wants to come along they can place a business there. We found creative ways to help fund this. We were able to work through some of the volunteers and members of the Keith County Area Development to work to have keno funds that the city receives signed over to the Keith County Area Development on land that they own within the community to help develop that infrastructure and community betterment. And then like was spoken here before, the community of Ogallala hired an economic development director to help coordinate all these things that we've done and start to move forward. And if you look at any large endeavor where you're trying to stem a tide or turn something around it can take a little time, it can take longer than a couple, three, four, or five years. And so I think that Ogallala is addressing the problem. They're not just sitting back and saying, you know, we're just going to try and let the Legislature take care of this. They want to turn this tide, just like all of rural Nebraska does. So Ogallala, hopefully, has positioned itself for success. It now has the tools to give it the ability to compete for these economic development opportunities and turn this tide. If properly employed, these steps as taken, if given enough time, should start to garner results. This effort, obviously, was possible because everybody in the community came together to solve a problem. Ogallala should be commended for the creative efforts and hard work and the state of Nebraska, I believe, has an obligation that where conditions are changing in certain areas that we step up and we do the right thing. So with that, I would once again ask if there are any questions and respectfully ask that you move LB919 to the floor. Thank you. [LB919]

SENATOR MCGILL: Thank you, Senator Schilz. Senator White. [LB919]

SENATOR WHITE: Senator, I was impressed. I didn't know whether first-class cities objected. Have you heard any objections from any cities of either class, first or second? [LB919]

SENATOR SCHILZ: I have not, I have not. [LB919]

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SENATOR WHITE: And you're right, I mean, the numbers, the population decline in the western two-thirds of the state are actually more dire than your witnesses have indicated. [LB919]

SENATOR SCHILZ: Sure. [LB919]

SENATOR WHITE: I mean, Blaine lost 26 percent of its population in the last eight years. I think Arthur is actually at 354 people in Arthur. [LB919]

SENATOR SCHILZ: Yeah. [LB919]

SENATOR WHITE: So managing that decline is going to be important. Thank you. [LB919]

SENATOR SCHILZ: You're welcome. Thank you. [LB919]

SENATOR MCGILL: Thank you. And that closes the hearing on LB919. Senator Cornett, thank you for being patient. We'll open the hearing on LB848. [LB919]

SENATOR CORNETT: Good afternoon, Senator McGill and members of the Urban Affairs Committee. My name is Abbie Cornett and I represent the 45th Legislative District. I'm here today to introduce LB848 which deals with the provisions relating to the Board of Equalization. LB848 changes state statute 16-707 requiring when the Board of Equalization in a city of the first class meets to be consistent with those of a metropolitan and second-class cities. The current language requires cities of the first class to meet on the first Monday in the month whereas metropolitan and second-class cities are not statutorily required to meet on any specific day. The change in 16-707 allows the Board of Equalization to only meet when deemed necessary due to business requiring public discussion. Following my opening, Kay Dammast, with the city of Bellevue, will testify and will provide you with some specific examples of why this change is needed. Thank you for your consideration on LB848 and I'll be happy to answer any questions. [LB848]

SENATOR MCGILL: Thank you, Senator Cornett. Any questions? No. Thank you. Proponents. [LB848]

KAY DAMMAST: Good afternoon, senators. My name is Kay K-a-y, Dammast D-a-m-m-a-s-t, and I'm the city clerk for the city of Bellevue. With the change of only a few words, LB848 will make calling a meeting of the Board of Equalization in first-class cities much more practical. The current language provides that the mayor and council shall meet as the Board of Equalization on the first Monday of June of each year and at such other times as they shall determine to be necessary. Bellevue City Council

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meetings are held on the second and fourth Monday's of every month. In order to meet the statutory requirement for the Board of Equalization, we must schedule a special meeting on the first Monday of June. Oftentimes it's difficult to get a quorum of council members on a day other than regularly scheduled meetings. The bulk of items that are considered by the Board of Equalization meetings in Bellevue are to consider the levying of liens for nonpayment of bills for cutting weeds, grass and worthless vegetation, for cleanup of properties, and occasionally for demolition of properties or buildings that have been determined unsafe. Obviously most of those actions occur in the spring, summer or early fall. The bills for cutting of weeds, grass and worthless vegetation, cleanup of properties, etcetera, must be unpaid for at least 60 days, that's statutory, before we can consider filing a lien on the property for that work. Obviously, that doesn't leave a whole lot of time before the first Monday in June to have outstanding bills. So the bulk of our work comes later in the summer, early fall by the time all those properties have been cleaned up in the spring and summer and late fall or early fall and the bills have been unpaid for at least 60 days. It's almost hard to call a special meeting of very busy city council members already for the first Monday in June to perhaps consider two unpaid bills. And that is what happened last year in Bellevue, we only had two at that time. LB848 proposes deleting the language that requires that they meet on the first Monday in June of each year. The language remains that the board shall meet at such times as they shall determine to be necessary. In the case of Bellevue, we schedule these meetings prior to a regularly scheduled city council meeting so that an evening that is already tied up for the city council members just extends perhaps by 15 minutes or 30 minutes to consider those liens. This is the same...we're not asking for anything unusual here. This is the same language that metropolitan cities and cities of the second class already operate under. We'd just like to have that same privilege. And I would urge you to favorably consider the passage of LB848. Do you have any questions? [LB848]

SENATOR MCGILL: Thank you. Any questions? I don't see any. Thank you, Kay. [LB848]

KAY DAMMAST: Thank you. [LB848]

SENATOR MCGILL: Next proponent. [LB848]

GARY KRUMLAND: Senator McGill, members of the committee, my name is Gary Krumland, it's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB848. As Senator Cornett and Kay mentioned, this bill doesn't change any duties for a city council in a city of the first class, it just simply gives them a little more flexibility in setting the schedule. Right now, they're required to meet on the first Monday in June. That may not be the appropriate time, so it just simply removes the date. They still will meet as a board of adjustment when the necessary business calls for it. But they can set their own time when to meet. So it just gives them

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the flexibility. And as mentioned before, metropolitan-class cities, which are the city of Omaha, have similar duties; there's no date set in there. Cities of the second class, which are those between 800 and 5,000, also have similar requirements but there's no date there. Primary class cities does have a...that's the city of Lincoln, does have something in the statutes on when they meet, but they have flexibility to meet somewhere between 3 to 30 days after June 1. So they even have a little more flexibility than a city of the first class. So we would ask that the committee consider this bill and pass it on just to help the cities out when they schedule these meetings. [LB848]

SENATOR MCGILL: Thank you, Gary. Any questions? Thank you. Any other proponents? Any opponents? Anyone here neutral? Senator Cornett, would you like to close? Okay, Senator Cornett waives closing. That closes the hearing on LB848 and we will open the hearing on LB863, Senator Cornett. [LB848]

SENATOR CORNETT: (Exhibit 6) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. Again, my name is Senator Abbie Cornett and I represent the 45th Legislative District. LB863 changes the restrictions on sanitary improvement district, otherwise known as SIDs, to enter into or extend contracts once they have been notified that the city is proposing to annex the SID. After such notification, the SID will need to seek the approval of the city council before entering into any contracts. The reason for the change is to reduce the debt of the SID prior to annexation. There have been cases where an SID has learned that it may possibly be annexed and has then entered into agreements which added debt and the city had to pay more debt than expected or decided not to move forward with the annexation. We do have an amendment to offer to this addressing some concerns that were brought to our attention, particularly for just basic maintenance. The amendment is inserts for goods or services in the amount of \$5,000 or more. If the page would like to give that to the committee clerk. With that, I'll be happy to answer any questions. Otherwise, there will be a representative from the city of Bellevue to follow my testimony to answer any questions. [LB863]

SENATOR COASH: Any questions for Senator Cornett? Seeing none... [LB863]

SENATOR CORNETT: And I waive closing, I have something in another committee. [LB863]

SENATOR COASH: Thank you. [LB863]

SENATOR CORNETT: Thank you. [LB863]

SENATOR COASH: We'll take the first proponent. [LB863]

CHRIS SHEWCHUK: Good afternoon, members of the Urban Affairs Committee. My

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name is Chris Shewchuk, C-h-r-i-s S-h-e-w-c-h-u-k. I'm the planning director for the city of Bellevue. First of all, I would like to thank Senator Cornett for introducing this bill on behalf of the city. As Senator Cornett mentioned, LB863 places restrictions on the sanitary and improvement district once it has been notified by a city that it is proposing to annex the SID or any part of it. This restriction would prohibit the SID from entering into, amending, or extending any contract without the approval of the city council. One of the reasons for this is to prevent the SID from incurring additional debt that would become the responsibility of the city upon annexation without the city having knowledge of the obligation prior to annexation. Another reason for this bill is to avoid duplication of services in annexed areas. For example, the city of Bellevue contracts for residential trash collection in the city. When the city recently proposed annexing a particular SID, the SID board entered into a contract to provide trash collection for its residents for a period beyond the effective date of the annexation. Because the city assumes the obligations of the SID, the city would have been obligated to honor the contract and pay for duplicate trash service. The same situation could occur when SIDs enter into contracts for such things as park maintenance and snow removal. In addition to the obligations and liabilities the city assumes when it annexes an SID, the city also assumes the SID's assets, which are generally in the form of cash or investments. When we review an SID for possible annexation these assets are an important factor that is considered in terms of the overall annexation proposal. The assets can be used to help pay off the SID's bonded indebtedness or other obligations. And if they cannot be relied upon to be available to the city upon annexation then the city may have to reconsider the annexation. In conclusion, the city of Bellevue believes this bill will help prevent delays in the annexation of sanitary and improvement districts. SIDs are designed to be a financing tool to facilitate development and are not intended to be independent developments that remain indefinitely on the edge of the city. Thank you for your consideration of this bill. And I'll be happy to answer any questions you may have. [LB863]

SENATOR COASH: Thank you, Mr. Shewchuk. Any questions for Chris? Senator Lathrop. [LB863]

SENATOR LATHROP: Doesn't this logic extend to other than after the city has given notice? I'm just wondering, I'm kind of looking at this and thinking if you were...you start to get your debt paid down in an SID and you go and do something like put a sprinkler system in before you get notice, there's a lot of things, it seems to me, like this might be an opportunity to put something in there that says after you've been in existence for 15 years, for example, you can't make an expenditure of over X without letting the city know. [LB863]

CHRIS SHEWCHUK: Certainly that's the case. [LB863]

SENATOR LATHROP: I haven't thought all that through, just maybe you can tell me if

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that's good policy or not. [LB863]

CHRIS SHEWCHUK: I would think it would be. There are cases where SIDs continually do either maintenance or...which a lot of it is required maintenance of the roads and other infrastructure. But there are SIDs that are out there, been out there for a long time who, for one reason or another, continue to have high amounts of debt. And limiting them or having them seek approval prior to entering into contracts and extending debt or new bonded indebtedness would probably be a good policy. [LB863]

SENATOR LATHROP: Do you think that's done deliberately? Maybe that's ultimately the question. Are there SIDs that deliberately keep their debt up so high that they never become attractive by putting amenities in the SID that maybe are over and above? [LB863]

CHRIS SHEWCHUK: I don't know if that happens through the years with the SID. But I do believe that in one particular case where the city council had passed an ordinance or was very close to passing an ordinance to annex an SID, we had...that SID...they went out and put in new street signs, kind of a fancier, ornate street signs and some street lights and did some erosion control in their park area. I think they were trying at least to spend their money, maybe not build onto their debt, but at least spend the money that they had. [LB863]

SENATOR LATHROP: It seems like the city of Omaha went through that with Elkhorn, didn't they? Wasn't there some... [LB863]

CHRIS SHEWCHUK: I don't know. The only thing I can recall is there were some agreements as far as employees. But I don't know how that was... [LB863]

SENATOR LATHROP: That's exactly right, they started to set up golden parachutes for people in Elkhorn, as I recall. So it may have some applications beyond SIDs too. [LB863]

SENATOR COASH: Senator Krist. [LB863]

SENATOR WHITE: I understand your concerns. And I've watched that abuse happen on SIDs. But wouldn't this bill also be susceptible to abuse on the other side? For example, a city that wanted to break down an SID's resistance to annexation, should they decide to enter into litigation or contemplate it, could refuse it the ability to get the money to buy a snowplow that might be necessary or salt or other kinds of things that are required to maintain a civilized infrastructure. A city could say, nope, you can't spend any money on anything until we're done messing with you on whether or not you're going to annex it. I mean, do you see the susceptibility of this being used as a bludgeon and not a shield? [LB863]

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CHRIS SHEWCHUK: I understand what you're saying, but I think that it's not in the city's best interest to do things that would prevent the SID from maintaining its infrastructure. [LB863]

SENATOR WHITE: Now do street signs or, I mean, if they want nice street signs at what point, you get control of their budget. But you don't have yet made the decision, you've not yet made the decision to take them into the city. I mean, you kind of...you know, at that point do they really...I mean, there's constitutional issues. Are they really being represented then? They can't vote for the city admin of any city. They can't vote yet in that election and yet you have complete control of the budget, at least a veto power on it. [LB863]

CHRIS SHEWCHUK: I don't think...it's for major items, it's not their normal operating budget. [LB863]

SENATOR WHITE: But the votes, the right to vote and influence your own political unit don't depend on whether it's major or minor. I mean, you have a right to control your own city. I don't have a right to vote in Bellevue. Bellevue don't have the right to vote in Omaha. Should Omaha have the right, hey, we're going to try to annex across county lines, because they won't, but they're going to try to do it, now have the right to veto Bellevue's budget, any major, quote, whatever major is. [LB863]

CHRIS SHEWCHUK: No, but if you extend that argument further, there's already things like that in place where the city controls zoning in a subdivision in areas outside of the city limits. [LB863]

SENATOR WHITE: Yeah. And then... [LB863]

CHRIS SHEWCHUK: And those people do not... [LB863]

SENATOR WHITE: ...that's intrinsic issue on...but orderly growth of a city would be set as a priority. The question though now is do you add that to their ability to how often is their garbage picked up, how often is the road cleaned, how often...how much can they spend? You know, I mean, you could argue right now with this snow every time you send a grader out it's an extraordinary expense because it is this year, way above normal budget. [LB863]

CHRIS SHEWCHUK: I understand that. [LB863]

SENATOR WHITE: Well, and I'm not saying, no, I'm looking for a solution. I mean, if we're going to fix it, I'd rather not have them abusing the power to take on debt to frustrate what you've properly described. They are only there until they are fit to be put

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into a city. On the other hand,... [LB863]

CHRIS SHEWCHUK: And you are correct, the SIDs are there and they're only supposed to be there until they are ready to be annexed. And in some cases they are doing things to prevent being annexed. [LB863]

SENATOR WHITE: No question, I appreciate that. Thank you. [LB863]

SENATOR COASH: Senator Krist. [LB863]

SENATOR KRIST: Thank you. Along those same lines, would it not be more prudent for us to identify an SID that has paid down its debt to a percentage or it then becomes an eligible candidate for annexation so that there's joint governance in terms of being annexed and going forward? I'm in total agreement with Senator White in the fact that both sides of the house have made this difficult. The SID doesn't want to be annexed so they run up the debt and that's the issue that we're here to solve. Cities have annexed only at their convenience and only after something is not a liability. So I, for example, in the Omaha area would say that we shouldn't allow Omaha to annex at will and bypass areas of the city as they continue to move in any direction. So I'm looking for the opportunity to help on both sides. I just don't know. The amendment says \$5,000. If \$5,000 in an SID that I'm familiar with, is one buy of the product that we need for wintertime, the treatment on the streets and the salt and that stuff. So I can't even prepare for winter based upon that without permission from the city to go forward. And I'm not saying the city would be unreasonable. And I'm certainly not picking on Bellevue. [LB863]

CHRIS SHEWCHUK: Right. [LB863]

SENATOR KRIST: But I believe that some place in this meeting this move from being a SID to being a part of a municipality, part of a city, there might be...talk to me about that, about the idea itself, I guess. [LB863]

CHRIS SHEWCHUK: I'm not sure how to respond. I understand your concern of SIDs having a \$5,000 limit on their expenditure for city council. I hope that if those expenditures are coming to the city council that the city council is reasonable and again are not doing things that are going to hurt the SID in such a way that would prevent them from having their snow plowed, would prevent them from improving their infrastructure. Because if the street is full of potholes the city ends up with that street upon annexation and then we have to pay for it, pay for the repairs. [LB863]

SENATOR KRIST: Sure. [LB863]

CHRIS SHEWCHUK: Having it at some debt ratio, there are a lot of factors that go into

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the annexation, it's just not only the debt, it's the ability of the city to provide services--police, fire, rescue services. If there's a park there that the city has to maintain park land as well. So there are a lot of factors there other than just the debt. I don't know how the concept of a ratio would work. I'm not saying it wouldn't, but I'm not sure how it would or what number you put it, you know, 4 percent at the value ratio, 5 percent, 3 percent. So it's hard to... [LB863]

SENATOR KRIST: Is this the silver bullet? Is this the answer, this legislation? Would it solve all the problems? Will it keep SIDs from Mickey Mousing on the cities and vice versa, in your opinion? [LB863]

CHRIS SHEWCHUK: It will once we notify them that we are considering annexation. And that would be two weeks...we'd give them two weeks notice prior to the planning commission hearing. It doesn't prevent, you know, through the years them running up excessive amounts of debt. Hopefully, their bond council and they have good sense as a board member and trustees of the SID, not to get into a position where they have excessive debt. [LB863]

SENATOR KRIST: Okay, thank you. [LB863]

SENATOR COASH: Senator White. [LB863]

SENATOR WHITE: If you put a time limit on this so the city could only put a hold on expenditures for 30 days, I mean, I don't know what's a reasonable amount of time for a city to decide on annexation or not. My problem is I don't want to pass this bill and have any city, we'll take Omaha since that's my city, putting everybody in the county on notice. And then, you know, we'll get around. And then three years later they're still on notice and they're still running their bills by us. Can you live with a more shortened time period that would improve it so that it's good for X months, or a month, or two months, or three months. And then if the city doesn't act within that time it's off and they can't put it on again. [LB863]

CHRIS SHEWCHUK: I would think that's reasonable. I do...when we did an annexation a couple of years ago it was on the table for a long period of time before the city actually acted on it. With the time period I would suggest at least a three month time period, that gives... [LB863]

SENATOR WHITE: We can work out the numbers. The time can change and we can talk as it sits in committee. But I'm just looking for a way to find that golden mean, as is Senator Krist, where the city can protect its interest but not abuse the SID. [LB863]

CHRIS SHEWCHUK: I think that's something that can work. [LB863]

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SENATOR MCGILL: All right. Do we have any other questions? Thank you. [LB863]

CHRIS SHEWCHUK: Thank you, senators. [LB863]

SENATOR MCGILL: Um-hum. Do we have any other proponents? Anyone here in opposition? Anyone here neutral? [LB863]

KATIE ZULKOSKI: Good afternoon, Senator McGill, members of the Urban Affairs Committee. My name is Katie Zulkoski, Z-u-l-k-o-s-k-i, and I'm testifying today on behalf of the Eastern Nebraska Development Council. We do appreciate...we do have a concern with the language of the bill as it is written now that this would prevent, as you were discussing earlier, this would prevent maintenance and smaller contracts from being approved. You would have to have the approval by the city council, which could delay things, such as snow or trash removal. We do appreciate Senator Cornett who has addressed our concerns and is looking at amending the language and working with you on amending the language to allow maintenance contracts and those to go forward without approval. I'd be happy to answer any questions. [LB863]

SENATOR MCGILL: Questions? Senator Lathrop. [LB863]

SENATOR LATHROP: I do have a thought. It seems to me that if an SID had a legal reason for not being annexed, that by putting a limit like this it would effectively stop the SID from having the resources to wage a fight, wouldn't it? And it would stop you from...you wouldn't be able to hire a lawyer to represent the SID to make whatever argument they want to make against annexation or litigation. [LB863]

KATIE ZULKOSKI: Well, if there's a \$5,000 limit, it wouldn't be a very good attorney. (Laughter) [LB863]

SENATOR LATHROP: Yeah. [LB863]

SENATOR WHITE: Yeah, we might be able to carve an exception to that. [LB863]

SENATOR MCGILL: Senator White. [LB863]

SENATOR WHITE: Would your organization think that a limited time that a city could put a hold on such expenditures improve the bill? [LB863]

KATIE ZULKOSKI: I think that would definitely tighten up the language of the bill. [LB863]

SENATOR WHITE: And then if we put an exception for funding for fighting the effort to annex, reasonable attorneys fees subject to review by the courts or something like that,

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that might address Senator Lathrop's concern? [LB863]

KATIE ZULKOSKI: I think that would definitely go a long way in addressing the concern of both sides being able to use this language fairly. [LB863]

SENATOR MCGILL: Senator Krist. [LB863]

SENATOR KRIST: Thank you, Senator. I want to go back to kind of the question that we fit into from my side. Is there a point at which you think or your organization feels that it's time to sit down and negotiate SID leadership management, city leadership management? Is there a ratio of debt that now we both start working at annexation rather than a time and space when the city decides? And the reason again I ask the question is I know that there are parts of a city...there might be SIDs that would like to entertain talking to a city and reaching that agreement. And our debt ratio is now down to a point where it would be convenient for the city to annex and we could start talking about that. Comment on...is that a better approach than the city deciding or what do you think? [LB863]

KATIE ZULKOSKI: My understanding would be that SID annexation is a very case specific situation. And to try to put an exact language when that should start happening may be difficult. But we would be happy to look at language that could address that. Off the top of my head, I wouldn't know a magic solution to that. [LB863]

SENATOR KRIST: Okay, thanks, Katie. [LB863]

SENATOR MCGILL: Any other questions? Thank you, Katie. [LB863]

KATIE ZULKOSKI: Thank you. [LB863]

SENATOR MCGILL: Any other neutral? I take it Senator Cornett waived while I was out of the room? Then that ends our hearings for the day. Thank you, everyone. [LB863]