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Urban Affairs Committee  
January 26, 2016

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[LB705 LB864 LB875 LB948]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 26, 2016, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB705, LB864, LB875, and LB948. Senators present: Sue Crawford, Chairperson; John McCollister, Vice Chairperson; Matt Hansen; Sara Howard; and Dan Hughes. Senators absent: Colby Coash, and Laura Ebke

SENATOR CRAWFORD: Good afternoon and welcome to the Urban Affairs Committee. My name is Senator Sue Crawford, and I represent the 45th Legislative District in Bellevue and eastern Sarpy County, and I serve as Chair of the Urban Affairs Committee. We will start off having members of the committee and committee staff do self-introductions, starting on my right with Senator Hughes.

SENATOR HUGHES: Senator Dan Hughes, representing the 44th Legislative District in southwest Nebraska; counties of Chase, Perkins, Dundy, Hayes, Hitchcock, Frontier, Red Willow, Furnas, Harlan, and Gosper.

SENATOR McCOLLISTER: John McCollister, District 20, which is the true geographic center of Omaha.

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

SENATOR HOWARD: Senator Sara Howard, I represent District 9 in Midtown Omaha.

SENATOR HANSEN: State Senator Matt Hansen, representing District 26, which is the true center and heart of the city of Lincoln.

CHRIS TRIEBSCH: And I'm Chris Triebsch, and I'm the committee clerk.

SENATOR CRAWFORD: Also assisting the committee is our committee page, Kellie Wasikowski, from Omaha, who is a political science and sociology major from the University of Nebraska-Lincoln. Thank you, Kellie. This afternoon, we will be hearing four bills, and we will be taking them in the order listed outside the room. On each of the tables in the back of the room, you will find blue testifier sheets. If you are planning on testifying today, please fill one out and hand it to Chris when you come up. This will help us keep an accurate record of the hearing. Please note that if you wish to have your position listed on the committee statement for a particular bill, you must testify during that bill's hearing. If you do not wish to testify, but

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would like to record your position on a bill, please fill out a pink sheet in the back of the room. We would ask if you have handouts that you please bring at least 10 copies and give them to one of the pages. If you need additional copies, the pages can help you to make more. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, and then from those in opposition, followed by those speaking in a neutral capacity. The introducer will then be given the opportunity to make closing statements, if they wish to do so. We ask that you begin your testimony by giving us your first and last name, and please spell them for the record. We typically do not use the light system in Urban Affairs, unless we have a large number of testifiers, but we would ask that you try to keep your testimony under five minutes, and avoid repetitive testimony if possible. I would remind everyone, including senators, to please turn off your cellphones or put them on vibrate. With that, we will begin today's hearing with LB875. Welcome, Senator Murante.

SENATOR MURANTE: Thank you, Senator Crawford and members of the Urban Affairs Committee. For the record, my name is John Murante, M-u-r-a-n-t-e, and I am the state senator for District 49, which includes Gretna and northwest Sarpy County, and I am here today to introduce LB875. LB875 was brought to me by leadership in the city of Gretna, and it would amend the law to change the procedure for approval of a planned unit development in cities of the second class, and villages located in counties with a population between 100,000 and 200,000 people. Under the bill, the county would no longer have final approval of these developments in the cities' or villages' extraterritorial zoning jurisdiction. A planned unit development is a zoning concept, where a development is planned for, and includes mixed uses and densities in a single project. For example, a planned unit development could include retail, office buildings, single-family housing, and multi-family housing in a single project. Under normal zoning, these uses are separated into different zoning districts. Under current law, a county that has adopted a comprehensive development plan and is enforcing subdivision regulations must approve a planned unit development in a city of the second class, or villages' extraterritorial jurisdiction. Under current law, accounting does not approve these developments in cities of the metropolitan, primary, or first class. LB875 removes the requirement that a county has to approve the plan in certain larger counties, but would still require that a city of the second class or village to submit a plan of the planned unit development to the county, for further review. Under the state's current population, Sarpy County is the only county where this change would apply, because the county's population, number of cities, and population growth. The law already treats cities and villages in this county differently than other cities and villages for the purposes of annexation. Development is occurring in all of the municipalities in Sarpy County, but the law treats cities of the second class and villages differently for the purposes of approving a planned unit development. LB875 places the cities of the second class and villages on virtually the same footing as cities of the first class, when it comes to approval of a planned unit development. I believe the committee has an amendment, which clarifies the population thresholds in Sarpy County is rapidly growing, and may exceed the 200,000 population limit at

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some point in the near future. So I hope that you would consider LB875 and its amendments and approve it. And I would be happy to answer any questions that you may have. [LB875]

SENATOR CRAWFORD: Thank you, Senator Murante. Any questions? We have two amendments in our book. [LB875]

SENATOR MURANTE: Right. And one dealt with the clarification as to just the naming of the zoning commission, yes. [LB875]

SENATOR CRAWFORD: Okay. Excellent. And the other is the... [LB875]

SENATOR MURANTE: Population. [LB875]

SENATOR CRAWFORD: ...population number. Excellent. Great. All right, seeing no questions. Are you planning to stay to close? [LB875]

SENATOR MURANTE: I will stick around. I have a hearing in Transportation as well, but I'll stick around to see if anything pops up. [LB875]

SENATOR CRAWFORD: Excellent, thank you. Now...would anyone wish to testify in support of LB875? Welcome. [LB875]

JEFF KOOISTRA: (Exhibit 1) Good afternoon, Chairperson Crawford and members of the Urban Affairs Committee. My name is Jeff Kooistra, K-o-o-i-s-t-r-a, and serve as the city administrator for the city of Gretna. While I'm here today to speak in support of LB875 primarily on behalf of Gretna, I also represent the United Cities of Sarpy County, which includes the cities of Papillion, La Vista, and Springfield, who have also supported this legislation. I also wanted to thank Senator Murante for introducing this bill. The city of Gretna is a city of the second class, but because of the interest in development in our community, we have several project applications annually for housing and commercial developments within our corporate limits and our extraterritorial jurisdiction or ETJ. Many of these projects include planned unit development applications, which allows a developer to design unique attributes to their project. A current statute requires the county must approve these planned unit development requests before the city moves forward with our city's planning commission public hearing and recommendation, and then the city council's public hearing in approval or denial. We believe it is unnecessary that the developer and city needs to take this extra step of the county planning commission approval. Gretna presently uses professional consultants to help us work through any issues. These consultants are the city attorney, city planner, and city engineer. By law, the city conducts two

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public hearings, which gives the public an opportunity for input. We present and will continue to submit PUD application to the county planning department and the county engineer for comment. We do believe it is important that the city submit the PUD for county review, since the development is taking place in our ETJ. We are concerned that the statute requires review and approval by the county's planning commission. This requires an additional month to the process, and unnecessary requirements for developer and the city. Many projects have a tight schedule, and as we all know, construction during the winter months in Nebraska slow projects and extend completion times. Thank you for your time and consideration this afternoon. We respectfully request that you advance LB875 as currently drafted. I would be happy to answer any questions. [LB875]

SENATOR CRAWFORD: Thank you. Questions? Yes, Senator McCollister. [LB875]

SENATOR McCOLLISTER: Thank you, Chairwoman Crawford. Is this proposal, sir, opposed by the county? [LB875]

JEFF KOOISTRA: No. They've actually...the two amendments you have were ones that they sent to me, so to expand the population and also make sure we give to the planning department. [LB875]

SENATOR McCOLLISTER: Thank you. Thank you for your testimony. [LB875]

SENATOR CRAWFORD: Any other questions? Thank you. [LB875]

JEFF KOOISTRA: Thank you. [LB875]

SENATOR CRAWFORD: Other proponents of LB875? Welcome. [LB875]

GARY KRUMLAND: Senator Crawford, members of the committee. My name is Gary Krumland, last name is K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, and appearing in support of LB875. This proposal went through the League's legislative committees, and even though it only applies to a couple cities, it was supported unanimously by the group, because they understand the situation. Counties between 100,000 and 200,000...actually Sarpy County, are unique, simply because of the number of municipalities in the county, and the rapid growth that's going on there. And the other cities recognize that. There are already special annexation procedures for counties in this area, and even in the county industrial area statutes, counties above 100,000 are given some additional benefits that other cities don't. So there are...it's justification for that. I think the reasoning for setting up separate

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procedure is that because of the number of cities, and the rapid growth, all of the cities are dealing with development. And with planned unit developments, cities of the first class, which there are three in the county, receive application for planning development and can process it themselves. For two of the cities, which one city of the second class, one a village, they've got to go through this extra step. And I guess what we're trying to do with LB875 is to give all the cities the same procedure for approval of planned unit development. It still requires notice to the county, so the county has a chance to review, but it does take away the approval process. [LB875]

SENATOR CRAWFORD: Thank you. Questions by committee members? Seeing none, thank you for your testimony. Other proponents of LB875? Is there anyone wishing to speak in opposition of LB875? Anyone wishing to speak in a neutral capacity on LB875? Senator Murante. [LB875]

SENATOR MURANTE: Thank you, Senator Crawford. I'll close simply by saying that in order to get this law accomplished, if the Urban Affairs Committee is supportive, a companion piece of legislation was introduced that dealt primarily with county planning commissions. And because it was a county bill primarily, it was referenced to the Government, Military, and Veterans Affairs Committee. It really makes sense that at some point, if both committees agree on advancing both bills, that at some point, these two bills become one, because it's fundamentally the same policy question. But I'd be happy to work with you, Senator Crawford, and have my counsel work with your counsel to merge the two at some point, if both committees deem that to be appropriate. [LB875]

SENATOR CRAWFORD: (Exhibit 2) Thank you. Do we have any...oh, we have a letter of support from the mayor of the city of Gretna, on behalf of the United Cities of Sarpy County. Any other items for the record? All right, thank you. [LB875]

SENATOR MURANTE: Thank you very much. [LB875]

SENATOR CRAWFORD: With that, we will close the public hearing for LB875. And we will open the hearing on LB948 momentarily. Here he is. Welcome, yes. [LB875]

SENATOR MORFELD: Sorry, I'm running a little bit late here. [LB875]

SENATOR CRAWFORD: That's all right. We will now open the public hearing on LB948. Welcome, Senator. [LB948]

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SENATOR MORFELD: Well, thank you for having me. I think this is my first time in front of the Urban Affairs Committee. Could be my last, I suppose, depending on how it goes. Senator Crawford, members of the Urban Affairs Committee, my name Adam Morfeld. For the record, that's A-d-a-m M-o-r-f-e-l-d, representing the "fighting" 46th Legislative District in northeast Lincoln, here today to introduce LB948. LB948 would simply amend the Nebraska Enterprise Zone Act to allow an additional application period for the designation of enterprise zones. It is not creating a new program, but simply extending the deadline for the current one, for the application process. The selection would be made by the Nebraska Department of Economic Development. And I want to emphasize again that this legislation does not create a new program or require additional resources, rather, opens up a process for which resources have already been allocated, that provide a preference. I represent a district where the median household income is around \$31,000 a year, and we have established neighborhoods that could benefit greatly from the additional development and economic incentives provided by the original act. I have visited with various neighborhood associations and groups that are interested in restoring the vitality of the area. And through those conversations, on what the state may do to help, enterprise zones were brought up as a tool that could be quite helpful. I introduce LB948 to open up the application process to allow communities to apply for the enterprise zone designation, so that the full five areas that were provided for in LB800, originally by Senator Mello, are designated, thereby giving communities another opportunity to apply, that they perhaps didn't take or couldn't take the last time around. Right now, it's my understanding that of the five enterprise zones that could be designated, three have been designated. They received three applications. And after talking to the city of Lincoln and some other folks in my own community, my understanding is that one of the reasons why they didn't apply was because of the application window and missing that application window. But in fact, they are interested in applying, and would likely do so if we get this passed. And I think there's a letter from the city of Lincoln that supports that. I also want to note that enterprise zones were created to encourage investment and economic growth in distressed communities. To give you a little bit of legislative background, in 2014, Senator Heath Mello introduced legislation to reactivate the Enterprise Zone Act, allowing for up to five enterprise zones selected by the Department of Economic Development during the set application period. Any city, village, tribal government, or county could apply for designation of an area within its boundaries, based on the eligibility criteria. No more than one enterprise zone could be established within the boundaries of either a city of the metropolitan class, so Omaha, or a city of the primary class, Lincoln. Since that time, there have been three enterprise zones created, as I noted: the city of South Sioux City, Otoe County, and the city of Omaha. To be selected as an enterprise zone, an application must meet at least two of the following three criteria, as measured by data from the United States Census Bureau. One, that population in the area, or within a reasonable proximity to the area decrease by at least 10 percent. Two, the average rate of unemployment in the area is at least 200 percent of the average rate of unemployment in the state, during the same period covered by the most recent census. That's quite the mouthful. Or three, the average poverty rate in the area exceeds 20 percent for the total

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federal census track. Businesses located within the enterprise zones would receive preferences under a variety of existing business incentives and grant programs, including the Affordable Housing Trust Fund, the Business Innovation Act, and the Job Training Cash Fund, and the Site and Building Development Fund. Enterprise zone designation lasts 10 years. Distressed communities and neighborhoods need all of the tools available to us to ensure that we have vibrant and successful urban and rural communities. Passing LB948 and opening up the application period again, can help these areas revitalize their businesses and neighborhoods, and can be used as another tool to restore economic health in areas of our state that desperately need it. I urge your consideration and passage of this legislation, and I'd be happy to answer any questions that you may have. [LB948]

SENATOR CRAWFORD: Thank you, Senator Morfeld. Questions from committee members? I have a question. I wonder if you know why it's critical to have a tight deadline in the first place. That was... [LB948]

SENATOR MORFELD: That's a great question. [LB948]

SENATOR CRAWFORD: I mean, I realize that you're trying to help by moving the deadline back. It was striking to me when we had an interim study on economic development tools, and we were looking at the materials that Mr. Fitzgerald pulled together. And my first thought was why do we have the deadline in the first place? [LB948]

SENATOR MORFELD: That's a great question. And after talking to legal counsel and some other folks, it sounds like that was just the time line in which had always been applied for a program like this. And so they just used that. You know, quite frankly, I would be okay with keeping the time line open until the five are filled and they've found worthy applications for them. That being said, I would be interested in hearing the department's feedback on that if they're here today. [LB948]

SENATOR CRAWFORD: Sure. Absolutely. Thank you. Any other questions? Thank you. [LB948]

SENATOR MORFELD: That's an easy committee. Jeez, I might appear before Urban Affairs more often. Thank you. [LB948]

SENATOR CRAWFORD: We will now hear from proponents of LB948. Welcome. [LB948]

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LYNN REX: Senator Crawford, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We appreciate Senator Morfeld introducing this legislation. And Senator Crawford, we had the same question, which was why the deadline at all? It would seem to us that, unless there's a compelling reason to keep it, we would certainly...we support this bill in its current form, we would support it without any deadline. But to open it up so that...it's kind of a revolving issue. So that these designations last for 10 years, as those would expire, they could either reapply or other cities would come forth. And I think the reason for the deadline in the first instance was that they anticipated that there would be a rash of municipalities coming forward at that time. I think that's the reason why. And then as cities tried to apply the numbers and all the requirements, because there's some tight requirements, that simply did not happen. So we certainly support the bill in its current form, we would support it without the deadline included. With that, I'm happy to respond to any questions that you might have. [LB948]

SENATOR CRAWFORD: Thank you. Any questions? Yes, Senator Hughes...Hansen. [LB948]

SENATOR HANSEN: Thank you, Chair Crawford. I don't know if I've ever been confused with Senator Hughes before. Ms. Rex, while we're talking about why necessarily for the deadline, can you explain why there's a cap of five districts? If you have any thought to that. [LB948]

LYNN REX: My recollection is that when this was first discussed, it was noted that this should be a very limited sort of thing, and that it should be something where...for the most poverty stricken areas, if you will, in the state of Nebraska. And so they wanted to make it very strict and only just keep it down to a very low number. And at some point, the committee may want to consider raising that. But in as much as we only have three of the five right now, I would think that that would not be required. And I thank Senator Hughes for the question. Kidding. [LB948]

SENATOR HANSEN: Thank you. [LB948]

SENATOR CRAWFORD: Thank you, Senator Hansen. Senator McCollister. [LB948]

SENATOR MCCOLLISTER: Thank you, Chairwoman Crawford. Are all the funds derived from state sources? [LB948]

LYNN REX: I believe so. I have to go back, maybe committee counsel knows. But I believe so. I'd have to go back and find any pertinent information for you and get back to you. I believe the answer is yes. [LB948]



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SENATOR McCOLLISTER: Thank you. [LB948]

SENATOR CRAWFORD: Any other questions? Senator Hughes, do you have a question? [LB948]

SENATOR HUGHES: Not at this time. [LB948]

SENATOR McCOLLISTER: The real Senator Hughes. [LB948]

SENATOR CRAWFORD: Thank you so much for your testimony. [LB948]

LYNN REX: Thank you very much. And thank Senator Morfeld for introducing it. [LB948]

SENATOR CRAWFORD: Other proponents of LB948? Welcome. [LB948]

MARTI LEE: Good afternoon, Senator Crawford, members of the Urban Affairs Committee. My name is Marti Lee, it's M-a-r-t-i L-e-e, and I represent NeighborWorks Lincoln in support of LB948. Enterprise zones are areas designated that have high levels of poverty, unemployment, and population decline. Lincoln, as well as other communities throughout the state of Nebraska, have plenty of these areas, as you well know. For those of us that are working within these distressed areas, economic development resources are very, very limited. We're continually competing with the commercial and the residential developers, and real estate companies wanting to expand out into the areas where there's clean green grass and places to develop that are a lot cheaper than our urban areas. As this continues to happen, the urban blight grows, city services are expanded as infrastructure grows, and the doughnut hole widens. Instead of encouraging the development of unfettered land, we need to be looking at our urban core areas for redevelopment. Providing employment centers close to our workers decreases the need for more transportation expansions, close proximity to work lessens the employee's costs and issues of productivity. For example, at our recent public meetings in the south downtown area, residents have identified the need for job readiness, work placement, mentoring services. In the area alone, there are pools of unemployed people available for work, we just need the businesses and the industries to provide the opportunities for them. Under the Enterprise Zone Program, incentives are used to encourage existing businesses to stay and grow, as well as to attract new business and industry. Increased job training for employees, along with the safety and the infrastructure improvements can be implemented, affordable housing funds can be used to further fill and stabilize the vacancies in our area, and these are just a few of the existing resources that are just waiting for us to use them. So we need your help to stop the decay, by using these economic development tools that are already in place. And so we ask for your support of this bill. [LB948]

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SENATOR CRAWFORD: Thank you. Thank you for your testimony, and thank you for your work in your neighborhood. We'll see if there are any questions. Questions from committee members? Senator Hughes. [LB948]

SENATOR HUGHES: Very good. Thank you, Ms. Lee, for coming today. Would you remind me what your title is? What your position is? [LB948]

MARTI LEE: I'm with...community builder at NeighborWorks Lincoln. [LB948]

SENATOR HUGHES: Okay, so is that a city position? Or a private group? [LB948]

MARTI LEE: It's a nonprofit organization, it's a national organization, NeighborWorks America. [LB948]

SENATOR HUGHES: Okay. So I guess I'm curious if Omaha and the two other places that have applied for this...why hasn't Lincoln applied for this at this point? Any speculation on your part? [LB948]

MARTI LEE: I think that's a question for the city. I'm not really sure on that. [LB948]

SENATOR HUGHES: Okay. Any speculation why? I mean, are the rules too stiff, or it wasn't worth it? [LB948]

MARTI LEE: And I'm sorry, I can't answer that. To be honest with you, I'm a brand new resident of Nebraska. [LB948]

SENATOR HUGHES: Okay, fair enough. [LB948]

SENATOR CRAWFORD: Welcome. [LB948]

MARTI LEE: And actually from Kansas City, where we do have enterprise zones, and so I'm very familiar with the enterprise zone situation. [LB948]

SENATOR McCOLLISTER: Okay, thank you. [LB948]

MARTI LEE: Yes, thank you. [LB948]

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SENATOR CRAWFORD: Since you just said you just came from a place that had the enterprise zones, were you in a similar neighborhood kind of position there? [LB948]

MARTI LEE: Yes. [LB948]

SENATOR CRAWFORD: Would you like to share with the committee just maybe an example of something you saw in your previous position, that helps you to see what kinds of things you might do in your neighborhood now? [LB948]

MARTI LEE: The biggest thing that we dealt with was the competition between communities with taking business from one community to another community. And furthermore, and to the outlining suburban areas, which I know Lincoln doesn't have, but Omaha does. So trying to compete against that, we needed every incentive possible to keep and retain the businesses and attract new ones into the area. And we were successful in being able to use these incentives for that. [LB948]

SENATOR CRAWFORD: (Exhibit 1) Thank you. Any other questions? Thank you for your testimony. Other proponents of LB948? Anyone wishing to testify in opposition to LB948? Anyone wishing to testify in a neutral capacity on LB948? And we have a letter of support from the city of Lincoln. Senator Morfeld, would you like to close? [LB948]

SENATOR MORFELD: Thank you, members of the committee. Just to answer a few questions. Senator McCollister's question was about the funding. The funding has already been put in place, it just provides a preference for priority. I believe most of it is state funding, almost all of it actually. I suppose there could maybe be some federal funds that are mixed in with some of those programs, but primarily state funding. I talked with the city of Omaha...or excuse me, city of Lincoln, to answer your question, Senator Hughes, and they just simply said that they surpassed the time period and didn't submit an application in time. And so they didn't apply for it. But after looking at it, it seems like it's got a valid program, and would be something that they would seriously consider applying for. Senator Hansen, there's enough room to go around. Our districts are right next to each other, so if you're concerned about size or something like that, I'm sure we can make accommodations. I think it has to be either at least 16 square miles or no more, I can't remember which one. But I would be happy to answer any questions. [LB948]

SENATOR CRAWFORD: All right. Senator Hughes. [LB948]

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SENATOR HUGHES: Thank you, Senator Morfeld, for clarifying that. Do you know of any other city or region that would be trying to...interested in taking that final--the fifth spot? [LB948]

SENATOR MORFELD: You know, Senator, I don't know. And I don't want to give too many people ideas, because I want, you know, Lincoln to be...no. I would think that if we reopen the process and bring attention to that, I would think that there would be some other communities that would seriously look at this. But I don't know of any specifically, Senator. [LB948]

SENATOR HUGHES: Okay, thank you. [LB948]

SENATOR MORFELD: I think the thing that's important to note is it can benefit both rural and urban. [LB948]

SENATOR CRAWFORD: For your information too, the committee members, in your books you have two maps. One shows you enterprise zone eligible areas across the state, and then one that show enterprise zone eligible areas in the city of Lincoln. And those maps are in our committee books so members can see what areas would be eligible to apply. [LB948]

SENATOR MORFELD: Great. [LB948]

SENATOR CRAWFORD: Thank you. Any other questions? Thank you very much. [LB948]

SENATOR MORFELD: Thank you for your time. [LB948]

SENATOR CRAWFORD: You're welcome. That closes our hearing of LB948. And the next bill is LB864, which is my bill. So I'm going to turn it over to our Vice Chair. [LB948]

SENATOR McCOLLISTER: Thank you. I now open the hearing on LB864. Welcome, Senator Crawford. [LB864]

SENATOR CRAWFORD: Thank you. Good afternoon, Vice Chairman McCollister and members of the Urban Affairs Committee. My name is Senator Sue Crawford, C-r-a-w-f-o-r-d, and I represent the 45th Legislative District, which includes Bellevue, Offutt, and eastern Sarpy County. LB864 amends provisions in statute that allows cities of the first class, cities of the second class, and villages to request additional extraterritorial zoning jurisdiction or ETJ authority from the county. As committee members likely recall, the ETJ of a municipality

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generally consists of the contiguous unincorporated land within a certain radius of the municipality's corporate limits. The size of a municipality's ETJ varies according to its classification. Cities of the metropolitan and primary class have a three-mile ETJ, cities of the first class have a two-mile ETJ, and cities of the second class and villages have a one-mile ETJ. In 2002, the Legislature passed LB729, which establishes a process by which cities of the first class and cities of the second class could request additional ETJ authority from the county. This process was expanded to villages in 2012, and contains a number of restrictions, that are generally designed to ensure that additional ETJ authority is only granted in cases where the requested territory would eventually become part of the city or village as a result of future growth. LB864 specifically addresses one restriction in current law, which prohibits the county from ceding ETJ authority to a city or village if the territory requested by the city or village is within one half-mile of another city or village's ETJ. Under LB864, rather than outright prohibiting the county from ceding ETJ authority over this territory, the county would be allowed to cede ETJ authority over the territory, but only with the approval of the other city or village. If the other city or village does not approve the transfer, the county would be prohibited from ceding the ETJ authority. Included in your materials is a map that was provided to my office by Sarpy County, which shows the potential implications of the current restrictions. Currently, there are more than 40 parcels in central Sarpy County, that are split between zoning jurisdictions. Part of the parcel is under the zoning jurisdiction of the city of Papillion, and part of the parcel is under the zoning jurisdiction of Sarpy County. While this map only shows the area near the ETJ boundaries for Bellevue, Papillion, and Springfield, as Papillion and La Vista continue to grow westward, a similar situation will likely begin to develop between Papillion, La Vista, and Gretna. From an economic development perspective, if you are a developer who owns one of these properties, dealing with two different sets of zoning regulation creates a disincentive to develop the property. While the properties in the middle of the map in purple, and the purple outlined properties, could have the ETJ authority acceded from the county to Papillion under current law, those properties on each side, that are within a half-mile of either Bellevue's ETJ or Springfield's ETJ could not. So the purple parcels that are just white are ones that could be. If they're blue, they could not, if they're tan, they could not because they're too close to the other city's ETJ. Importantly, LB864 would only change the process for those properties which under current law cannot be ceded by the county in any case, and the transfer of the property is only allowed with the approval of the other affected municipality. For all remaining properties, when additional ETJ authority is requested by a city or village, the decision of whether to cede authority would continue to rest solely with the county board. While Sarpy County is the primary area in the state where LB864 might potentially come into play, there are several other areas in the state where multiple municipalities are in close proximity to one another. The Scottsbluff-Gering area and the South Sioux City-Dakota City area are two prime examples of other areas where municipal ETJ boundaries either overlap or are in close proximity. Representatives from Sarpy County and several Sarpy County cities are behind me to testify, but I would be happy to try to answer any questions the committee may have at this time. [LB864]

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SENATOR McCOLLISTER: Thank you, Senator Crawford. Any questions by the committee? [LB864]

SENATOR CRAWFORD: Thank you. I will stay for closing. [LB864]

SENATOR McCOLLISTER: Thank you. Fair enough. Are there any proponents on this bill? [LB864]

BRUCE FOUNTAIN: Mr. Chairman, members of the committee, I would like to thank Senator Crawford for introducing this bill. My name is Bruce Fountain, it's B-r-u-c-e F-o-u-n-t-a-i-n. I'm the planning and building director for Sarpy County. I'm going to use the visual aid that was in your packet--the map, to explain the issues that brought this forward. We began working with Springfield about a year ago, trying to square up ETJs and not have them split through the middle of people's properties and leaving them with two jurisdictions to deal with. And we've been discussing this with the other cities within the county as well. And we came across some areas that we were looking at in doing that with Springfield that made sense to potentially cede them over to them, but we couldn't because they were within a half-mile of Papillion. As we've continued discussions with Papillion on doing some squaring up with their jurisdictions, we looked over...if you see the light blue shaded properties on your map over near Bellevue's ETJ, we could not cede those to them, because they are within a half-mile, even though Bellevue and Papillion have a growth boundary agreement between them, where Bellevue probably would not object to going ahead and doing that. And again, as you can see there, those parcels outlined are owned by one entity, but if they were to come in and do even a small development or want to subdivide, they would have to deal with both jurisdictions if we cannot go ahead and cede it over to the city. As a former economic development professional, my goal has been to try to take the length of time to get through processes in the cities and county, shorten that as much as possible to make projects...get them accomplished. As we see a lot of developments, see the hurdles they have to go through, and that becomes a detriment to them wanting to move forward. So we began talking to our governmental affairs staff earlier this year about what we might be able to do, and we came up with this idea that if all the cities involved agreed to it, and one city takes action, saying they do not oppose going ahead and ceding it to the other city, that they could move forward with that. That would again allow us to start squaring up some of these properties, take the burden off of the citizens and the property owners from having to deal with multiple jurisdictions in the process. So I would urge you to support the LB864, and again, appreciate Senator Crawford bringing it forward. Happy to answer any questions. [LB864]

SENATOR McCOLLISTER: Thank you, Mr. Fountain. Any questions for Mr. Fountain? Thank you for your testimony. Are there any other proponents that wish to speak? [LB864]

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ANDREW RAINBOLT: Good afternoon, members of the committee. My name is Andrew Rainbolt, that's A-n-d-r-e-w R-a-i-n-b-o-l-t. I'm the executive director of the Sarpy County Economic Development Corporation, I'm also here today representing the Greater Omaha Chamber, of which we are part of their Greater Omaha Economic Development Partnership. And we are in support of LB864, and we thank Senator Crawford for bringing it to the committee. I think it's been noted today that Sarpy County is one of the fastest growing counties in the state. It's the fastest growing county in the state, and it's also the smallest county in the state, and we've seen growth from all directions in all of our communities. I want to talk a little bit about this bill from a business attraction perspective, which is what we do. A large part of our economic development strategy in the county is planning, preparing, and marketing land for business development. And there's three things that we try to minimize, and that would be cost, timing, and uncertainty for perspective employers. When a property is bisected by two jurisdictions, whether real or perceived, it can add uncertainty. Business planners will wonder which jurisdiction they have to work with, and whose requirements and fee structures will be in play, as that is not always certain from the onset. From a timing perspective, if we have to go through this succession process for one portion of the property, that can add at least several weeks before the project can move forward. And as always, time is money, and at a minimum, legal counsel and other associated fees can add up quickly for prospective investors. And we are always in competition for projects. And the competition usually comes down to a certain decision making process, and the least number of red flags or negatives that we can have in our column, the more likely we are to land said project. In general, while the problems created by the split jurisdiction may not be insurmountable, they can add enough cost, uncertainty, and timing for us to be eliminated from a site search. LB864 would allow the cities to cooperate in addressing these concerns. Thank you, and I would happy to answer any questions. [LB864]

SENATOR McCOLLISTER: Now, thank you, Mr. Rainbolt. Any questions for Mr. Rainbolt? Thank you very much. Welcome, my friend. [LB864]

MARK STURSMA: (Exhibit 1, 2, 3) Vice Chairman McCollister, members of the committee, thank you for allowing me to testify in support of this bill. My name is Mark Stursma, that is spelled M-a-r-k S-t-u-r-s-m-a. I am the planning director for the city of Papillion, and I'm here representing the city of Papillion. We support this bill. We think it is a good bill, and it is important because it helps landowners who find themselves in a difficult situation, that being on the edge of the city jurisdiction. When a property is bisected...we've already heard testimony of why that can be a challenge. And we have certainly seen cases where it has prevented development from occurring. What I'm having passed out is just one example of where this has occurred in Papillion. We had a request from a landowner who, as a result of the radius formed by our extraterritorial jurisdiction, had a triangular shaped piece of their property fall outside of the city's jurisdiction. They made the request to have that area ceded by the county, so that they would be under just the city's jurisdiction. Because about half of that piece of property was

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within half-a-mile of La Vista, we could not fully grant that request. We are obligated to only grant the portion that was outside of that one half-mile. That area that was within one half-mile of La Vista was part of a boundary agreement that the two cities have together. And so there was no objection by La Vista to allow that ceding to occur, but the law did not allow us to come to an agreement on that. And so what this bill would do is basically allow local jurisdictions, cities, and the county to make that decision and come to an agreement. And if there is an opposition by a neighboring city, they would still have the authority to oppose and prevent that ceding from occurring. Again, I would like to thank you for allowing me to testify. I would be happy to answer any questions. [LB864]

SENATOR McCOLLISTER: Thank you for your testimony. Any questions for Mr. Stursma? Thank you very much. [LB864]

MARK STURMSMA: All right, thank you. [LB864]

SENATOR McCOLLISTER: Are there any other proponents that wish to speak? Are there any opponents that wish to speak to this issue? Is there anyone that wish to speak on a neutral capacity? Thank you. Are there any letters of support or opposition? [LB864]

TREVOR FITZGERALD: Nothing for the record. [LB864]

SENATOR McCOLLISTER: Thank you. Senator Crawford. [LB864]

SENATOR CRAWFORD: Thank you, Vice Chair McCollister. Committee members, the situation that we have right now, is we have a state law that prevents municipalities from coming to agreements that are acceptable to both municipalities to make sure that the zoning jurisdiction is consistent and clear. It definitely impacts those parcels that are on your map in purple, but it also impacts any of those parcels within a half-mile of that jurisdiction. So it impacts agreements that can be made on other parcels as well. So it's a critical issue for allowing municipalities to work together and work with the county on mutually agreed upon agreements that will facilitate growth and development in Sarpy County, and in other counties that have similarly situated nearby municipalities. So I urge your support of the bill. [LB864]

SENATOR McCOLLISTER: Thank you. And thank you for wearing purple. Here we go. This closes the hearing, and time to move onto the next one. Thank you. [LB864]



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SENATOR CRAWFORD: Thank you. Our last public hearing of the afternoon is on LB705, and this is a committee bill of a very technical nature, so we will have the opening by our legal counsel. Welcome. [LB705]

TREVOR FITZGERALD: Thank you, Senator Crawford. I nearly had a heart attack, I couldn't find my testimony at first. Good afternoon, Chairwoman Crawford 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 LB705 on behalf of the committee. Last year, the committee introduced LR240, an interim study to examine statutes in Chapter 16 that govern cities of the first class. Municipalities in Nebraska are classified into five different categories, based upon population, with cities of the first class having a population between 5,001 and 100,000. A map of cities of the first class is included in the committee's materials. LB705 is the product of LR240, and would amend sections of statute in Chapter 16 to make a variety of cleanup changes. Much of the current language in these statutes has not been amended since Nebraska statutes were recodified in 1943, and some may even date back to the late 1800s. Because LB705 amends more than 200 separate sections, I will not review each individual change contained in the bill. A section by section summary is contained in your materials, and those changes can largely be grouped into 11 categories. First, the bill changes and corrects terminology. For example, changing governing body to city council, municipality to city, first class city to city of the first class. Second, the bill changes subject verb agreement in a number of places, i.e. singular to plural and vice versa. Third, the bill changes references to various types of improvement districts. Article 6 of Chapter 16 contains somewhat interchangeable references to paving districts, repaving districts, graveling districts, macadamising districts, street improvement districts, grating districts, sewerage districts, etcetera. LB705 attempts to consolidate the references to the myriad types of districts, so it's clear which statutes govern which types of district. Fourth, the bill clarifies references to city's extraterritorial zoning jurisdiction or ETJ. Currently, statutes refer to the ETJ in several different ways. Some use extraterritorial zoning jurisdiction, some use zoning jurisdiction, many others use a lengthy reference to all property located within a two-mile radius of city limits. LB705 changes all references to the ETJ to use the terminology of extraterritorial zoning jurisdiction, and also amends Section 16-901 to define the default ETJ of a city of the first class as the unincorporated area two miles beyond and adjacent to its corporate boundaries. Fifth, the bill clarifies references to legal newspapers. As with the references to improvement districts in the ETJ, various sections of the statute currently refer to newspapers used for legal notices in a different way. Some say located in the city, some say published in the city. So additionally, roughly half of the statutes specified that notices must be published in a legal newspaper, while the other half just specified a newspaper. LB705 would use the same phrasing in all cases, and that phrasing being published for period x in a legal newspaper in, or of general circulation in, the city. The bill would use the term legal newspaper since there is an existing statutory definition of legal newspaper, and currently, every newspaper in the state of Nebraska meets that definition. Sixth, the bill corrects references to various city

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officials, clearly identifying, for example, the city council, city clerk, city attorney. Seventh, the bill corrects gender references, typically replacing his with his or her, we had a number of those that were still out there. And then 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 16. Finally, LB705 replaces or eliminates antiquated or obsolete language in a number of places. Again, I won't go into detail about all of these terms, but among the antiquated and archaic language eliminated under the bill are references to hitching posts, wagons, steam powered rail cars, tipping shops, workhouses, poorhouses, freeholders, and my personal favorite, imprisonment at hard labor. The bill also repeals potentially unconstitutional language regarding the desecration of the Sabbath day, which was a recommendation made by the Revisor of Statute's Office. While Sabbath desecration laws were found to be constitutional by the U.S. Supreme Court in 1961, if they were enacted for a secular purpose, a number of courts nationwide have struck down Sabbath desecration laws and ordinances because they either found to have a religious purpose or were found to be arbitrary, discriminatory, or unreasonable. Following the Supreme Court decision in 1961, several Nebraska cities had their Sabbath desecration laws declared unconstitutional, including Grand Island, Omaha, and Scottsbluff. Prior to introduction, drafts of LB705 were reviewed multiple times by the League of Municipalities, and were submitted to the city clerk and city attorney for every city of the first class. A number of suggested changes from city officials were incorporated into the green copy of the bill, although I would note one issue that the committee may wish to discuss. Section 201 of the bill amends Section 16-901, to define the default ETJ of a city of the first class, as the unincorporated area two miles beyond and adjacent to its corporate boundaries. Under Section 16-902, cities may designate, by ordinance, the portion of that two-mile ETJ where they will actually enforce zoning ordinances. There was a suggestion made by one city that maybe instead of defining the two-mile ETJs the default, the bill might instead provide that the default area would be whatever area is designated by local ordinance. So that's a policy decision that will be up to further discussion by the committee. Since the bill was introduced, several additional cleanup changes have been identified, because I can't stop reading this bill over and over. Those changes are in Sections 15, 27, and 89 of the bill. AM1884, a copy of which is included in your materials, would make those additional technical changes. There are several individuals here to testify behind me, but I would otherwise be happy to answer any questions the committee may have at this time. [LB705]

SENATOR CRAWFORD: Thank you, Mr. Fitzgerald. Questions? Yes, Senator McCollister?  
[LB705]

SENATOR MCCOLLISTER: Yeah, thank you, Chairwoman Crawford. I assume that you cannot charge sale tax or real tax in ETJ areas. Isn't it simply the city's boundaries that those kinds of ordinances would apply? [LB705]

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TREVOR FITZGERALD: That type of...those type of issues fall outside of Chapter 16, so nothing in LB705 would impact those restrictions. I vaguely recall legislation that was passed a couple of years ago, clarifying the ability to charge occupation taxes and other issues within the ETJ. But I think there might be someone from the league behind me, who could best answer that question. [LB705]

SENATOR McCOLLISTER: Thank you. [LB705]

TREVOR FITZGERALD: But again, nothing in that area falls under LB705. [LB705]

SENATOR McCOLLISTER: Thank you very much. [LB705]

SENATOR CRAWFORD: Thank you. Any other questions? Yes, Senator Hansen? [LB705]

SENATOR HANSEN: How did you write a 208-section bill without a fiscal note? [LB705]

TREVOR FITZGERALD: I guess I'm good. [LB705]

SENATOR HANSEN: If you don't want to reveal secrets, we can leave all that be. [LB705]

TREVOR FITZGERALD: I guess it does only apply to local governments, so no fiscal impact to the state. [LB705]

SENATOR CRAWFORD: Any other questions? Thank you so much for your work. It's a lot of work to review those statutes and we appreciate your work on that. [LB705]

SENATOR McCOLLISTER: Well done. [LB705]

SENATOR CRAWFORD: We would now hear from those who wish to testify as proponents of LB705. Welcome. [LB705]

GARY KRUMLAND: Senator Crawford, members of the committee, my name is Gary Krumland, that's G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, and appearing in support of LB705. This is a bill that has been discussed for many years, and it's been needed for a long time. And so I just wanted to thank the committee, and thank the legal counsel for all the work that went into this, because it's something that really has been needed for quite a while. As Trevor mentioned, there's a lot of antiquated language in here, internal

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references don't match, and this really will clean up the statute, make it easier for people to understand what it is and how it's going to be used. As you mentioned...I also want to thank the committee for allowing this, as we were able to participate in the drafting of this. Copies of the early drafts were sent out to cities of the first class and city attorneys who work for cities of the first class to review it, so they all had input into it. And so we really appreciate all the time and effort that went into it, and the inclusion that the committee has done for us. So we strongly support this bill. [LB705]

SENATOR CRAWFORD: (Exhibit 1) Thank you. Questions? Thank you for your help in reviewing the bill and for your testimony. Anyone else wishing to speak in support of LB705? Anyone wishing to speak in opposition to LB705? Anyone wishing to speak in a neutral capacity on LB705? So we have one letter of support from the Nebraska Press Association. And do you wish to close? Okay. So with that, we will close our public hearing LB705. And as a committee, we will be going into Exec, so I ask if you'd leave. Please leave quietly and quickly, thank you. Have a wonderful afternoon. [LB705]