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Urban Affairs Committee  
January 20, 2009

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[LB85 LB104]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 20, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB85 and LB104. Senators present: Mike Friend, Chairperson; Amanda McGill, Vice Chairperson; Colby Coash; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: Tanya Cook. []

SENATOR FRIEND: I have two bills today, but you never know how long bills will take, especially right out of the gate. My name is Mike Friend, I represent northwest Omaha, District 10 in the Nebraska Legislature. We have other people that represent other districts in the Nebraska Legislature, starting with Senator Coash from Lincoln; and Senator White from Omaha, he's my neighbor, sort of; Senator McGill is the Vice Chair of the committee, Senator McGill is from Lincoln; to my right is Bill Stadtwald, Bill is the legal counsel for the Urban Affairs Committee; to my left is Senator Lathrop, he's from Omaha/Millard/Ralston, that particular area; Senator Rogert, Senator Rogert is...he's a rogue, he represents a lot... []

SENATOR ROGERT: Various interests. (Laughter) []

SENATOR FRIEND: Exactly. Anyway, and Senator Cook is also on the committee. She probably will not be with us today, she will not; and Beth Dinneen is the committee clerk at the end of the table. Right out of the gate we always get cookies and I think Kathleen Dolezal brought these. This is lunch for me. I don't know about anybody else, but that's my own fault. My kids took my money today. The page today is Courtney Ruwe from Herman, Nebraska. She's a political science and philosophy major. Good luck with that, Courtney. (Laughter) My humor takes a while to get used to. Courtney didn't find it too amusing. Courtney can help with some of the papers and stuff that you have to pass around to the committee, so glad to have her here. By the way, this is the Urban Affairs Committee, if I didn't say so already. If you're supposed to be somewhere else, you'd better go now. Say it right out of the gate, silence the cell phones and pagers, if you can. That includes senators. I haven't checked mine yet but I will. We would appreciate that. It makes it tough to transcribe when you have that stuff going on. If you wish to testify on a bill, there are green sheets and they're over by Beth right at the end of the desk. I believe the white sheets are on both sides of the doors. If you don't wish to testify but you want your name entered in the permanent record, you can fill those out. Everyone testifying should fill out a green sheet. If you're testifying, please immediately state your name, and spell your entire name for the record. That helps the transcribers greatly. If you don't do it, I will stop you, and it seems rude, but we want to make sure that we get that down. Also when someone is testifying, no vocal, you know, displays of support or negativity, we would appreciate that. That also makes it difficult. Like I said, if there's information you need distributed to committee members, I think Courtney would be glad to help. We can get that distributed for you. With that, like I said, we have two

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

Urban Affairs Committee  
January 20, 2009

---

bills today. The first one is LB85 and Vice Chair McGill has LB85, and we will start the public hearing. Yes, by the way, before Senator McGill starts, we can turn these lights on and stop you from talking. I don't want to do that yet this week. We may adopt the light system at some time in the future. If you get over 5 minutes and you see me blinking or you see one of us nodding off, you've probably gone a bit too long. (Laughter) I've only had to stop a few people, but eventually, eventually, I will stop you. We want all your pertinent testimony. We want everybody to have a right to say what they need to say, but please try to keep it confined. Again, we only have two bills, but let's try to respect the time frames. So, Senator McGill. [LB85]

SENATOR MCGILL: All right, Chairman Friend, members of the committee. I'm Senator Amanda McGill, A-m-a-n-d-a M-c-G-i-l-l, representing District 26. LB85 is essentially the same as LB813 from last session, which was heard in advance from this committee without any dissenting votes and made a Speaker's priority. LB85 would allow a municipality to create one or more urban growth districts in parts of the city which have been developed since 1988. All or a portion of the estimated sales and use tax revenues gathered within the district could then be pledged for payment of an urban growth bond. The proceeds of the bond could be used to fund a range of infrastructure needs including roads, bridges, streets, parks, within that municipality. LB85 differs in three important ways from LB813. First, it is written to make sure that only sales and use tax revenue is pledged and that property tax is only a backstop measure similar to highway allocation bonds. Second, it makes clear that the amount of bonds that can be issued is limited by the annual revenues, and the municipality cannot issue more than can reasonably be paid on an annual basis. And third, the term of the bonds are limited and cannot mature later than 25 years after issuance. As was the case last year, I introduced this bill on behalf of the city of Lincoln, which is trying to find ways to address the demands of their growing areas and the maintenance of the infrastructure throughout the city, especially with their streets and roads. The appeal of this approach taken in LB85 to me, is that it asks for no state funds, requires no increase in local taxation, and would give the city administration and city council an additional tool using existing sales tax revenue sources to keep from falling behind in this important city function. I'll be followed by supporters of LB85 who will be able to answer questions about bonding, the current flow of municipal revenue, and other issues of municipal support. I urge you to advance LB85. Thank you. [LB85]

SENATOR FRIEND: Thank you, Senator McGill. Are there questions for Senator McGill from committee members? I see none. [LB85]

SENATOR MCGILL: Right. Thanks. [LB85]

SENATOR FRIEND: Thank you. We'll start with proponent testimony. First testifier, please. [LB85]

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

Urban Affairs Committee  
January 20, 2009

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JOHN SPATZ: Thank you, Chairman Friend, and members of the Urban Affairs Committee. My name is John Spatz, and believe it or not, it is spelled S-p-a-t-z, but it's pronounced Spots. I'm very pleased to be here today. I serve as the Lincoln City Council's legislative liaison to the mayor's office. Mayor Beutler is out of town today, so their office has asked me to testify in support of this bill. City of Lincoln has essentially two priorities this session and roads funding is definitely one of them. I want to start by thanking the Legislature for its efforts to find new sources of revenue for local roads. We know that during these difficult times there are many needs across the state that are competing for our shrinking revenues. That is why the city of Lincoln does not want to come here simply asking for more money. We do recognize our responsibility to do what we can to help ourselves locally, and that is what LB85 is all about. As Senator McGill noted, we are not asking the Legislature for any new dollars with this bill. We are simply asking for another tool to help ourselves. Senator McGill did outline some of the basics of the bill. And Don Herz, the Lincoln city finance director, will be here to answer any difficult questions and go through the basics of the bill. But before turning it over to Don, there's just essentially two things that I want to note. Number one, I want to emphasize the needs here in Lincoln, specifically in terms of infrastructure and roads. Six years ago there was a task force appointed to look at Lincoln's long-term infrastructure and roads needs. As a part of that process, they estimated that the city's road funding, there was a gap of \$200 million over the next 12 years. And that's a pretty big chunk of money for a municipality of this size. And we're six years later, and the roads funding is still a very high priority for Lincoln. The city of Lincoln has done some things locally to try to dig ourselves out of this hole. We've issued two sets of highway allocation bonds, one in 2004 and one in 2006. These two bonds have provided for \$62 million of roads funding. We've increased the local wheel tax in 2004 and in 2007. There may be another increase in 2010. These efforts, although important, have not been enough to shrink that \$200 million gap completely. Second, I want to talk briefly about the highway allocation bonds. Several years back, the Legislature granted municipalities the authority to issue this type of bond by a vote of the local city council, as opposed to a vote of the people. Lincoln appreciates this tool. As I mentioned before, we have done two of these bonds over the last few years. LB85 proposes a similar financing mechanism in these urban growth bonds. And they would also be issued by the city council and backstopped by the city's full faith and credit. Urban growth bonds would indeed help us help ourselves, if we have the political will to do so. I want to close by again thanking the Legislature and this committee for the roads funding discussions this session. Although recent talk of a federal stimulus package is encouraging, most news that we've heard from Washington has not been that good here recently. The Federal Highway Trust Fund balances are dwindling, and the State Department of Roads is resorting to essentially a maintenance-only program. So it's important that we have as many tools as we can here at the local level, because all this translates to fewer and fewer dollars through the local governments. So again, I do appreciate your efforts and deviate from my script a little bit. By doing something like this gives me an opportunity as a representative of the Lincoln city to be accountable to my constituents. Because if

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

Urban Affairs Committee  
January 20, 2009

---

this did pass, it would give the city council the ability to use this tool and allow me to be accountable to my constituents, if this is something that we would choose to do. So I really do appreciate your efforts. I'll take any easy questions and defer any to Don, who is going to follow me here in just a minute, but be happy to entertain any. [LB85]

SENATOR FRIEND: Thank you, Mr. Spatz. Are there questions from committee members for Mr. Spatz? Sir, I only had, maybe, just a couple of general ones and then I can follow up later if it would be necessary. I mean, if I remember from some of the discussion last year, one of the problems that Lincoln is facing is that their general obligation bonding authority maybe just wasn't as targeted. I mean, this would allow more targeted general obligation bonding authority, but they can only do so much bonding right now without going to a vote of the people. I mean, I wouldn't say it's generally the way it is, but at times, general obligation, you're going to have to go to the people for transparency purposes or according to the law. Are there specific instances, and I don't recall, that's why I'm asking. Are there things in the works right now that Mayor Beutler or the city is looking at that they just can't do with normal bonding authority or bonding authority that they currently have? [LB85]

JOHN SPATZ: I will let the administration's office answer that. Don Herz would be in a position to much better state that. I may get in trouble if I try to state the administration's position on a few things, but... [LB85]

SENATOR FRIEND: Okay. [LB85]

JOHN SPATZ: ...I appreciate the question. [LB85]

SENATOR FRIEND: Fair enough. Any further questions? I don't see any. Thank you for your testimony. [LB85]

JOHN SPATZ: Thank you. Appreciate it. [LB85]

SENATOR FRIEND: The next proponent. [LB85]

DON HERZ: (Exhibit 1) Good afternoon, Senator Friend, and members of the Urban Affairs Committee. My name is Don Herz, and the last name is spelled H-e-r-z. I'm the finance director for the city of Lincoln. I'm here today in support of LB85. This bill will provide an additional financing mechanism for the city of Lincoln and many other municipalities in the state as we attempt to meet our backlog of street funding needs. As mentioned by Senator McGill and Councilman Spatz, and confirmed by your fiscal note, this bill does not require any state tax dollars. It just permits the ability to bond the local portion of our sales tax dollars. This bill would allow a city to create one or more urban growth districts within the city's current corporate limits, but outside of the corporate limits as they existed on January 1, 1988. The best way to describe this is to look at the

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

Urban Affairs Committee  
January 20, 2009

---

attached map, which is one of the handouts as it exists today and as it existed on January 1, 1988. The area in light blue is the 1988 city limits and the area in light yellow is the area that has been annexed in the past 21 years. The area in blue is approximately 61 square miles, the area in yellow is approximately 28 square miles, for a total of 89 square miles. We selected 1988 as the base year because this approximates the time that Lincoln and other cities began experiencing significant growth on its fringes. That's about the time, if you recall, when mortgage interest rates dropped below 10 percent and we started seeing significant growth at that time. In this 21-year time period, Lincoln has seen approximately a 46 percent growth in its footprint. This rather dramatic growth has resulted in significant demands for infrastructure in the form of roads, water, and sanitary sewer services. The most significant of these infrastructure needs to meet is roads. We currently have the statutory authority to issue water and wastewater revenue bonds. And while the city has been mentioning enacting road and impact fees for new growth, and have bonded a portion of our highway allocation funds that we receive, we face a shortage of approximately \$100 million just to build arterial streets within that annexed area, and approximately another \$100 million in the areas we expect to expand into during the next decade. As LB85 is written, it would allow the city of Lincoln to utilize approximately 32 percent of our local option sales tax to pay debt service on bonds secured by our sales tax revenues. This percentage is calculated by dividing the new growth. That's the area in the yellow of 28 square miles, by the current city footprint of 89 square miles. Our local option sales tax currently generates approximately \$57 million. If 32 percent were bonded, we could have the ability to pay approximately \$17 million towards debt service. While the amount of the bonds that could be financed would be dependant upon other factors such as interest rates and length of the bonds, this could produce up to \$200 million in bond proceeds in today's market. Since the 32 percent ratio would increase over time as our city continues to grow, additional bonding capacity would be created. Although this bill would grant us the ability to pledge up to \$17 million or 32 percent of our sales tax revenues, it is certainly not our intent to do so immediately. A more reasonable approach is an incremental approach, which would be issuing smaller urban growth bonds on a regular basis. We have used the geographical growth to calculate the percentage allocation because of the difficulty to account for actual sales that occur within the pre-1988 limits and what exists in the area annexed after '88. We have used an approximation technique with the assistance of the Nebraska Department of Revenue, and have determined that the geographic method is a close approximation to actual sales. This geographic method also eliminates any cost to the State Department of Revenue to administer that. This completes my analysis of LB85. And if there is a question of why we need to issue bonds for our infrastructure needs rather than follow the state's pay-as-you-go method, all you need to do is look at the growth map for the city of Lincoln. Imagine the challenges the state would have if its geographic boundaries had increased by 46 percent in a 20-year period. We strongly encourage you to consider supporting this bill and ask that you report this out to the full Legislature. With that, if you have any questions, I will attempt to answer them. [LB85]

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

Urban Affairs Committee  
January 20, 2009

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SENATOR FRIEND: Thank you, Mr. Herz. Are there questions from committee members? I don't see any, but Mr. Herz, you did answer one of my questions. I asked a question about...or maybe I just asked one question about the current bonding capability, and whether it was sufficient, and the \$100 million shortage pretty much answered that question. The other thing is, you're talking about outlying areas that you don't have any authority over right now, would that be correct? I mean, those areas in the yellow that you pointed out, you do not have bonding authority, the city does not have bonding authority over those areas currently. [LB85]

DON HERZ: We do. That is part of the city limits so that the area in yellow is the area that has been annexed since 1988 and that is part of the city limit. That just simply represents the amount of growth and that is used to calculate the portion of the sales tax base that we could bond. Anything outside of the yellow, the light yellow, that is in Lancaster County and is not subject to this. [LB85]

SENATOR FRIEND: Okay. And I've had these meetings over and over again and if I could read, I would have known the answer to that, so I'm sorry I wasted our time. But what I would ask though, is there concern or were there discussions about the idea that it's not universal but general obligation bonds. A lot of times there's transparency associated with them. I mean, a school is going to have to go to the local taxpayer and say, do you want, you know, do you want this infrastructure. Were there concerns in those meetings or discussions that said, well, look, I mean, we're asking, you know, to give the city council, you know, power that, you know, they don't, you know, currently have. I mean, were...extend the power to the degree that, it might be a little of a concern if the bonds were not able to either be sold or they had to...you had to turn around and go to the taxpayer and say, yeah, you're on the hook. I mean... [LB85]

DON HERZ I mean, that is certainly, Senator, that is certainly an option. I think we could issue general obligation bonds. This is simply just another tool. It's a tool that's addressing a specific need and that's our infrastructure needs, which in order for a city to grow, we have to provide water, wastewater, and streets. And we currently have that issue, the ability to issue bonds for water and wastewater without voter approval. And this is a tool that will allow us to do that for roads. But it's simply a tool and it, in the general obligation bonds, would still be an option. [LB85]

SENATOR FRIEND: And I only really had one more question that didn't relate to what we were talking about earlier in the discussion that I had with Mr. Spatz, but this particular piece of legislation doesn't differentiate between municipalities. Now, I have nothing...I mean, again, I have lived in Grand Island, I've lived in other first-class cities, was the thought process in this drafting that we wanted...I don't know whether it would be a good idea or not, I guess, I'm asking, was the thought process during the discussions that we want every municipality to have, you know, that type of ability. I

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

Urban Affairs Committee  
January 20, 2009

---

mean, if these bonds, if bonds fail in an area where people's property taxes rates are pretty high anyway, and then you exacerbate that with a population area that's pretty sparse, this was the intent. I mean, do we want it to be that vast and that sprawling? [LB85]

DON HERZ: Well, first of all, you would have to have some geographic growth in order to be able to tax against your sales tax base. So if a community had, you know, if it had not grown geographically, there would be little, if any, ability to bond against their sales tax in that case. So it is targeted towards those, you know, perhaps dozen cities that have had some fairly significant growth over this time period. [LB85]

SENATOR FRIEND: Thank you. That helps. I, I...maybe would almost like a better definition of growth, though. But all that being said, I think it's stuff that we can talk about. Are there any other questions from committee members? I don't see any. Thank you, Mr. Herz. [LB85]

DON HERZ: You bet. [LB85]

SENATOR FRIEND: Next proponent. [LB85]

BRUCE BOHRER: (Exhibits 2 and 3) Thank you, Mr. Chairman, members of the Urban Affairs Committee, my name is Bruce Bohrer, representing the Lincoln Chamber of Commerce. For the record, my last name, believe it or not, is spelled B-o-h-r-e-r. Lincoln Chamber of Commerce supports LB85 which would provide, as you have already heard, the statutory framework for municipalities to create urban growth districts and make provisions for bonding authority for urban growth bonds. We believe LB85 is a creative proposal that will allow the financial benefits of growth to help pay for growth-related infrastructure costs. Lincoln is fortunate to be one of those growing communities that Mr. Herz just mentioned. Of course, growth brings the need for enhancing infrastructure capacity as well. In particular, road infrastructure is of utmost importance to the continued economic vitality of Lincoln and of many other places across our state. As with many other types of long-term assets, that asset normally must be paid for over an extended term of years. LB85 accomplishes this by identifying additional sales tax as a bondable revenue stream. The Lincoln Chamber has worked with the city of Lincoln on numerous local efforts. City council member, Spatz, just mentioned those \$60 million highway allocation bonds over the past few years. We've increased our local wheel tax. We've added an impact fee. And still, we need state financial assistance and some creative thinking on more local options. I don't think this is a silver bullet for all of our issues that we have to face. I think we still need some assistance from the state level as well, but we do think this is a great idea under LB85. In closing, I'd add that the issue of addressing road infrastructure needs is one of the top issues identified during our community consensus meetings. These are meetings that we hold prior to the legislative session. We bring all the stakeholders in the

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

Urban Affairs Committee  
January 20, 2009

---

community together, and so, it's not just a business community need. We see all of our citizens across Lincoln as seeing infrastructure needs as a top issue. I have also submitted a letter of support on behalf of David Brown, CEO and president of the Greater Omaha Chamber of Commerce and should have that in your packets. In closing, I would answer any questions you might have. [LB85]

SENATOR FRIEND: Thank you, Mr. Bohrer. Are there questions from committee members for Mr. Bohrer? I don't see any. [LB85]

BRUCE BOHRER: All right. Thank you. [LB85]

SENATOR FRIEND: Thanks for the time. Any more proponents? [LB85]

JUSTIN BRADY: Senator Friend, and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist of the Nebraska State Home Builders in support of LB85. And in an effort to not take up any more of your time, I am in the home builders support tools that allows cities to continue the infrastructure they need to expand and grow. So with that, I'd try to answer any questions. [LB85]

SENATOR FRIEND: Thank you, Mr. Brady. Questions from committee members? I don't see any. [LB85]

JUSTIN BRADY: Thank you. [LB85]

SENATOR FRIEND: Thanks for the testimony. Next proponent. [LB85]

LYNN REX: Senator Friend, and members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. Both our larger and smaller cities legislative communities unanimously approve this request again. We do have about a dozen communities in the state that I think would use this and could effectively use it. And there's a dire need for infrastructure funding throughout the state of Nebraska, in particular with roads. Many of our 160 cities or so that have local option sales tax, have committed their funds for LB840 programs or other programs, and would not be able to use some of this. But I do think that this is a very important mechanism and it's innovative and it's something we hope the committee will advance. I'd be happy to respond to any questions you might have. [LB85]

SENATOR FRIEND: Thank you, Ms. Rex. Are there questions for Ms. Rex? I don't see any. Thanks for the testimony. Next proponent. [LB85]

JACK CHELOHA: Good afternoon, Senator Friend, and members of the Urban Affairs Committee. My name is Jack Cheloha, last name is spelled C-h-e-l-o-h-a. I'd like to

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

Urban Affairs Committee  
January 20, 2009

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testify in support on behalf of the city of Omaha for LB85. I don't have any prepared remarks regarding this. We did have the hearing on LB813 last year and we were in support of it then. In Omaha, typically, in terms of how we finance our road improvements, we do get money from the Highway Allocation Fund, which is through the state's fuel tax, if you will. I think that number is about \$26 million. It fluctuates, anywhere between \$24 million to \$26 million a year, Omaha receipts there. We do have a wheel tax on our vehicles within the city limits. Most passenger cars, I think, right now are at \$35. I think we raise about \$12 million from that. And then, through the course of issuing GO bonds, or as we do sanitary and improvement districts, we have a fee that we assess there on the front end, which is a little bit different than Lincoln, because they don't utilize the SID's like we do in Omaha. Ultimately, this bill could help Omaha and we may be able to use it. We don't have any immediate plans to, but as others have testified, it would be something that we could look at and maybe use in the future. For those reasons, we support it. I'll try to answer any questions. [LB85]

SENATOR FRIEND: Thank you, Mr. Cheloha. Are there questions from committee? I see none. [LB85]

JACK CHELOHA: Thank you. [LB85]

SENATOR FRIEND: Thanks for the testimony. Are there any other proponents? Last chance. Is there any opposition? No opposition? Anyone wishing to testify in a neutral capacity? Senator McGill, you're recognized to close. [LB85]

SENATOR MCGILL: I'll go ahead and waive. [LB85]

SENATOR FRIEND: Senator McGill waives closing and that will close the hearing on LB85. We will move to LB104. Senator Cornett to open, but I believe her counsel is here to open for her. [LB104]

BRENDA LARSON: Aide, not counsel. [LB104]

SENATOR FRIEND: Her aide, thank you for the correction. [LB104]

BRENDA LARSON: Yes. Good afternoon, Chairman Friend, and members of the Urban Affairs Committee. For the record, my name is Brenda Larson, L-a-r-s-o-n, legislative aide to Senator Cornett who represents the 45th Legislative District. Senator Cornett has several bills today so on her behalf, I would introduce LB104. LB104 amends Section 16-117 to change the procedures for annexation by cities for the first class. The bill removes the steps in the annexation process that cities of the first class have to follow, but other classes of the municipality do not have to follow. These steps are the need to adopt a resolution, hold a hearing, and develop a plan for extension of city services. LB104 makes the annexation process for cities of the first class the same as

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

Urban Affairs Committee  
January 20, 2009

---

for cities of the second class and villages, and similar to the process for the cities of the metropolitan and primary class. LB104 does not change the requirement that a city of the first class adopt an annexation proposal by ordinance at a public meeting after notice. The planning commission must review the annexation proposal and make a recommendation to the city council before the council can take action on the proposal. That would be under Section 19-929. The requirement that the ordinance be read at three meetings on three different days prior to adoption cannot be waived for the annexation ordinances. And that's under Section 16-404. LB104 equalizes the process for annexations for all classes and municipalities. Thank you for your time and consideration of LB104. [LB104]

SENATOR FRIEND: Thank you. Are there questions for Ms. Larson from committee members? I don't see any. [LB104]

BRENDA LARSON: Thank you. [LB104]

SENATOR FRIEND: Thank you. We'll start with proponent testimony. Welcome. [LB104]

DON HOINS: (Exhibit 4) Thank you, Senator Friend and members of the committee, my name is Dan Hoins, H-o-i-n-s. I'm the city administrator with the City of Papillion, Nebraska, appearing in support of this legislative bill this afternoon. I did appear in front of you last year on a similar bill, I believe it was LB984 then, and not much has changed. I have, making its way around to you, a spreadsheet that is prepared by my office for your consideration. And on the far left side...I believe it has made its way all the way around, on the far left-hand side, Senators, is a check sheet that the city of Papillion uses to, when we conduct annexations to make sure that we're following all the provisions of the statute. Just for a visual, my office put together a similar check sheet for metropolitan primary and second-class cities and villages so you could see the inherent differences and why we're asking for equalization. And if we're asking for one thing, it is, just really something in fairness and equality. The current process is very laborious and very cumbersome. The last annexation the city of Papillion conducted in August of 2007, we spent \$23,000 just in publication costs. So not only is it staff intensive, the publication costs are tremendous with the amount of times we have to do and then to go through that. So with that, I think that I'll just open the floor for any questions and answer any questions you may have. [LB104]

SENATOR FRIEND: Thank you, Mr. Hoins. Are there questions from committee members? I don't see any. Mr. Hoins, what happens if you annex Gretna? You actually want Gretna? (Laughter) [LB104]

DAN HOINS: I don't think we're planning on annexing Gretna, Senator. (Laughter) [LB104]

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

Urban Affairs Committee  
January 20, 2009

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SENATOR FRIEND: That's a bad joke, I know. [LB104]

DAN HOINS: They're part of our united city, so we're friends. [LB104]

SENATOR FRIEND: Okay. No, I see no questions, thank you, Mr. Hoins. [LB104]

DAN HOINS: Thank you. [LB104]

SENATOR FRIEND: Next proponent. Welcome. [LB104]

GARY KRUMLAND: (Exhibit 5) Senator Friend and members of the committee, my name is Gary Krumland. It's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB104. And has been mentioned that many of you heard this bill last year. It was LB984. It was before the committee and was voted out to General File. We just ran out of time before we had a chance to deal with it on the floor. This bill, as you heard, deals with cities of the first class. Those are cities with a population between 5,000 and 100,000 and their procedure to do annexation is quite a bit more extensive than other classes. So the purpose of LB104 is to equalize it so they're much more similar to the other classes of cities. And I do want to emphasize what I've handed out is current statutes that aren't in the bill but they are current law. So that even by eliminating the extra procedures cities of first class have to follow now, it's not going to be a, just a simple little process. Section 16-404 applies to cities of the first class and talks about adoption of an ordinance. And cities of the first class and cities of the second class and villages are required by state law to do three readings before they adopt an ordinance on three different days. In other words, in three different meetings. There is a procedure to waive the three readings by a three-fourths vote but the law provides that for annexation the readings can't be waived. So the issue will have to be before the city council on three separate city council meetings. So it's not like it's a quick slam dunk. It would still be considered by three different meetings. And also the other statute that's included is 19-929. And this is the current law and the underlining shows that all annexations have to go through a planning commission. So the planning commission would review this first, make a recommendation to the city council before the city council would do it. So there still are procedures that the city has to follow that people have plenty of opportunity to have input into the decision, but this would equalize the process for all classes and municipalities. And we, again, ask you to advance this to General File like you did last year. I'd be happy to answer any questions. [LB104]

SENATOR FRIEND: Thank you, Mr. Krumland. Are there questions from committee members? Senator Rogert. [LB104]

SENATOR ROBERT: Gary, refresh my memory. When we discussed it last year, I know it probably was discussed, but why do you think the process was made so lengthy

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

Urban Affairs Committee  
January 20, 2009

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for first-class cities? [LB104]

GARY KRUMLAND: I don't know the specifics but I think there was a dispute and I...I probably shouldn't even say this because I...I think it was in the city of Hastings that there was some dispute, and [LB104]

SENATOR ROBERT: Oh, yes. [LB104]

GARY KRUMLAND: ...and something was added to this because somebody disagreed with the decision that they were making. [LB104]

SENATOR ROBERT: So maybe we solved the small problem with a big fat solution. [LB104]

GARY KRUMLAND: Well, I wouldn't characterize it, but... [LB104]

SENATOR ROBERT: Per se. Okay. That's what I mean. Thanks. [LB104]

SENATOR FRIEND: Thank you. Are there further questions from committee members? Mr. Krumland, how many second class...I mean, I could send Bill a note, how many second-class cities do we actually have? Do you know off the top of your head? [LB104]

GARY KRUMLAND: Cities of the second class, and those are from 800 to 5,000, I think there's like 135. [LB104]

SENATOR FRIEND: Are there more first-class cities? [LB104]

GARY KRUMLAND: No, there's less. There's about 30 first-class cities. [LB104]

SENATOR FRIEND: Okay. Are there any other questions? Seeing none, thank you for the testimony. Next testifier in proponent fashion. No more proponents? We will start with any opposition testimony. [LB104]

ANDY POLLOCK: Mr. Chairman and members of the committee, my name is Andy Pollock, P-o-l-l-o-c-k. And I'm here as a registered lobbyist on behalf of Northwestern Energy. I'll keep my comments very brief. We understand what the cities are doing in terms of trying to equalize and make more uniform their annexation process, and we really have no objection to that. Our only concern, and I think it's something that we can certainly work with the cities, definitely with the city of Papillion and the other cities, to try to work out. And that would be just to ensure that natural gas companies who have an obligation under their tariff on file with the Public Service Commission, have an opportunity to take adequate steps to ensure that the extensions of their systems are something that they could handle to be able to serve the annexed areas. It's a pretty

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Urban Affairs Committee  
January 20, 2009

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simple function. We just need to be in the loop. We need to know so that if there are extensions of our system that are brought about by the annexation, we can take the steps to get that going as early as possible so that someone in an annexed area isn't left without natural gas service. Northwestern represents or serves three cities of the first class, three of the four cities that they serve are cities of the first class, those are Kearney, Grand Island, and North Platte. And I'm confident that we can work something out with the proponents of this bill to ensure that for those cities we have adequate notice and we can take the steps necessary at the appropriate time to extend our systems to comply with PSC Tariff. That's really all I have unless you have any questions. [LB104]

SENATOR FRIEND: Thank you, Mr. Pollock. Are there questions from committee members? I don't see any. [LB104]

ANDY POLLOCK: All right. Thank you. [LB104]

SENATOR FRIEND: Thanks for the testimony. Next testifier in opposition. [LB104]

JOHN LINDSAY: Thank you, Mr. Chairman, and members of the committee. For the record, my name is John Lindsay, appearing as a registered lobbyist on behalf of Source Gas. Without trying to repeat what Mr. Pollock just testified to, our concerns pretty much mirror that. We have visited a little bit with the proponents of the legislation. Tried to reach some accommodation with them. We will continue to work in that direction, work with Senator Cornett. We appreciate Senator Cornett's office willing to talk to us. But when we're looking at these issues dealing, involving annexation, in some cases, it's not just an issue of the city lines and whether property will be located within a city or within a SID or in an unincorporated area, there are others who can be impacted. In one of those industries that can be impacted is the utility industry. Utilities, when they put their infrastructure in the ground, it is not an inexpensive proposition. And so when a city, especially those that might have some utility, their own utility service, extend out to those areas where there's existing infrastructure, some of the concerns can be with respect to stranded costs and those types of things. The current statutes do allow by requiring a plan for city services, it does allow a little more transparency in the process allowing all parties some sort of a notice and opportunity to be heard. We would ask that you take that into consideration and we would continue to work with Senator Cornett's office to try to resolve those concerns. I'd be happy to answer any questions, Mr. Chairman. [LB104]

SENATOR FRIEND: Thank you. Thank you, Mr. Lindsay. Are there questions from committee members? I don't see any. [LB104]

JOHN LINDSAY: Thank you. [LB104]

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Urban Affairs Committee  
January 20, 2009

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SENATOR FRIEND: Thanks for the testimony. Any more opposition? Anyone wishing to testify in a neutral capacity? And Ms. Larson to close? Ms. Larson waives closing. That will close the hearing on LB104 and the hearings for the day. I do want to have a short Executive Session, so if I could have a motion. We are in Executive Session. [LB104]

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Urban Affairs Committee  
January 20, 2009

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Disposition of Bills:

LB85 - Placed on General File.

LB104 - Held in committee.

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Chairperson

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Committee Clerk