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Urban Affairs Committee
January 30, 2007

[LB309 LB347 LB517 LR6CA]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, January 30, 2007, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB517, LB309, LB347, and LR6CA. Senators present: Mike Friend, Chairperson; Amanda McGill, Vice Chairperson; Abbie Cornett; Ray Janssen; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None. []

SENATOR FRIEND: (Recorder malfunction) ...while we're waiting for Senator Erdman, I might as well...he knows all the rules, or he should. If he doesn't, he'll be reprimanded appropriately. (Laughter) My name is Mike Friend. This is the Urban Affairs Committee. I am from northwest Omaha, District 10. And I wanted to first, I guess, introduce the committee members and while we're waiting for Senator Erdman, we can get through all this housekeeping stuff. To my right is Senator White, who is furthest away from me but he actually lives a heck of a lot closer to me than I suppose our proximity currently holds. He's at District 8 in Omaha, Senator White. And Senator Janssen from Nickerson, I got that right. Senator McGill, who is the Vice Chair of the committee from Lincoln. Bill Stadtwald is the legal counsel, for those who have been in a cave for the last 19 years and didn't know that. Beth Dinneen, the committee clerk to my left. Senator Abbie Cornett from Bellevue, welcome. And Senator Steve Lathrop from Omaha. And then Senator Kent Rogert from Tekamah. I wanted to just point out a couple quick things, most of you know these rules. But I wanted to make sure all the cell phones and pagers are at least either turned off or on vibrate. And those wishing to testify, the green sheets, I need the green sheets over by the doors filled out before you testify and placed into the box if you will. If you don't wish to testify, you'd like your name entered into the record, in the official record as being present at the hearing, just enter your name and information on the white sign-in sheet found on the table by the door. As you begin your testimony, it's important, folks, is to identify yourself and also spell your name for the transcribers. If you don't spell your name, I will stop you and force you to spell your name. I don't know how I would go about doing that other than just by telling you. If you have handout material, I forgot to introduce Matt. Matt is the page today and Matt is from North Platte, a student at the University of Nebraska at Lincoln. He would be happy to disperse that material for you. And if you don't wish to testify and you have, you wanted to submit some comments in writing to have them read into the official record, you can give those to Matt as well and he'll transfer those over to me. So with that, I see Senator Erdman here. He's got to get back to the Ag Committee so we will open on LB517. Senator Erdman, welcome. [LB517]

SENATOR ERDMAN: Thank you, Mr. Chairman, members of the Urban Affairs Committee. My name is Philip Erdman, I represent the 47th Legislative District, here to introduce LB517. And might I say it's exciting to be back in front of this committee as I served on the committee in my first year in the Legislature. So, hopefully we can continue to work on legislation for the betterment of our communities in the state. LB517

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creates procedures for two or more adjacent cities of the first class to merge or, in the alternative, consolidate city offices, other than the mayor or city council, or to provide for the joint performance of common functions or services. The consolidation process can be initiated by passage of a joint resolution by the city councils of each adjacent city of the first class wishing to merge or by petition of the registered voters in each city equal to 10 percent of the total vote cast for Governor in the last election in that city. Once initiated by joint resolution or petition, the city councils are required to make a good faith effort to draft a consolidation agreement and hold a public hearing on the agreement. If the consolidation agreement is approved by a majority vote of the city council of each city, the issue shall be placed on the ballot at a primary, general, or special election for approval by a majority of voters of each city. Procedures also outline that the withdrawal of a city from an agreement for the joint performance of common functions or services or the consolidation of city offices must be placed on the ballot for submission to the voters. That was my formal remarks and let me give you just kind of the Paul Harvey rest of the story, if you will. LB517 is the result of a question that was posed to me by a city councilman in a neighboring community that I know quite well--my brother. And he lives in a community of Scottsbluff. They share a border with the community of Gering, both are first-class communities. And he was simply interested in knowing what the process would be that they would pursue a more formalized opportunity to share services and possibly to consolidate their efforts as two adjacent communities. My staff and I researched and really couldn't find a process. We have a process in statute for city-county mergers. We have a process for county-county mergers. But really was never brought up the idea of there might be two cities that might also fall under this opportunity or want this opportunity. In visiting with the talented legal counsel for your committee, we found that there are actually other communities that may also fit this definition as well. And so we want to be sensitive to those issues and making sure that anything that is advanced in LB517 reflects the broad-based idea that this is not designed specifically just for those two communities in western Nebraska but it would be also available to other communities that might find themselves sharing a common border and would seek the opportunity to use this tool if they felt it was appropriate. We have also been in contact with your committee staff and some of the questions. A lot of the language that we have used for the drafting of LB517 was simply taken or modeled after existing language on other merger opportunities in other acts. And so we would be willing to work through those specific issues that your staff has brought up, and I think rightfully so. I also will be reading into the record, as a proponent, the testimony of my brother who wasn't able to be with us today due to a prior commitment and wanted to share his direct comments on the need for this opportunity and I can explain further his intentions by reading his comments. [LB517]

SENATOR FRIEND: Thank you, Senator Erdman. Were there any questions from committee members for Senator Erdman? Senator Janssen. [LB517]

SENATOR JANSSEN: Senator Erdman, do you suppose this would work for Omaha

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and Elkhorn? (Laughter) It would be a lot easier, wouldn't it? [LB517]

SENATOR ERDMAN: No. And I say that unequivocally because it was not intended and nor do I believe the application would do that, although there may be some in that community...well, some in a certain western community that may like to see this be an opportunity for them to avoid these circumstances. But it's not intended to be a vehicle for that. [LB517]

SENATOR JANSSEN: Now you mentioned that Scottsbluff and Gering would fit in that. Are they both in the same class of cities then? [LB517]

SENATOR ERDMAN: They are, Senator. Scottsbluff has approximately 14,000 residents, Gering has approximately 9,000 residents. As you well know, the current threshold for a city of the first class is 5,000. So they both would fit into that category. [LB517]

SENATOR JANSSEN: Now would you say that you would expect cities to be pretty close to the same population and the same class or could it be, say, a village that is close to a second-class city? Could they merge also? [LB517]

SENATOR ERDMAN: That's a very good question and probably valid considering that these questions probably weren't asked when we went down the path with the other bills. The way that LB517 is drafted, it's only designed to allow the cities of a first class--both are cities of a first class, since they have similar authorities, similar duties under the existing law--to be able to merge. And logically, if you go down that path with cities that have different authorities under the law, even though we have tried at times to try to codify those and to make them more logical or more consistent, you would probably have some other issues. So the way LB517 is drafted before you today just allows first-class cities. It's our intent that they would be adjacent or that they would share a border and so we have to clarify what that looks like. But it would be narrow in that scope. We probably would be well-advised to kind of look and see if there are maybe some other opportunities that we should be looking at. But just as this was brought to my attention and I guess what we were willing to bite out of the apple was this specific area. [LB517]

SENATOR JANSSEN: Well, it could possibly open the door for other types of mergers. [LB517]

SENATOR ERDMAN: And I think, Senator Janssen, you bring up valid points. And the thought that I have is, is that in the event that there are entities that interested in pursuing this, we probably shouldn't stand in their way. In the event that you go to a different path and start mandating consolidation, I think that's a completely different discussion. So this is simply permissive. We've had folks come forward and say, hey,

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how would we do this if we wanted to pursue it. We couldn't find the specific process as we have outlined in statute and so we figured we should at least bring it to the Urban Affairs Committee and to your attention and hopefully find a way to put in statute this process. [LB517]

SENATOR FRIEND: Senator Cornett I believe had a question, and then we can... [LB517]

SENATOR CORNETT: I'll admit, Senator Erdman, I haven't had a chance to study this bill. I have looked at it though. And I might be missing it but is there anything in the language...does this address cities of the first class that may be adjacent but are in separate counties? Are you allowing mergers across county line? [LB517]

SENATOR ERDMAN: The intent of the legislation, and this was where we found out that there were other communities, Ralston and LaVista share a border, as do Papillion and LaVista. And it would be logical, based on the idea that we have kind of outlined for the Scottsbluff-Gering idea for the same opportunity. And one of the things that we have visited with Mr. Stadtwald about is making sure that when we go forward, that we've addressed those concerns as well. We weren't aware, I guess, of that proximity and so we want to make sure that if this is an option that we're going to allow for other cities of the first class, that we're able to try to figure out how those issues...because you do certify taxes and other things to different entities in different counties, and so then you'd have to figure out how to resolve that. So it's not in the bill. It has been brought up by Mr. Stadtwald and it's something that we think we should probably look in and figure out how to resolve that in the event that they would choose to take advantage. [LB517]

SENATOR CORNETT: And again, this is probably something that would have to be answered by Mr. Stadtwald. And like I said, I haven't studied the bill as well as I'd like to. In any way does this open up the door for annexation across county lines? [LB517]

SENATOR ERDMAN: I think the annexation statutes would stand on their own... [LB517]

SENATOR CORNETT: Separate from this, but this would strictly be for cities that agree to consolidation? [LB517]

SENATOR ERDMAN: Correct. As I understand the...that is the intent. [LB517]

SENATOR CORNETT: The intent. [LB517]

SENATOR ERDMAN: It's not, annexation is a different vehicle. [LB517]

SENATOR CORNETT: It's a different issue, but... [LB517]

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SENATOR ERDMAN: And fortunately it's not in this legislation because I think it would bring in some of those folks that Senator Janssen had asked about. It's not designed to do that. [LB517]

SENATOR CORNETT: Well, I know, because normally the county line is pretty much where mergers and consolidation stops. [LB517]

SENATOR ERDMAN: Right. [LB517]

SENATOR CORNETT: And this is where there's a little bit of a blurring. [LB517]

SENATOR ERDMAN: Sure. [LB517]

SENATOR CORNETT: And I just want to make sure that it doesn't open that door. [LB517]

SENATOR ERDMAN: Sure. And I would defer and there may be a good policy reason why there should be some deference given in those examples where you go across county line. And as an individual yourself who represents those areas, we would be happy to kind of wade through those thoughts and see what your opinions were before we would go forward. [LB517]

SENATOR CORNETT: Okay, thank you. [LB517]

SENATOR FRIEND: Any more questions? Senator Rogert. [LB517]

SENATOR ROGERT: I just had one, just for my own curiosity. On the petition process, you pick 10 percent of the total votes cast for Governor. Any particular reason or is that just commonplace? [LB517]

SENATOR ERDMAN: It's a general, and I'll have to defer as well, but I think that's a general standard that we use in other petition requirements. [LB517]

SENATOR ROGERT: Okay, okay. Super. []

SENATOR FRIEND: I believe Senator White had a question. [LB517]

SENATOR WHITE: Senator Erdman, with regard to whether this opens the door for a voluntary merger across county lines, there are documents in the law that would say that if we don't specifically say it is prohibited inside of this statute but we do specifically say any two cities meeting the statutory definition that are adjacent, of course could, under usual rules of construction, read that to say we are permitting cross-county

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voluntary consolidation of services and/or a merger. Is that the intent of this legislation? And if not, is there any reason why it wouldn't specifically say that? [LB517]

SENATOR ERDMAN: The simple answer to your question is the reason that it doesn't specifically address the issue of cross-county consolidation of cities that would meet this definition is because that wasn't the standard that we used in drafting the legislation. As I mentioned earlier, Scottsbluff and Gering share a border, they're both in Scotts Bluff County, so it's a little different philosophy that I would have personal experience. Senator Cornett's area and in the Douglas side with their community that neighbors that, and I'm not sure which one is one which side. But between Papillion and LaVista, it would be logical to me that you would want to address the issues that surround that type of situation because you're going to have to also address where you certify the taxes to, those issues. And that's kind of what I was trying to get with Senator Cornett. So I can understand that the courts may construe it that way. I think it's important that, as we go forward, that we take into consideration both the example that I bring forward as you have two communities in western Nebraska that are both in the same county that may want to proceed with this as much as if there are communities in eastern Nebraska that have a county that divides them that may want to pursue this in the future as well. So I think it's logical to ask those questions. I think it's important to have answers to those questions and making sure that, if we're going to allow it for all of it, meet the definition, that it's more than just stating it but it's also clarifying how that process is outlined. [LB517]

SENATOR WHITE: Do you have a position on whether, with regard to voluntary, I mean voluntary consolidation of services or a merger, whether that should be allowed across county lines? I mean, do you have a position on that that you can advise us? [LB517]

SENATOR ERDMAN: I personally don't see a problem with it. But like I said to Senator Cornett, I would defer to those that may know more of the uniquenesses about those communities. I think this is a similar...to be true in my argument, I think if communities want this opportunity that meet the definition if they were in an existing county that it would be logical to me that it would be extended to those that are in neighboring counties as well. [LB517]

SENATOR WHITE: As I read the bill, I would tell you--and this is just an opinion, for what it's worth--only the people with the black robes votes would count. I think this allows voluntary consolidation across county lines among cities of the first class. I think it does. And I don't have a problem with that if it's an intended position. And do you think a debate on that wisdom of that issue would be wise? [LB517]

SENATOR ERDMAN: I think it would be wise and I think the debate would bring out the reasons why that would be a good idea or why that would be different than the example that I bring before the committee. I think that reading the legislation obviously has far

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greater opportunities than what we envisioned. And again, as I mentioned earlier, it's because of my lack of understanding of where the boundaries of all the cities in the state are drawn next to their neighbors. And so I'm not opposed to the idea. I just wanted to make sure that the committee was aware that there are issues that probably need to be addressed in the event that it is done that way. As I said earlier, I don't see a problem with doing that, it's voluntary. If communities such as Papillion and LaVista see this as an opportunity and would like to take advantage of it, I think they should have that right, just as if Scottsbluff and Gering--which also meet the definition of adjacent first-class cities--want this opportunity, that they should have that right, and to simply outline the process in which they would go about accomplishing that. [LB517]

SENATOR FRIEND: Yes, Senator White, go on. [LB517]

SENATOR WHITE: The law restricts voluntary merger and consolidation to first-class cities and then also further restricts it to first-class cities physically adjacent to each other. A lot of the opportunities for meaningful savings or expansion of services at an affordable rate might be better found in smaller cities who can't afford the services of larger entities. And also, sometimes perhaps villages or cities, though not adjacent, might be located close to each other. I know, you know, the very small towns in rural Nebraska can only afford one police officer. And to have a nearby town say, well, when one guy's off or he's on vacation, they can cross-serve each other, things like that. Is there a reason why you restrict this bill just to first-class cities and to those first-class cities who are physically adjacent as opposed to broadening its reach, since it is voluntary, to any entity that might find that they could better serve their residents through the use of it? [LB517]

SENATOR ERDMAN: I think, as I mentioned briefly in my opening, I think that there is a logic from the standpoint of where we have come to this committee and that is the information that we have. There are different mechanisms that a community, and I represent a number of counties that have one or two communities. Garden County, for example, Deuel County, they don't have police officers in each town, they have a sheriff which covers the entire county. So I think some of those issues may be resolved elsewhere. I think the issue gets a little more muddy when you start merging or you start giving this opportunity to communities that are from different classes because of their different authorities under the statute, whether they're a village or a second-class or a first-class. And then when you make it so that they're not adjacent or continuous or contiguous, then you get into some issues maybe with that Douglas County region that might bring some controversy as well. So, we're open to making sure that the tools that we need to put in statute for this opportunity are there. I'm just telling you that, at this point, this is where we've come from, recognizing the requests that we've had to our office to provide a formula in statute for communities that are adjacent and contiguous of a first class to be able to pursue this opportunity. [LB517]

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SENATOR WHITE: So one of the concerns is harmonizing the different statutory grants of power between entities that are supposed to consolidate or cooperate, and that makes sense. It may be quite complicated, I can appreciate that. Thank you very much, Senator. [LB517]

SENATOR FRIEND: Thank you, Senator White. Senator Rogert, I believe. [LB517]

SENATOR ROGERT: On that same issue, could you include cities that are of the same class, rather than say a cross-class? Just for example, you have first-class, two or more adjacent cities of the same class. [LB517]

SENATOR ERDMAN: You could. And then again, I think it gets into the details of the legislation. You may have a village board as opposed to a city council. You don't have two villages. And I think the determining factor is that you have not only the class in which they are deemed by the statute, but you also have their location to one another. And so I don't know. And maybe Mr. Stadtwald can share with us at a later date if there are second-class cities that are adjacent and contiguous, if there are villages that are adjacent and contiguous. And so again, it's simply looking at the example that was given to me and trying to outline a process that may not only fit them, but also the issue in Papillion-LaVista and LaVista and Ralston. [LB517]

SENATOR ROGERT: Are those the only examples that you came up with, those two pairs? [LB517]

SENATOR ERDMAN: So far those are the only six communities, five communities that would fit this definition at this point. And like I said, there's different reasons that those were chosen because of the fact that they are contiguous or adjacent to one another. [LB517]

SENATOR ROGERT: Thank you, Senator. [LB517]

SENATOR ERDMAN: You bet. [LB517]

SENATOR FRIEND: Thank you, Senator Rogert. Senator Lathrop, I believe, I had a question. [LB517]

SENATOR LATHROP: I do have a question and part of it is going to demonstrate that I don't have a grasp of the first question, and that is, is there a limit on how big of a town can be annexed by, for example, the city of Omaha? [LB517]

SENATOR ERDMAN: There is, and that would be... [LB517]

SENATOR LATHROP: Do you know what the number is, the population? [LB517]

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_____: Ten thousand. [LB517]

_____: Ten thousand. [LB517]

SENATOR ERDMAN: I bet it's 10,000. [LB517]

SENATOR LATHROP: Is it 10,000? I'm just... [LB517]

SENATOR FRIEND: For the record, 10,000 was the term that...(Laughter) [LB517]

SENATOR ERDMAN: I'm hearing this... [LB517]

SENATOR LATHROP: That was the consensus. [LB517]

SENATOR FRIEND: That was the consensus, but we can check on that for the record. [LB517]

SENATOR ERDMAN: If we want to vote on that, I'm sure we could do that later. (Laughter) [LB517]

SENATOR LATHROP: Okay. I'm just wondering, I'm just thinking down the road and I'll just put it out there, if some communities in western Douglas County hurried up and made their own little city, if they could stop further expansion by the city of Omaha by doing that. [LB517]

SENATOR ERDMAN: And I knew those would be the creative options and ideas that would come out of the existing issue in Douglas County. Again, there may be some collateral damage, if you will, from that discussion, this discussion. But this is on voluntary circumstances, contiguous and adjacent is what we're hoping it to be. As I understand, the language isn't that clear. But again, I think we need to think through those, figure out what those circumstances may look like. As I would understand it, those examples are not readily available under LB517 at this point. Again, the examples would be Scottsbluff, Gering, Ralston, LaVista, and Papillion. So any future development of those communities towards one another may make them eligible. But again, it would probably be something that needs to be thought through and have a little vision of what the future might look like. [LB517]

SENATOR LATHROP: Okay. I've looked at this, it looks very comprehensive, looks like a lot of work, and I appreciate what you've done. I do have another question though and that is, we've seen the problem consolidating school districts in communities of about the same size where, for whatever reason, they don't want to become the Gering-Scottsbluff High School, they want to maintain their own identity. Are we ever

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going to see this used? Do you know of anybody that's interested in this right now? Is Gering exploring this with Scottsbluff right now, that we would go ahead and put this on the books? [LB517]

SENATOR ERDMAN: And I'll answer that as a primer, I guess, to the testimony of my brother who's a city councilman in Scottsbluff. And I'll read that. And there's no formal process in place because there's no formal process in statute for them to pursue this. I will tell you that with elections come different representatives in different leadership positions, both here and locally. There is a greater sense of cooperation between the two communities after the most recent city council and mayoral elections. Whether or not they're immediately at this point or not, I think this is a process that they would go through to formalize some of the discussions maybe that they're pursuing. So I think they're serious about the discussion and I think they want to know what their options are on the table as they begin some of these discussions. Scottsbluff and Gering have been Scottsbluff and Gering forever. I mean, as long as they've been communities in the late 1800s when they were formed. There is no formal intention at this time by any council to form a merger because, again, there's no formal process for them to pursue that. There have been some very good discussions. They are in a community that I don't live in, they're 20 miles away. I've had discussions with some of the council members about their discussions and they're very optimistic. They do share services in certain areas but they would just like the opportunity to know, if they were going to take it to the next step, what process would the Legislature and the statute recommend that they pursue. [LB517]

SENATOR LATHROP: Okay, thank you. [LB517]

SENATOR FRIEND: Senator White, I believe, had another question. [LB517]

SENATOR WHITE: Senator Erdman, I want to tell you thank you, too. This is a well-drafted statute. You know, obviously something this complicated is going to need analysis and tweaking. But it's an incredibly nice piece of work. With regard to the annexation issue--which obviously is of great importance to the people of Omaha, Sarpy County areas--this process would require a vote of the people, notice, things like that. So in terms of two cities merging, it would take at least as long, would it not, for them to voluntarily merge as it would for one to annex the other, thereby getting over the 10,000 number, which is kind of the situation which provoked Omaha's action towards Elkhorn to stop them from going over that threshold. Nothing in the statute would accelerate their ability to evade that number that I'm aware of. Are you aware of anything? [LB517]

SENATOR ERDMAN: No. And they are different processes. This is a situation where you would have, as we would with city-county and county-county, you would have a vote of the groups that would be affected and both would have to prevail in order for it to be successful. In that annexation situation, one prevails over the other, which creates a

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completely different dynamic and leads to some difficulties, both in organization from the standpoint of being able to work together with one another after a circumstance like that. And so we're trying to avoid that type of situation and say if there are willing parties that would like this opportunity to maximize their efficiency and reduce the administration or whatever they would see fit, that they could present that to the voters. And so there would be a time line in place. The time line would be directly reflective upon the ability of the two entities to agree on what that function or structure would look like before placing it to a vote of the people and adopting those resolutions to go that path. So it may or may not be a prolonged effort, depending upon how close, how like-minded the representatives in those communities were in accomplishing the goal. [LB517]

SENATOR WHITE: And my concern is, I mean, from a person who represents an Omaha district... [LB517]

SENATOR ERDMAN: Sure. [LB517]

SENATOR WHITE: ...is whether or not the ability of a city like Omaha to react to a proposal that would remove two cities out of the ability to annex, whether it be proper amount of time for the city to react before that was done or not. And as I look at the statute, I'm asking you if you have an opinion, it doesn't shorten the available time now. [LB517]

SENATOR ERDMAN: No. And like the example that I gave you of, or the analogy that I gave you is simply based on the willingness of the parties. There's not a quickened sense to try to avoid something. And as Omaha has shown in other circumstances, they had the ability to respond as quickly as they felt was appropriate under other statutes. And so this, I don't think affects that issue because I think their authority is independent of this statute and would also have to be taken into consideration on those discussions. [LB517]

SENATOR WHITE: Thank you for your courtesy, Senator. [LB517]

SENATOR ERDMAN: You bet. [LB517]

SENATOR FRIEND: Thank you, Senator White. Are there any more questions from committee members for Senator Erdman? Seeing none, Senator Erdman, thank you and good discussion. And I already talked to you a little bit about the legislation and committee members did a pretty thorough job. So with that, I would call the proponents and I believe you're going to sit right there. And since we don't have teleconferencing...can I see a show of hands, by the way, of folks who want to testify on this bill? Okay. And what I will say for the record is Senator Philip Erdman is going to testify for Scottsbluff City Council member, on behalf of Scottsbluff City Council

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member, Craig Erdman. Senator Erdman. [LB517]

SENATOR ERDMAN: (Exhibit 1) Thank you, Mr. Chairman. My name is Philip Erdman. I'm here at this sitting to represent Craig Erdman, C-r-a-i-g E-r-d-m-a-n. He is a Scottsbluff City Council member and wish that the following testimony be presented to the committee and his position be made part of the record. Good afternoon, members of the committee. I'd like to present this, my testimony on LB517. First let me say that we have a unique opportunity with this bill to work cooperatively with neighboring communities to spend our constituents' money more efficiently. And to do that, we need this bill to enable us to do that. Why do we need this bill? Let me give you my take on this. With cooperative ventures, we can spread the tax base on our citizens and thus lowering the tax-asking to our citizens, which as we know, all citizens in our communities expect from us as elected officials to do. After all, it's not our money and we need to be the best stewards of their money that we can be. With this bill, it allows us to work together to do that. Another benefit of this would be increased efficiencies by the cities that want to merge. Most cities do virtually the same services to each of their representative citizens and this would allow these cities to concentrate on taking the strengths of each city to make the best situation for the communities served. For example, one city may have strengths in public works or solid waste or even a water situation that may be more beneficial for both cities. This bill does not in any way force communities to lose their identity, which is important to their cities. It gives a choice to their respective councils as to the level of merger that they want to put to the citizens of each community for their approval. That, I think, is the most beneficial part of the bill, is that it lets the communities decide if they want to do a total merger and pick a new name or a hybrid name, partial merger with services only which may be more palatable to people who don't want to fight the name change, or merge some of the elected or appointed offices in each city which would also help spend their tax money more efficiently...excuse me, more efficient. Needless to say, this is not a bill that will be implemented when it's signed into law but a tool that allows cities that are neighboring cities of the first class to either merge totally, joint venture with services, or merge or consolidate offices, either appointed or elected, in each city. I want to be perfectly clear on this matter. I have no plan to force the merger of Scottsbluff and Gering. I want this bill, which is a tool that would allow us to do so if we, each council, came to that decision. After all, it will be a vote of the people that will ultimately tell us yes or no, as it should be. I appreciate the committee hearing this testimony, would encourage you to enable us to help our taxpayers by letting us, if we choose to, merge totally or jointly with services or merge either appointed or elected offices in our respective communities by moving this bill out of committee. Thank you for hearing my testimony. Respectfully submitted, Craig Erdman, Scottsbluff City Council Member. [LB517]

SENATOR FRIEND: Thank you, Senator Erdman. And any further questions for Senator Erdman, speaking on behalf of Craig Erdman, please? Seeing none, Senator, thank you. [LB517]

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SENATOR ERDMAN: Thank you, Mr. Chair. I'd like to thank...as all those kind words were talked about how well the bill was drafted and all the things, it's the result of work by my staff, Cheryl Wolff, and working with Bill Stadtwald and we hope to continue that relationship as we move forward with any legislation regarding LB517. [LB517]

SENATOR FRIEND: Thank you. [LB517]

SENATOR ERDMAN: And I will waive closing. [LB517]

SENATOR FRIEND: Okay, Senator Erdman will waive closing. Do I have any more proponents of LB517? We will begin then with opposition testimony of LB517. Any opponents? Anyone wishing to testify neutral? [LB517]

LYNN REX: Senator Friend, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. We're neutral on this bill for a couple of reasons we want to point out to the committee. One which is that if you turn to page 2 and look at the first section, Section 1, right now it basically, this bill would provide for a full consolidation. Secondly, it provides for a consolidation of one or more elected or appointed city offices. And third, it provides for the joint performance of other functions. Certainly the third function is what these two cities and other cities across the state have been doing as well. And one of the concerns we do have is that nothing in this measure, if you advance it out of committee, would preclude or negate what other cities have already been doing on the joint delivery of services. For example, Scottsbluff-Gering, and on behalf of Gering we represent both cities, want you to know that they prefer Gering-Scottsbluff as a name and they asked me to share that with you this afternoon and so I did so. But I do think it's important to note that these cities are already looking at joint building inspectors, they've been doing that for years. They do a lot of services jointly. There are many cities across the state that do that. There are cities that share city administrators, they have circuit riding administrators, especially the small ones. There are cities that have, basically they have an appointed official who's the same city official. And the way that they do it is the city council of X and the city council of Y both appoint the same person as the utilities superintendent. So they go back and forth, whether it's between Broken Bow and Arnold, as an example. That's been happening for years. The concern that we do have is that nothing in this bill basically is interpreted to limit what cities are already doing. And they are doing it by interlocal agreement because that's the legal process by which they accomplish this. And so we are concerned that nobody can look at this and from a last in time interpretation say, well, this is the last time the Legislature looked at this and how cities can be providing services jointly. And therefore some of the other statutes might be negated. And we do agree with Senator White's interpretation, that in fact this would allow any two first-class cities that are adjacent to so merge or consolidate. I'd be happy to answer any questions you have but we would encourage, we'd be happy to work with the

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committee. There are many other issues, too, that come into play when you're dealing with these kinds of statutes. For example, it isn't just first-class cities that are providing these kinds of arrangements. The Legislature, you may remember several years ago, passed LR45CA. That was the proposed constitutional amendment which became a constitutional amendment. It was a four-part amendment that was also the constitutional amendment that resulted in merger consolidation, LB142. The reason why there was no requirement in that and it dealt with municipal and county mergers as opposed to municipal and municipal mergers, is because you as state legislators already have the authority to do that. You did not need a constitutional amendment to do that. So again, many of the things in this bill are already there in terms of appointing the same person as an appointed official, that's already there. Joint delivery of services, that's already there. We have police departments that provide the same service for other police departments across the state. So there are many, many things with joint delivery service and appointed officials that are there. Obviously for merger of elected offices, that is the only office that the Legislature precluded merger. You cannot merge an elected office with any other appointed office or any other elected office, for that matter. So this would also need some clarification in this bill if you would move forward with respect to this bill. I'd be happy to respond to any questions you have. [LB517]

SENATOR FRIEND: Thank you. Are there any questions for Ms. Rex? Senator Lathrop. [LB517]

SENATOR LATHROP: I do have a couple. It sounds to me like you've described what's going on out in the communities already, whether it's a Class I city or a village. They're already combining services. So is this necessary other than to consolidate the two cities or... [LB517]

LYNN REX: Other than... [LB517]

SENATOR LATHROP: ...two villages? [LB517]

LYNN REX: Oh, I'm sorry, didn't meant to interrupt you. [LB517]

SENATOR LATHROP: I was done. [LB517]

LYNN REX: Other than a full consolidation, Senator, this bill...I mean, we already have the authority to do joint delivery of service, joint delivery basically of services with respect to the appointment of the same individual as the department head. And Senator White was the one who made the comment, but for example we have cities that appoint, right now, the same individual. So you have Arnold and Broken Bow that both appoint the same person as utilities superintendent or a circuit riding administrator. So those things are already occurring. The only distinction with this bill will be to allow a consolidation of a first-class city that's adjacent to another one. [LB517]

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SENATOR LATHROP: Okay. [LB517]

LYNN REX: That's the only distinction of a full consolidation. [LB517]

SENATOR LATHROP: So some of what's in this bill is already being done. [LB517]

LYNN REX: Most of it is. [LB517]

SENATOR LATHROP: My next question for you is, my next question other than the consolidation of the two cities, as you pointed out. But does LB517 do anything to impair their ability to do those things? [LB517]

LYNN REX: That's our concern. [LB517]

SENATOR LATHROP: Do you see anything in there? You've looked through it, the cities have looked through it. Do they have any concerns that, if we pass this, it would impair their ability to do those things? [LB517]

LYNN REX: Yes. For example, if you note on page 2, lines 12 to 14, a consolidation agreement--and again, the consolidation agreement that is cited in Section 1 and Section 2--refers to either one, two, or three, which is full consolidation, consolidation of one or more elected or appointed officials, or three, which is really going on all across the state, provide for the joint performance of any common function or service. And if you look on lines 12 to 14 on page 2, it indicates a consolidation agreement shall not be considered an interlocal cooperation agreement pursuant to the Interlocal Cooperation Act. Almost all of them are. That is the legal structure by which these cities work out what the wage agreements will be and how they'll structure it. So if this bill would pass in its current form, we have some serious concerns and city attorneys called into our office saying, wow, would this negate our interlocal agreements? We think it might. [LB517]

SENATOR LATHROP: So now what you need is to go through this process if you're going to share a utilities person? [LB517]

LYNN REX: We think that... [LB517]

SENATOR LATHROP: Right now you do it by interlocal agreement. [LB517]

LYNN REX: Correct. [LB517]

SENATOR LATHROP: Is this going to require that you go through a more cumbersome process to share services with... [LB517]

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LYNN REX: Well, frankly, yes. Because the way that we read this...and again, this bill as drafted relates to five cities because you're only looking at five cities of the first class that are adjacent. And those would be the ones that have already been cited by Senator Erdman. But let's take Scottsbluff-Gering. That's something that he's familiar with. And Senator White, before you came in, I indicated that Gering indicating that they do want you to know, they want to be referred to as Gering-Scottsbluff respectfully. (Laugh) And I told them I would let every senator on this committee know that. But notwithstanding, for example, Scottsbluff-Gering already has joint delivery of services when it comes to building inspection. They have joint delivery of a lot of services. Those are all done by interlocal agreement. They don't want to negate that. So for example, if this bill would pass, one would think that you would then have to go through the process inherent in this bill in order to accomplish that. [LB517]

SENATOR LATHROP: And here's my question for you. You've brought up a concern. Do you have an answer for it? [LB517]

LYNN REX: Yes. [LB517]

SENATOR LATHROP: And that is, first of all, are you comfortable saying this is going to cause us problems because it will now make us go through the process that we've outlined in LB517 instead of entering into an interlocal agreement? Is that what you believe? [LB517]

LYNN REX: I believe that there is a way that you can make this bill, correct it by simply putting in some additional language to make it clear that when you have standalone interlocal agreements and you're providing joint delivery of service, that this bill does not apply. That takes care of them. That's what you need to do. [LB517]

SENATOR LATHROP: Okay. Perhaps you can share that language with us at another. [LB517]

LYNN REX: We'll be happy to do that. [LB517]

SENATOR LATHROP: I do have one more question. And if you can turn to page 5, in Section 2 which is now going to be lines 8 through 11, can you take a look at that real quick? And then I want to ask you a question about it. [LB517]

LYNN REX: I don't know what a good faith effort is in terms of trying to provide this. [LB517]

SENATOR LATHROP: That's my question. I don't want to see people thrown off their city councils because they didn't come to an agreement somebody thought they should.

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[LB517]

LYNN REX: And one thing I think that's important to keep in consideration in terms of how things have worked, in terms of Scottsbluff-Gering in particular since this is the bill that is addressing that particular area in the state, is that they have had for the last 30 years joint meetings between their mayors and city managers and city administrator. Scottsbluff is a city manager plan under Chapter 19, Article 6. Gering is a city administrator, basically; mayor, council, with a city administrator. So basically they've had joint meetings for the last 30 years. That's how they resulted in a number of consolidated services in terms of joint delivery of service. I would submit to you they would question whether or not, what this means. And that's one of the issues, too. I mean, what constitutes a good faith effort? Is 30 years enough? Is 35 years enough? (Laugh) I mean, how...what does it take to do this? I mean, they have tried to blend these issues. They have worked hard in terms of even looking at the issue of how you could blend a police force because they're both first-class cities, they're both under the same pension plan, they both have portability. So there are all kinds of issues like this. I think those two cities in particular have made an extraordinary effort in this regard. So I don't know how this operationally would apply, Senator. We also don't want to end up with having something...and I don't think Senator Erdman, in any way, intended it as such. You don't want something that's... [LB517]

SENATOR LATHROP: I don't either. I don't mean to suggest that he did. But as I'm looking at it, it requires that they enter into a good faith effort to develop an agreement. And if they don't, it can constitute willful neglect of duty for which the member of the city council may be removed from office. And that seems to me to be an invitation to throw somebody off the city council who isn't buying into the idea of a consolidation. [LB517]

LYNN REX: And they may not be buying into it because their constituents don't want it. And I will tell you that we've had city officials that have been removed from office through recall because, in fact, they chose to do some things that they thought were innovative whether it's fluoridation, that's not too innovative, that's pretty much standard in most cities. [LB517]

SENATOR LATHROP: Now it is. [LB517]

LYNN REX: But it's very, very controversial. And if you attended the Health and Human Services Committee earlier this, I think it was, week or last week, I mean, there are folks that appear and talk about those issues, too. So I guess that language is problematic but there's other language in here, too, that is. [LB517]

SENATOR LATHROP: Why don't you tell us what other language is problematic as long as you're here so we can... [LB517]

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LYNN REX: Okay. Perhaps what would be shorter is for me to sit down with your committee counsel and... [LB517]

SENATOR LATHROP: That would be good. [LB517]

LYNN REX: ...walk through that, if that would be all right. [LB517]

SENATOR LATHROP: If that works for you. [LB517]

LYNN REX: If that's okay. [LB517]

SENATOR FRIEND: Yeah. Thank you, Lynn. And I think questions, pertinent questions...and I think that there's going to be a lot more involved in this committee obviously, too, committee members obviously, too. So Lynn, the only thing I had to point out is that I think that one of the things that you made a point of, and I appreciate this because you said that, more or less, or ostensibly said that there are possibly some unintended consequences here. Here's the thing. The language on page 2, the key is we don't know. Because I don't think that there's anything in that language that could be considered submarining the Interlocal Cooperation Act. I mean, you could say that it's convoluted and we don't know what will happen. But I don't think that there's any express authority from line 7 all the way down to 14 in Section 2 there that says the Interlocal Cooperation Act is no longer in force. So I mean, somebody is going to...I guess my point is, there's going to be some people in some of these towns that try to make some decisions in regard to some of these services and they're going to go, where do we turn? What's going to be the best way to utilize our law, you know, for us? What's going to be the best way for us to do that? I think it just creates maybe a little confusion as opposed to maybe...I don't know that this is conflicting law, I guess is what I'm saying. And not that you said that either, I'm not trying to put words in your mouth. What you're saying, just so I have it straight and I'm not struggling with the answer, you don't know what it's going to do. [LB517]

LYNN REX: Some city attorneys across the state are very concerned about what this would mean for them. For example, if you look at Section 2, the city councils of any two or more adjacent cities of the first class may enter into a consolidation agreement for the--now skip down to C--joint performance of any common function or service. A consolidation agreement shall not be considered an interlocal cooperation agreement pursuant to the Interlocal Cooperation Act. Scottsbluff-Gering already have interlocal cooperation acts agreements in place. [LB517]

SENATOR FRIEND: Let me recognize Bill Stadtwald because I think he had a point to make here, if that's okay. [LB517]

BILL STADTWALD: And this may add some additional confusion to it but I just wanted

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to make a couple of points. [LB517]

LYNN REX: Oh, good. (Laughter) [LB517]

BILL STADTWALD: Number one, since this act only deals with first-class cities that are adjacent, it would only have the effect of negating, as it were, any agreements regarding those particular communities. [LB517]

LYNN REX: That's true. [LB517]

BILL STADTWALD: So for the five communities that we're talking about are the ones, the only ones that would be affected as far as the Interlocal Cooperation Act. [LB517]

LYNN REX: That's true. [LB517]

BILL STADTWALD: And I don't think it would negate items that already existed because this is totally prospective, it's talking about new agreements within the context of this. So those agreements that already existed I don't think would be negated even though if we could do that by this particular act. But I do think that it would have the impact of stating that, in the future for those five communities, the Interlocal Cooperation Act would be effectively repealed and that any attempt by them to do what could be done under the Interlocal Cooperation Act would have to be done in the context of this act, which would require a vote of the people. [LB517]

LYNN REX: My guess is Scottsbluff-Gering would not, my guess is, would not support that. [LB517]

SENATOR FRIEND: Right, right. Let's...if folks don't mind, we can take some of these offline. Lynn, did you have anything else to quickly add or any questions from committee members? [LB517]

LYNN REX: No, those are the issues. Thank you. [LB517]

SENATOR FRIEND: Seeing none, thank you, Lynn. [LB517]

LYNN REX: We do support the concept, by the way, of municipalities being able to make their own determination in terms of doing these things. Just technical issues. [LB517]

SENATOR FRIEND: Understood. Thank you. With that, Senator Erdman waives closing. That will close the hearing on LB517. And I believe Senator Heidemann is here to open on LB309. Welcome, Senator. [LB517 LB309]

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SENATOR HEIDEMANN: Good afternoon, Chairman Friend, members of the Urban Affairs Committee. I am Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, of Legislative District 1 and I'm here to present LB309. LB309 would extend the validity period for permanently issued handicapped or disabled parking permits from three years to six years. It would also allow for the permit applicant to request their permit expiration date to match the date of reissuance of their handicap or disabled persons license plates. The purpose of this bill is to make obtaining a permanently issued handicap or disabled parking permits more convenient for those who need them. Every time a permanently handicapped or disabled individual renews a parking permit or their license plates, they must show proof of handicap or disability to the local DMV office from their doctor. Also a lot of times an individual's permit and license plates are reissued in different months or years, thus creating another situation where they need to visit their doctor as well as make another trip to the DMV office. There are approximately 83,000 hang tags that are currently valid in Nebraska. Therefore, about 27,000 are reissued every year. With a longer validity time, these permits would not need to be reissued as frequently. You would think that this could save the Department of Motor Vehicles some money in the long run administration costs. With that, if there's any questions I would sure try to answer them. [LB309]

SENATOR FRIEND: Thank you, Senator Heidemann. Any questions from committee members? Senator White. [LB309]

SENATOR WHITE: Senator Heidemann, one of the things that frosts me is when I see young people clearly healthy and able get out of a car with a handicap permit and walk into a store when I see older people struggling across maybe an icy parking lot and not go there. And one of the things I've found is often they'll borrow their grandparent's, their parent's car and use it or they simply take the permit out of their parent's car and hang it in the window. Are there mechanisms in place now that those kind of abuses can be dealt with? The reason I raise the context of this bill is if we give them six more years, one of the things I've seen done is somebody passes away so they just take the tag. And you really see it in Omaha where we have a lot of dense parking problems, when they have basketball games or popular events at the Qwest Center, other places. You see perfectly healthy young people parking in handicap spaces and abusing these things. So that's the question. If we extend it to six years, don't we increase the life of the ability of these folks to abuse this privilege instead of using it responsibly? [LB309]

SENATOR HEIDEMANN: I understand your concern. But in reality, the way I would look at it is they could do this within a month after this thing was issued, let alone after three years or four years or five years. If they're going to misuse it, they can do it at any time. And just because we just do this every six years instead of three years, I don't know if we're setting ourselves up for more misuse or not. [LB309]

SENATOR WHITE: Well, for example, if the proper owner passes away, you know, a

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year into a three-year policy, you only have a two-year window to abuse it because then the permit has got to be reissued, or hopefully reissued. But if, under the new bill you'd have a window of five years that they could reuse it before we reexamine whether or not the permit is justified. Or for example, the person if they're older would no longer drive, they no longer qualify to drive and they've got to show up, you know, with a drivers license to get the permit and show they drive. You know, they're not longer able to drive. So, don't we extend the window? [LB309]

SENATOR HEIDEMANN: Well, definitely looks like you could extend the window of opportunity to misuse it. I would have to think there's something in place that somewhat deals with that already. I mean, how do we deal with it now? [LB309]

SENATOR WHITE: Well, and that's my question. I don't know if we do or not. But one thing I know is if we force people more frequently to come in and reapply and show that it's still needed and show that they're still driving, we do cut down on the window for abuse. And if we expand that, I think we expand the window for abuse. And that's why I'm asking you, sir. [LB309]

SENATOR HEIDEMANN: I do understand your concern, where that could happen. We might...by doing this, you might be opening up that window just a little bit more. I believe looking on the other side, you know, what you put these people through to get it, it might be able to, you know, you might help them enough to overlook what you're causing on the other side. [LB309]

SENATOR WHITE: And that may well be true. I appreciate it. Thank you. [LB309]

SENATOR FRIEND: Thank you, Senator White. Are there any other questions from the committee members? Senator Heidemann, I know you're busy. I just wanted to make sure we got our...and I want to cut you loose here but I want to make sure I got my hands around it for us and in an executive session to deal with. Have you seen...is it your testimony, just to make sure I'm on the right page, that this is going to promote some efficiency and some cost savings? I mean, that's a big item, I guess, with you. Am I understanding that right? [LB309]

SENATOR HEIDEMANN: You know, maybe more than anything, the people that are using this is going to use an efficiency and cost savings. And I think that's... [LB309]

SENATOR FRIEND: For them... [LB309]

SENATOR HEIDEMANN: For them. [LB309]

SENATOR FRIEND: They're paying--pardon me, for the transcribers--they're paying... [LB309]

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SENATOR HEIDEMANN: A doctor. [LB309]

SENATOR FRIEND: ...X amount every three years and under these circumstances the amount might go up but they're going to get it only once every six years. [LB309]

SENATOR HEIDEMANN: It shouldn't, no. I mean, they're going to have to pay a doctor just once every six years instead of once every three years. [LB309]

SENATOR FRIEND: Okay, right. [LB309]

SENATOR HEIDEMANN: And also, the other part of this, it's going to be tied into the issuance of their handicap license. And that will help them also. I mean, it's a little bit two parts. [LB309]

SENATOR FRIEND: Okay. [LB309]

SENATOR HEIDEMANN: If there are more questions, I appreciate the fact that you're going to cut me loose here. If there are more questions that (laughter) come up, my legislative aide has worked very hard on this. If there are questions that come up, if they need to be after somebody else comes up and testifies, she would be more than willing to come up during my closing time and answer them at that time. [LB309]

SENATOR FRIEND: Okay, thank you. Are there any more questions from committee members at this point? Seeing none, thank you, Senator Heidemann. [LB309]

SENATOR HEIDEMANN: Thank you very much. [LB309]

SENATOR FRIEND: We will start with proponents on LB309. Anyone in favor of LB309? Thank you, sir. Step forward. Hi. [LB309]

CORWIN MORTON: Chairman Friend, members of the Urban Affairs Committee, my name is Corwin Morton, C-o-r-w-i-n M-o-r-t-o-n. I'm here to testify for LB309, the handicapped license law that we're trying to get changed. I'm one of these individuals who falls in this class. I was disabled in the military through an accident in the military and have pins in my back. And even though I look like I walk around all right, it's not as easy as it looks. The current laws, the way they are, I have hard plates for the vehicle that I drive most of the time. And up until two years ago, it was merely a renewal of the plates every year, as I had already passed the requirements to get them. But when it comes time to drive my wife's car that didn't have handicap plates on it, I had to apply for a plastic thing that hung around the mirror. Now this isn't too hard to get except for the fact that every three years I would have to fill out a paper and go back to the doctor and have him sign it and send it in to the state and then two or three weeks later I would

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get the plastic thing in the mail. Initially, about two or three years ago, I pursued this before Senator Heidemann was in office. I have a problem with this because I'm a disabled veteran. I have a VA file which says I'm permanently disabled. It shouldn't be necessary that every three years or six years to go back and recertify. And he said, well, they have to control it. I can understand the control of it. I can understand the issues of abuse of it. However, there are people who are in my class of veterans who don't have limbs, who are on crutches permanently. To go to the doctor is a major event for them, plus the fact of the expense of it, which it just, the whole thing turns crazy. And once you're permanently disabled, you're permanently disabled. There's just no way of getting around it. So I would like you to look at this and at least increase it to the six years if not segregate the veterans, the people with government files that say they're disabled for whatever reason versus the other side which become disabled through whatever reasons or accidents or whatever they went through. It's much more deeper than what I think the law sometimes looks at. I know there's abuse. I see it, too. I've also gotten notes put on my windshield, you don't look handicapped to me. Well, personally that's none of their business. If I am, I am. If I'm not, then somebody ought to take care of it. That's basically all I have but I'm for the bill. [LB309]

SENATOR FRIEND: Thank you, Mr. Morton. Are there questions from committee members for Mr. Morton? Seeing none, thanks for your service to the country and thank you for your testimony, Mr. Morton. Any other proponents, those in favor of LB309? We will start with opponents. Anybody opposed? Anyone wishing to testify in a neutral capacity? I believe Senator Heidemann waives closing, is that correct? Okay, unless there are any other questions from committee members. Seeing none, Senator Heidemann waives closing. That will close the hearing on LB309 and we will hunt down Senator Mines for LB347. You can stand down for a minute and you can't smoke them if you have them. (Laughter) Not in this building. (Recorder malfunction) ...committee members and audience, Senator Mines has arrived. Thank you, Senator Mines, for gracing us with your presence. LB347. [LB309 LB347]

SENATOR MINES: Thank you, Mr. Chairman, members of the committee. I apologize for being late. As you know, other committees are going on and it was fascinating work. It's my pleasure...first of all, my name is Mick Mines, M-i-n-e-s. I represent the 18th Legislative District and I'm the principal introducer for LB347. Not hard to understand, this bill is not hard to understand but it's hard to explain. Let me start by, the bill amends Section 11-104, 14-208, 14-551, 15-251, 15-307, 15-308, 15-317, 16-219, 16-304, 17-604, 16-318, and 17-541. It has to do with bonding of certain municipal officials. These are the oath of office bonds that certain public officials are required to obtain when taking office to ensure the faithful performance of their duties. LB347 changes the statute two ways. First of all, the bill authorizes a municipality to provide a blanket bond that would cover all municipal officials as opposed to bonding each individual public official. It provides that state officials are to be covered by a blanket bond and allows counties to purchase blanket bonds for their county officials as well. A blanket bond is

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intended to allow the governmental entity to purchase one blanket bond that covers all the officials and employees that are required to be bonded. The second change, it allows municipalities to provide equivalent insurance coverage in place of an individual bond, again for each official. A similar provision was adopted for school officials in 2005. That was LB380. This change would allow municipalities that purchase employee dishonesty and fidelity bond insurance to protect against thievery and fraud instead of purchasing an official oath of office bond. It protects municipalities and may be able to save money. Here's how. Blanket bonds typically cost about \$1,000. Municipalities buy them to cover everyone, even those not required to have coverage--and I think that's a good thing, you're covering all of your employees--then are required to buy individual \$100 bonds to cover those officials that require official oath of office bonds. The bill would allow municipalities to purchase just a blanket bond, saving the cost of the number of individual bonds they had to purchase previously. I have testifiers behind me to fill in the holes and I thank you for consideration and ask that you advance the bill from committee. Thank you. [LB347]

SENATOR FRIEND: Thank you. Thank you, Senator Mines. Sorry, I didn't mean to interrupt you there. Are there questions from committee members for Senator Mines? Seeing none... [LB347]

SENATOR MINES: Thank you. [LB347]

SENATOR FRIEND: Thank you. [LB347]

SENATOR MINES: May I waive closing? I've got a hot hearing going on. [LB347]

SENATOR FRIEND: You may. [LB347]

SENATOR MINES: Thanks, thank you. [LB347]

SENATOR FRIEND: First proponent? [LB347]

LYNN REX: Senator Friend, members of the committee, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. First of all, I'd like to thank Senator Mines for introducing this bill for us. This bill basically would allow municipalities to purchase blanket bonds. The State Legislature has already authorized that for state officials as well as for county officials. You also allow school officials to purchase basically the equivalent in insurance. And we would like to have those same options for municipalities. We think it saves money. We think it makes sense. And we've also had situations where the oath of office bond was held to be not reliable and the blanket bond is the preferable way to go. I'd be happy to respond to any questions that you have. [LB347]

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SENATOR FRIEND: Thank you, Ms. Rex. Any questions from the committee? Senator White. [LB347]

SENATOR WHITE: Yes. Are there situations where combining the bonds would, that you're aware of, in fact increase the risk of a city for not getting the same level of coverage or otherwise threatening coverage? [LB347]

LYNN REX: No. In fact, Senator, one of the reasons why we're here to request the blanket bond is because we had cities that had been purchasing them at the recommendation of their insurance agents, if you will, and found out after the fact that indeed they had no meaning because the Legislature had never authorized them. And the insurance industry was doing that instead of oath of office bonds. And so basically I think that's probably why the Legislature in the last few years has also authorized it for counties and state officials as well. So we think it really increases coverage and limits liability for municipalities. [LB347]

SENATOR WHITE: Also helps if somebody forgets to buy one for a specific function. [LB347]

LYNN REX: That's correct. [LB347]

SENATOR WHITE: Stacking, are you familiar with that term, insurance policies or things like that allow it in bonds? And perhaps Senator Lathrop might know. [LB347]

LYNN REX: I'm sorry, I'm not. [LB347]

SENATOR WHITE: Okay. Thank you. [LB347]

LYNN REX: But I would be happy to answer the question if you want me... [LB347]

SENATOR WHITE: Under some circumstances, at one time separate insurance policies have had two insurance policies on two cars. [LB347]

LYNN REX: Right. [LB347]

SENATOR WHITE: You could increase the amount of coverage, basically applying both of them to an accident. [LB347]

LYNN REX: I see. [LB347]

SENATOR WHITE: And it would in fact afford more insurance. And I didn't know and I don't know whether that applied to this situation but I can see where certainly you could provide cities with better coverage in the circumstances you've described. So I

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appreciate that. [LB347]

LYNN REX: Yeah, that's the objective. [LB347]

SENATOR WHITE: Thank you. [LB347]

LYNN REX: Thank you. [LB347]

SENATOR FRIEND: Thank you. Are there any more questions from the committee?
Seeing none... [LB347]

LYNN REX: Thank you. [LB347]

SENATOR FRIEND: ...thank you for the testimony. Next proponent? [LB347]

GARY TROUTMAN: (Exhibit 2) Thank you, Senator and members of the committee. My name is Gary Troutman, T-r-o-u-t-m-a-n. I am the city administrator in Bellevue. And we are down here today to support LB347. Basically, as Senator Mines indicated and Ms. Rex, that this would be a savings for the city of Bellevue as well as other cities. Currently the city of Bellevue pays or obtains the bonds in accordance with current state statute. Our liability insurance carrier has indicated that we in our policy that we do have public officials liability and errors in omissions and that if we did not be required to purchase the bonds, we would save approximately \$1,000 a year. And to that extent, we are here to support that. And by utilizing the liability insurance, we are providing additional coverage to our elected officials that currently we do not through the bond process. [LB347]

SENATOR FRIEND: Thank you, Mr. Troutman. Any questions from the committee?
Seeing none, thanks for coming down, Gary. [LB347]

GARY TROUTMAN: Thank you, Senator. [LB347]

SENATOR FRIEND: Next proponent? [LB347]

JACK CHELOHA: Good afternoon, Senator Friend and members of the Urban Affairs Committee. My name is Jack Cheloha, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I wanted to testify in support of LB347. At the time that this bill was being drafted and on behalf of, I think, the League of Municipalities, the League asked if metropolitan-class cities wanted to be included. And we took a look at it and thought it's permissible and gave us an option so we said yes. And for that reason we support it, because it does give us an option. The only other thing I would say is if this committee looks on this favorably and it moves forward, we would have to harmonize it with LB206, which was a bill you heard earlier relative to

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who was the official treasurer of the city of Omaha. And because it wouldn't affect that per se, but if we say our finance director is now our official city treasurer, he or she would still have the bond or insurance requirement. So it's just the language would have to fit together for both bills, that's all. But the requirement would still be there under either scenario. So for those reasons, we support LB347. I'll try and answer any questions. [LB347]

SENATOR FRIEND: Thank you. Are there any questions for Mr. Cheloha? Seeing none... [LB347]

JACK CHELOHA: Thank you. [LB347]

SENATOR FRIEND: ...thanks, John. Any more proponents? We'll start with opposition testimony. Any opposition on LB347? Anyone wishing to testify neutral? Senator Mines waives closing. That will close the hearing on LB347. With that, we will track down Senator William Avery on LR6CA. For the moment, we will stand down and wait for Senator Avery. LR6CA. Welcome, Senator. [LB347 LR6CA]

SENATOR AVERY: Thank you. For the record, my name is Bill Avery, A-v-e-r-y. I represent District 28. I am here to propose a legislative resolution, LR6, that would put before the voters in the November '08 general election a constitutional amendment to Article XI, Section 1, which currently limits the types of investments that can be made by public endowments held by political subdivisions. The current law dates back to 1875. It was originally placed in the constitution to protect cities and municipalities from financial risk. It was amended in 1966 to provide for the investment of retirement or pension funds, political subdivisions, in the same manner proposed in this legislation. But that amendment in 1966 did not include public endowments. If you decide to advance this resolution and it is approved on the floor, the voters can amend our constitution to reflect 21st century standards of prudent investment practices. The amendment would allow trustees of these public funds to follow the practices of a prudent investor. Now this means that they would be legally bound to invest the funds wisely, acting with all the skill, care, and diligence that trained investment counsellors follow. They would also have to protect and benefit the public interest. A little bit about public endowments. These are created to hold assets that are given to a public entity, say a school, a county, a school district. There is a stipulation at the funds are invested to generate income rather than to be spent immediately. These funds may come as a gift, a bequest, or from the sale of a public asset. So we're not talking about tax dollars. Annual earnings from these public endowments may be used for defined public purposes. Unspent earnings are reinvested in the fund to ensure that the endowment continues to grow and create more finances for public benefit. Let me give you some examples of why this is needed. Last year in Hall County, they planned to build a new jail but they had to abandon that project because of concerns that the financing scheme might be unconstitutional. Their plan included making an up-front sale of the estimated

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interest on the taxes it would collect over the 30-year life of the jail bond. The up-front payment was estimated to be at least \$240,000, using prudent investment practices in handling of that money. Because Nebraska operates under Dillon's Law, Hall County felt they could not go forward. Dillon's Law means that government bodies can only do what is expressly authorized in state law. Another relevant case occurred in North Platte where a farmer named John Newburn (phonetic) gave the city land for the purpose of creating a trust fund to be used to build parks and to provide recreational opportunities for the community. The land was sold for \$2.5 million but only earned around 2 to 5 percent under the restrictive terms of current constitutional limitations. That means they could only invest in bonds. In Lincoln, the city of Lincoln sold Lincoln General Hospital in 1998 and created the Community Health Endowment. The proceeds from that sale are municipal funds that form a separate public endowment. Money that is produced by that endowment is used for programs that address healthcare needs for the poor, the elderly, homeless, mentally ill, high-risk children, victims of domestic abuse, and various other needy groups. After nearly ten years of investing under the restrictive provisions of the constitution, the endowment has produced a return of only about 5 percent. Had the trustees of the fund been able to invest in a more diversified portfolio, including stocks, the return most probably would have returned about twice that amount. I need to ask for my table. Where is my staff person? Have you got the table? Forgot to bring it. We'll get you a table--sorry about this, Mr. Chair. [LR6CA]

SENATOR FRIEND: That's okay. We could probably, by the time he gets back in a closing, we could probably include that into the closing if you'd like, Senator. [LR6CA]

SENATOR AVERY: Well, what the table will show is that the different earnings over a 5, 10-year, 20-year period that could be generated by prudent investor strategies and portfolios. My main point is that it's time to bring the investment options of public endowments into 20th century. This is not 1875 when stock market investments were probably pretty risky. In those days, your money was safer under your mattress. So things have changed today. It's time to take the public endowment money out from under the mattress and put it to work in a full array of available investment options. And with that, I will end it and take questions. [LR6CA]

SENATOR FRIEND: Thank you, Senator. Are there questions from committee members for Senator Avery? Senator, the only thing I have, I've been exposed to resolutions and a couple of the failures on the last ballot. This one was one of them. Any thought process as to how things will change if this gets on the ballot again, in the way of advertising, in the way of language, that might be a little more...make voters, you know, a little more palatable to voters, I guess? Because the questions come to my, you know, in my direction on some other items and I just thought I'd... [LR6CA]

SENATOR AVERY: Good question. I anticipated that and I thought it would come from you. (Laughter) (Pause) To answer your question... [LR6CA]

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SENATOR FRIEND: I had about the same response when they ask me, Senator.
[LR6CA]

SENATOR AVERY: I believe that--and I told the people who discussed this with me before I would ever bring it before this committee or before the Legislature, I said you have to promise me this time you will raise the money necessary and you will do it right. Now I'm not criticizing necessarily the effort last time. We had a very crowded ballot. And you know that when you have a crowded ballot, it's very hard for the voters to be fully educated on all of the various amendments. They tend to focus on the one they care the most about, and that probably was 423. And they make up their mind how they're going to vote on that, most people said no, and so they get into this pattern of voting. All right, I don't know much about this one and so it's probably something I don't want to vote for, so it's no. I believe that if we don't have a crowded ballot and if the supporters of this do what they promise me, that is that they will raise the money needed and do it right--and I've got some ideas on how they can do it right--then I believe we can win. There might be some argument to be made, and I would like your counsel on this, the way it's written now we would do this in November of '08. It might be better to do it in the primary. And I don't know if I need some kind of emergency clause to do it in the primary or not. [LR6CA]

SENATOR FRIEND: That's a lot of votes. [LR6CA]

SENATOR AVERY: It takes a lot of votes, yeah. [LR6CA]

SENATOR FRIEND: You need a lot of votes. [LR6CA]

SENATOR AVERY: We had 42 on Final Reading last year and that's probably enough. (Laugh) But if I can get that many this time. But the rationale would be that primary voters tend to be people who are more interested in politics generally, more committed to their civic duty to vote, more likely to be informed on the issues, have an interest in the issues, and would probably be responsive to a well-run campaign that would educate them on what this would do. [LR6CA]

SENATOR FRIEND: Okay. Are there any more questions from committee members for Senator Avery? Seeing none, thank you for your testimony, informative. [LR6CA]

SENATOR AVERY: Thank you. [LR6CA]

SENATOR FRIEND: Appreciate it. Let's start with the proponents of LR6CA, please. Step forward. [LR6CA]

DAN ANDERSON: (Exhibit 3) Good afternoon Senator Friend, Chairman Friend,

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committee members. My name is Dan Anderson. I am the Chairman of the Board of Trustees of the Community Health Endowment of Lincoln. I'm also co-owner of Pittenger and Anderson, a registered investment advisor in Lincoln since 1995. In 1997, the city of Lincoln sold Lincoln General Hospital to Bryan Memorial Hospital, creating what is known today as the two campus BryanLGH medical system. The proceeds from the sale of Lincoln General Hospital amounted to about \$37 million. After considerable public input and discourse, the city of Lincoln created a public endowment--the Community Health Endowment of Lincoln, or CHE as we call it--for the purpose of returning the earnings of the fund back to Lincoln to help support health and human service related programs. You have in your possession our annual report and sum of the programs that we are supporting. In its seven-year history, the Community Health Endowment has provided funding back to the community for important programs without reliance on taxpayers. Unfortunately, because of the nature as a public endowment and limits on investment diversity, CHE cannot do all that it could do. In fact, CHE struggles each year to provide significant funding to the community and yet grow at a rate of inflation for future generations. In summary, we cannot carry out our mission to the community because of outdated limitations of the Nebraska Constitution. We're asking the Legislature and voters to change that in the form of LR6CA. This afternoon, you will hear briefly from financial experts who will confirm the need for LR6CA based upon modern portfolio management, from a private foundation of the government pension plan that have the ability to diversify their investments, from a person who was closely associated with the Amendment 2 campaign last November, and from two community-based programs that have benefited from the public endowment funds. All our comments will be brief but each will be unique and bring important perspective to this issue. Thank you for your time. [LR6CA]

SENATOR FRIEND: Thank you. Are there any questions from the committee for Mr. Anderson? Seeing none, thanks for coming down. Next proponent, please step forward. [LR6CA]

BILL LESTER: (Exhibit 4) Good afternoon, Chairman Friend, committee members. My name is Bill Lester, L-e-s-t-e-r. I'm the treasurer of the Board of Trustees of the Community Health Endowment of Lincoln. I'm also the president and CEO of Ameritas Investment Advisors. Ameritas Investment Advisors is the primary investment manager for the Ameritas Acacia Companies headquartered in Lincoln, Nebraska. We have approximately \$30 billion of assets within our organization and our advisor manages about \$8 billion here in Lincoln with our investment staff. I want to leave you, the committee, with six key points, just six brief key points with respect to this legislation. One, prohibiting equity investments runs counter to modern portfolio theory, certainly counter to the laws of 1875. Without the ability to diversify public funds, there exists the very real possibility and potential of increasing risk and reducing return, exact opposite of what we want with our public funds. Second key item, any public endowment that is limited solely to owning bonds today is confronted with a set of investment

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circumstances that has not been witnessed for several decades, namely a bond market that is likely to offer modest below-inflation returns, possibly negative returns. And that's a result of the current low interest rate environment that we operate in. Three, the Nebraska Constitution is currently silent as to credit quality. Therefore, under current law, public endowments could invest in volatile, low-rated junk bonds but not a single dollar in the capital stock of a high-quality business. Four, the prudent investor rule is the gold standard which we have suggested. Therefore, trustees must act in accordance with current investment theory, acknowledging diversification benefits and the prevailing market conditions. The fifth item, I have handed out the handout that Senator Avery referenced. On that handout, using historical trends since 1926 with a mix of 70 percent stocks and 30 percent bonds, the Community Health Endowment would have had the opportunity to return \$50 million to Lincoln after 20 years while growing the fund from \$45 million, its current amount, to approximately \$126 million for future generations. Remember that's just over 20 years. This compares to \$50 million in giving and a fund balance of \$57 million with the current bond-only investment strategy that we deploy. That's a difference of \$88 million for health and human service programs that we're currently supporting. And finally, number six, while there are only a few examples of public endowments in Nebraska, the Community Health Endowment can serve as a model for other communities to follow. With the ability to diversify, public endowments can become an important opportunity for community giving and improvement that is not dependent upon our current taxpayers. The bottom line is that LR6CA would put good investment practices to work for Nebraska communities. We believe that Nebraska taxpayers expect public endowment funds to be invested in a safe and responsible manner while achieving the highest return over time. Things were different in 1875. In today's environment, public endowments can provide financial support for community programs and activities. And this can only be accomplished by providing public endowments with access to prudent investment strategies. I ask that you advance this legislation forward. Thank you. [LR6CA]

SENATOR FRIEND: Thank you. Are there questions from the committee for Mr. Lester? Mr. Lester, did you spell your name for the record? I spaced it off, I think. [LR6CA]

BILL LESTER: L-e-s-t-e-r, I believe I did. [LR6CA]

SENATOR FRIEND: Thank you very much. [LR6CA]

BILL LESTER: Thank you. [LR6CA]

SENATOR FRIEND: Are there any more proponents? [LR6CA]

MIKE TAVLIN: Good afternoon, Senator Friend, members of the committee. My name is Mike Tavlin, T-a-v-l-i-n. I'm currently chief financial officer for Speedway Motors and Speedway Properties here in Lincoln. I'm here today to provide what may be a unique

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perspective to LR6CA. My professional background for over 30 years is corporate finance, investments, accounting, taxes, and law. But I was associated for the past 12 years with the Woods Charitable Fund here in Lincoln, most recently as past president, and with the Community Health Endowment of Lincoln as its first treasurer and a board member. A brief background on these two organizations may be helpful. The Woods Charitable Fund is a private philanthropic foundation created in 1941 by the Frank H. Woods family, the founding family of the Lincoln Telephone Company. With current assets of approximately \$40 million, the funds exist to strengthen the fabric of Lincoln through grants in the areas of human services, education, and the arts. In 2006, the fund awarded grants of approximately \$1.7 million to this community, the largest dollar amount to this community in the 65-year history of the fund. The asset size of the fund has increased considerably over the past several years and annual expenditures to the community have also increased considerably over the past several years. The significant growth in asset size and the significant growth of awarded funds are both solely attributable to the investment results that the fund has been able to achieve over time. Community Health Endowment is a municipal fund of the city of Lincoln that resulted from the sale of Lincoln General Hospital with current assets of about \$45 million. Others here today will describe or have described the extent of the Health Endowment's financial investment in our community. While the mission of the two organizations may seem familiar, there's a sharp difference between the two which has important short-term and long-term consequences. Simply stated, the Woods Fund is able to access a full array of assets classes, including equity investments and common stocks in its asset allocation. This ability and flexibility reduces investment risk and maximizes the opportunity for real growth of the assets of the fund and therefore, the real growth of the amount of annual grant funding. CHE is restricted to fixed income only. As a result, the growth of the assets of CHE has been much less robust over the same period of time, yet has been exposed to much greater risk when compared to the Woods Fund, notwithstanding that both funds enjoy the benefits of an outstanding group of investment managers and investment advisors. For example, over the past few years both CHE and Woods Fund have both operated at a similar level in terms of expenditures for administrative and operating expenses. And the Woods Fund has actually awarded and distributed more money in the form of grants than CHE, even though it's a smaller fund. The assets of the Woods Fund after grants and expenses have grown by over 66 percent over the past two years. On the other hand, the assets of the Community Health Endowment remained approximately unchanged after grants and expenses over the same period. The sole reason for this significant difference in growth of assets is that the Woods Fund has achieved an average annual investment return over the past two years of almost 15 percent and over the past four years of almost 20 percent, whereas the Community Health Endowment has achieved an average annual return of approximately 6 percent. The bonds-only restriction places the Community Health Endowment at a significant disadvantage and a significant risk in terms of its ability to fulfill its mission and its stated goals. And further, the inability of the Community Health Endowment to fulfill its mission and fully achieve its goals could have

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serious consequences for the community in terms of potential unfunded needs and for state and local government in terms of exposure to increased direct costs for those needs. Further, there's at least something at least perverse about a set of investment rules which, by its stated terms, permit the investment of municipal endowment funds into volatile junk bonds, bonds of the lowest investment grade or no investment grade at all, while denying the municipality the ability to invest even one dollar in equity securities of the highest quality. It's at this point that the differences between the investment rules that apply to the Woods Fund come at a sharp relief when compared to the investment rules that apply to the Community Health Endowment. For all of those reasons, I would encourage you to support LR6CA and I'd be happy to respond to any questions you might have. [LR6CA]

SENATOR FRIEND: Thank you. Any questions? Senator White. [LR6CA]

SENATOR WHITE: One of the preferred investment mechanisms of sophisticated investors--Warren Buffett, for example--are bonds with convertible features. As I understand it under existing law, that would not be a permissible investment, even though many investors find those to be, by far and away, one of the safest and most lucrative options available. [LR6CA]

MIKE TAVLIN: I agree, Senator White. The investment rules today would not permit the Community Health Endowment to (inaudible) a security after it converts into...that bond after it converts into an equity security. [LR6CA]

SENATOR WHITE: Can you buy the bond with that feature and then sell it prior to conversion, thereby realizing enhanced value? [LR6CA]

MIKE TAVLIN: It is possible to, we believe, possible to date of purchase the bond with the convertible feature, but sell it prior to a conversion and thereby realize some of the upside potential of that security. [LR6CA]

SENATOR WHITE: So are the funds in fact doing that, to your knowledge? [LR6CA]

MIKE TAVLIN: They are today in a small portion. [LR6CA]

SENATOR WHITE: Has that been helpful in offsetting some of the hardships that you see in these statutes? [LR6CA]

MIKE TAVLIN: Yes, it has been helpful. [LR6CA]

SENATOR WHITE: Thank you. [LR6CA]

SENATOR FRIEND: Thank you, Senator White. Any more questions from the

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committee? Mr. Tavlin, just real quick, the longevity is there. Your testimony, the longevity is there. You're talking about some long-term security. You're talking about prudent investor, the capability, you know, that the private sector has that the public sector just doesn't possess right now. It's needed. I think everybody in this committee would, I mean, we could probably go into an executive session right now and say yeah, we understand. The problem is, and I raised this with Senator Avery, I've got these type of things too. We keep going out to the ballot and we keep getting them thrown back in our face. Now, we can always continue to go down this road. Some advice from you? I mean, we throw this stuff up in front of the people and they're kicking it back to us. I mean, just a quick thought? [LR6CA]

MIKE TAVLIN: Senator, an excellent point. I believe the Community Health Endowment and others is going to do a much more robust job the next time around. I would point out that a couple of years ago, a ballot initiative in the state of South Carolina was before the voters. They were asked for the authority of the state to invest in non-U.S. securities. And that ballot provision was soundly rejected. That provision came back in essentially the same form two years later and was approved approximately 70 to 30. So I think there is a lesson to be learned from the experience of the state of South Carolina in helping its state residents appreciate the benefits, the risk adjusted benefits, that can be obtained through a more expansive investment approach. And I'm hopeful that the Community Health Endowment and others who support this legislative approach, this constitutional amendment, can learn the lessons of the state of South Carolina. [LR6CA]

SENATOR FRIEND: Good points. Any more questions? Senator White. [LR6CA]

SENATOR WHITE: To follow up on that question, the cost to put one of these before the public is not minimal. I believe Senator Cornett noted that the bill for last election's selections was \$1.4 million... [LR6CA]

SENATOR CORNETT: Somewhere right in that area, \$1.5 million. [LR6CA]

SENATOR WHITE: ...just for the advertising. So it is a situation that requires some thought on our part. And to do that without the strong will of the people proposing these changes to back them and educate the public can border on irresponsibility if it's really not going to be pushed. Are you convinced that the monetary support and the support across the public to educate the voters about this exists? [LR6CA]

MIKE TAVLIN: Senator, as a person who wrote a personal check to support the last effort, I appreciate your concerns. I'm exceedingly hopeful. [LR6CA]

SENATOR WHITE: Thank you. [LR6CA]

SENATOR FRIEND: Thank you. Any more questions from committee members? Thank

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you, Mr. Tavlin. [LR6CA]

MIKE TAVLIN: Thank you, Senator. [LR6CA]

SENATOR FRIEND: Next proponent? [LR6CA]

DON HERZ: Senator Friend and members of the committee, my name is Don Herz. I'm the finance director for the city of Lincoln. I'm here to speak in favor of this... [LR6CA]

SENATOR FRIEND: Don, could you spell your last name for us, please? [LR6CA]

DON HERZ: Sure, I'm sorry. [LR6CA]

SENATOR FRIEND: That's all right. [LR6CA]

DON HERZ: The last name is spelled H-e-r-z. [LR6CA]

SENATOR FRIEND: Thank you. [LR6CA]

DON HERZ: This constitutional amendment, if approved by the voters of the state, would allow local entities of government to invest their permanent endowment funds in accordance with prudent investment policies. The city of Lincoln is interested in the ability to make investments in equity securities for its permanent endowments, much the same way that we are permitted to invest our pension funds. And that will be just in my brief comments. Over the past five years, the city of Lincoln's police and fire pension fund has had an average annual return of 10 percent. During the same period, the Community Health Endowment had an average return of 6 percent. This 4 percent differential would have resulted in more than \$8 million of additional earnings by the Community Health Endowment and \$8 million would generate at least \$250,000 of perpetual funding for our community. So this is a significant impact for us. Both the Community Health Endowment and our pension funds have long-term investment horizons that make investments in equity securities a prudent investment. We believe that the Community Health Endowment and other similar types of funds that are permanent endowments be invested and managed in a similar manner to our pension funds. And they will generate the additional earnings and potentially reduce future tax burdens on our citizens. If there's any questions, I'd be glad to answer them. []

SENATOR FRIEND: Thank you. Any questions from the committee for Mr. Herz? Seeing none, thanks for the testimony. [LR6CA]

DON HERZ: Sure. [LR6CA]

SENATOR FRIEND: Next proponent? [LR6CA]

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LORI SEIBEL: (Exhibit 5) Chairman Friend and committee members, thank you for allowing us a chance to talk to you a little bit today. My name is Lori Seibel, S-e-i-b-e-l, and I am the executive director of the Community Health Endowment of Lincoln. But I'm not here today to talk to you in that capacity. I'm here to talk to you as a person who took a one month leave of absence from that position last October to campaign on behalf of Amendment 2, or this particular legislation, throughout the state. I can tell you from that experience, after travelling hundreds, even thousands, of miles throughout the state, talking on radio stations where I didn't even know there was a radio station, and newspapers where I didn't even know there was a newspaper, is that not one person spoke to me in opposition to Amendment 2. Everyone that we asked to support this bill supported it. I will hand out to you a list of the organizations and individuals who lent their support to this, and you'll see that it is broad and extensive. I think what I did hear from people though, I didn't hear opposition but what I did hear was kind of the collective sound of an overwhelmed electorate. People who only had so much intellectual energy, if you will, to spend on a very crowded ballot. And we were not able to get inside the mind of that fatigued voter. Why? I think it comes down to three simple things. I think one of them was time. The people that you have working on this issue, I can tell you and I know that you've already seen today, are smart and they're passionate and they're very forward-thinking. But we are not campaign experts. We learned that early on and we had a very steep learning curve in knowing how to run a statewide campaign. We had five months to take a complicated issue statewide and try to sell it to folks. And that was a difficult challenge and we knew it from the very beginning. But again, we didn't get any opposition. And that lead directly, I think, to our second issue, which was money. Issues that don't have any controversy, that aren't controversial, tend not to attract a lot of money. And while we did raise good funds, we raised enough money to put ads in papers and people on the radio, the state is still an expansive state and it takes a good amount of time and money to cover that. So that was another issue that we dealt with. And the last thing I think that hurt us was connecting with the voter on a personal level where it mattered to their community. And I think one thing we have to do is we have to go out and we have to tell the stories, not only of North Platte and of Grand Island that you've heard about from Senator Avery, but I think we also need to talk to people who I met going across the state who could think immediately of ways that this would benefit their community. School buildings that can be sold that aren't in use any longer and those can go back in...the proceeds from those can be used to support community projects. People who have moved away from rural Nebraska who can give back to their hometown communities to support libraries and parks and the fire department. Example after example exists across the state. We have to connect that. And the last thing I would say in that regard is that there also needs to be a certain amount of voter education on what is a constitutional amendment. I can say without hesitation that people do not understand that this is placed on the ballot following a hearing like this, following three rounds of debate, following 40 votes by your body. They really, in many times, believe that this is a special interest group that

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has collected some signatures and been able to put this issue on the ballot. And I think it's fair to say that we need to do a better job of helping people understand what a constitutional amendment is. So finally, I would summarize by saying we learned a lot in the last nine months. We have learned how to run a more effective campaign, we have learned how to be more effective fund-raisers, and I think we are much better prepared and better equipped to do a better job this next time. And we'll certainly give it our best shot. [LR6CA]

SENATOR FRIEND: Thank you, Ms. Seibel. Are there any questions from the committee? Seeing none, thanks for testifying. Any more proponents in support? [LR6CA]

JOAN ANDERSON: (Exhibit 6) Yes, I'm Joan Anderson with Lancaster County Medical Society; Anderson is s-o-n. Thank you, Senator Friend and committee members. My two minutes is to just quickly lay out to you a program that was funded by Community Health Endowment and I really think you'll be interested. And off the record, I would offer to anyone that's interested, I'd be glad to visit with you about how it might be implemented in your city, and that is the medication assistance program. It was one of the first programs funded by CHE and in essence is the medical model of the food bank. What we have done in three short years, we have enrolled...it says on your first graph around 1,700 but it really is more like 2,200 because some patients or clients have been off of our program. Every pharmaceutical company in the country has a free patient assistance program that you can access if you have the wherewithal to do that. Unfortunately, most of the low-income individuals that need that assistance don't have that wherewithal. So through the Community Health Endowment funds, we have enrolled these 2,200 people. They are getting over \$6 million in free medications on an annual basis. And as representatives of taxpayers, you would like to know that in our Lancaster County, some of that \$6 million is \$100,000 every month we save our general assistance county funds in medication costs. Because prior to our assistance, our county general assistance monthly bill for medications alone was \$150,000. Now we're down to about \$50,000 each month. So needless to say, my county commissioners love me. And anecdotally I will tell you that we've also assisted some of your clients or some of your, some of our...sorry, I'm buzzing here. I see you checking. [LR6CA]

SENATOR FRIEND: I thought that was me. [LR6CA]

JOAN ANDERSON: No, I know you did. (Laughter) So it's me. [LR6CA]

SENATOR FRIEND: I was about to reprimand myself, Ms. Anderson. (Laughter) Continue, I'm sorry. [LR6CA]

JOAN ANDERSON: So you would think that it should buzz softer. Anecdotally I can tell you we have gotten patients that were on Medicaid kicked off Medicaid and ready to

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apply for Medicaid or into these medication assistance programs and had stayed off the Medicaid rolls. So all around, this is a great program and it's one that really could be duplicated in other cities and never would have probably gotten off the ground without CHE funding. So needless to say, we're a great fan of CHE and we will--we being the physicians I represent, which is 95 percent of the physicians here in Lincoln--are great supporters of this process and will be willing to step up to the plate again next time to try to get this passed. [LR6CA]

SENATOR FRIEND: Thank you. Are there questions from the committee for Ms. Anderson? Seeing none, thanks for your testimony. [LR6CA]

JOAN ANDERSON: Thanks. [LR6CA]

SENATOR FRIEND: Next proponent? How many more proponents...can you folks step forward here and we'll try to move this forward fairly quickly. [LR6CA]

LYNN REX: Senator Friend, members of the committee, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. We're before you in strong support of this measure. I personally think the reason why it didn't pass was because there were many organizations like the League of Nebraska Municipalities that spent all of their non-dues income that they could find opposing 423. Any extra time that we had opposing 423, and as much as we supported this proposal, any available revenue we had went toward that effort as long as it was non-dues income. I'd be happy to respond to any questions you have. We do think the constitution does need to be updated. [LR6CA]

SENATOR FRIEND: Thank you, Ms. Rex. Any questions from the committee? Seeing none, thanks for your testimony. Next proponent, please? [LR6CA]

CECELIA CREIGHTON: My name is Cecelia Creighton, that's spelled C-e-c-e-l-i-a, Creighton as in the university. [LR6CA]

SENATOR FRIEND: That would be C-r... [LR6CA]

CECELIA CREIGHTON: E-i-g-h... [LR6CA]

SENATOR FRIEND: ...e-i-g-h... [LR6CA]

CECELIA CREIGHTON: ...t-o-n. [LR6CA]

SENATOR FRIEND: ...t-o-n. Yeah, sorry. (Laughter) [LR6CA]

CECELIA CREIGHTON: (Exhibit 7) Committee members, I would really like to thank

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you for the opportunity to address you today in support of LR6CA. Once again, I am the executive director of the People's Health Center, located at 1021 North 27th Street here in Lincoln. We are one of the five federally qualified community health centers in the state of Nebraska. Community health centers have a rich history of 40 years specializing in providing affordable primary and preventative care services to uninsured and uninsured people regardless of their ability to pay. People's Health Center was awarded a \$500,000 grant from the Community Health Endowment for the building construction of its interior finishing. Construction is complete of 15,100 square feet. Currently we have 22 medical exam rooms. We have eight dental rooms, an X-ray suite department, a larger medical records area, multipurpose room for our staff for development, for training and meetings, patient education rooms, mental health office, and nine additional offices for administration for billing, case management, and our medication assistant program. The Community Health Endowment has also provided our clinic with about \$70,000 in funding for its operation to include a medical Spanish interpreter, a nurse practitioner to provide healthcare primarily to the homeless population, and most recent, a staff accountant. Our clinic serves a large number of patients with chronic diseases such as diabetes, asthma, heart disease, obesity, and infant mortality. About 30 percent of those patients we treat with these diseases are uninsured. We have 11,500 patients registered at our clinic and, in particular, this past year our center served 5,992 patients, over 22,000 medical and dental visits. The need for our clinic is prevalent and my colleagues in the healthcare arena have higher numbers of uninsured patients at their clinics. People's Health Center is the only access point for uninsured and underinsured patients in need of a medical home. Most community health centers have a diverse patient group. At our clinic, 56 percent of our patients are minority. Our patient payer mix consists of 44 percent uninsured, 35 percent Medicaid, 10 percent Medicare, and 11 percent private-pay patients. These payer sources help to defray the cost of treating our uninsured patients. Our community health center receives a base level funding of approximately \$653,000 annually. And this only makes up about 19 percent of the clinic's annual budget. We utilize volunteers also in our clinic to interpret for our non-English speaking patients, primarily Spanish. We're now having Arabic, Vietnamese, and so forth come into our clinic. We're utilizing our speciality physicians. They're volunteering to treat our uninsured patients regarding orthopedic, gastronomy, and GYN services. We also serve as a training site for nursing and medical students of local community colleges and universities throughout the state. And our center also retrains people in voc rehab to improve physical and motor skills to regain full-time work. We also serve as mentors for youth of minor public offenses and allow them to come to work in our clinic to obtain community skills. These are the many resources that allow us to meet the demand of healthcare in efforts to exchange services without hardship on our limited finances. Other means to fill the gap is the development of partnerships. We also partner with local hospitals, the community health department, and we receive local funding, such as from the Community Health Endowment and other agencies to meet the mission of our operation. In consideration by the Nebraska Unicameral to support endowments, please consider LR6CA. Thank

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you. [LR6CA]

SENATOR MCGILL: Thank you. Are there any questions? [LR6CA]

SENATOR LATHROP: That's an impressive list of things that you guys have done. [LR6CA]

CECELIA CREIGHTON: Thank you. [LR6CA]

SENATOR MCGILL: Thank you. Next proponent? [LR6CA]

JACK CHELOHA: Senator McGill and members of the Urban Affairs Committee, my name is Jack Cheloha. The last name is spelled C-h-e-l-o-h-a. I'm a registered lobbyist for the city of Omaha. The city of Omaha currently does not have any public endowments. However, with citizens like Warren Buffett and Walter Scott...and I was going to say Mike Friend, but he's left the room. (Laughter) But we hold out hope. So when and if we ever do have one, this would be a valuable tool that hopefully we could utilize. And for those reasons, we support it and I'll try to answer any questions. [LR6CA]

SENATOR MCGILL: Any questions? All right, thank you. Any more proponents? Any opponents, then? Anyone here to testify in a neutral capacity? Seeing none, Senator Avery, would you like to close? [LR6CA]

SENATOR AVERY: I'm not going to keep you long, just a couple of comments. I'm really surprised at the level of support. I thought I was going to get a couple people here. And obviously this is important to a lot of people, a lot of groups. I want to stress, however, that LR6 would create a statewide benefit. This is not just for the Lincoln Community Health Endowment. And Senator White, you're right. It could cost a lot of money. But I believe if we do the right thing, and that is hire a professional with national experience in winning ballot issues, we can raise the money and we can win. And I'm going to work with the group to make sure that happens. That's all I had. [LR6CA]

SENATOR FRIEND: Thank you, Senator Avery. Any final questions for Senator Avery? Seeing none... [LR6CA]

SENATOR AVERY: Thank you, Senator. [LR6CA]

SENATOR FRIEND: ...thanks for the resolution. That will close the hearing on LR6CA and the hearings for the day. [LR6CA]

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Disposition of Bills:

LB309 - Indefinitely postponed.
LB347 - Advanced to General File.
LB517 - Indefinitely postponed.
LR6CA - Advanced to General File.

Chairperson

Committee Clerk