

Transcript Prepared by Clerk of the Legislature Transcribers Office
Urban Affairs Committee January 21, 2020

WAYNE: Afternoon, and welcome to your Urban Affairs Committee. My name is Justin Wayne and I represent District 13, which is north Omaha and northeast Douglas County. I serve as the chair of Urban Affairs. We will start off by having members of the committee and committee staff do self-introductions, starting with Senator Arch.

ARCH: Senator John Arch, Papillion-La Vista, District 14.

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

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

TREVOR FITZGERALD: Trevor Fitzgerald, committee legal counsel.

BRIESE: Tom Briese, District 41.

CRAWFORD: Good afternoon. Senator Crawford, District 45, which is eastern Sarpy County, Bellevue, and Offutt.

LOWE: John Lowe, District 37, Kearney, Gibbon, and Shelton.

CONNER KOZISEK: Conner Kozisek, committee clerk.

WAYNE: Thank you. Also assisting us, also assisting our committee are committee pages Hallett-- did I say that wrong?

HALLETT MOOMEY: [INAUDIBLE]

WAYNE: Hallett Moomey from Kearney, who is an agricultural education major at UNL; and Angie Pierre-Louis--

ANGIE PIERRE-LOUIS: Correct.

WAYNE: --from Pembroke Pines, Florida, who is majoring in social work at Union College. This year we will be hearing-- I'm sorry. This year we'll be hearing a lot of hearings, but this hearing will be five bills which will be taken up in the order listed outside the room. On each of the tables in the back of the room you'll find a blue testifier sheet. If you are planning to testify today, please fill one out and hand one to Conner when you come up. This will help make sure that are accurate-- we have accurate record, record of the hearing. Please note, if you wish to have your position listed on the committee statement for a particular bill, you must testify in that position during that bill's hearing. If you do not wish to testify but would

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like your position recorded for the record on a particular bill, please fill out the gold sheets in the back of the room. Also, I would note that it's the Legislature policy that all letters for the record must be received by the committee by 5:00 p.m. prior to the hearing, the day prior to the hearing. Any handouts submitted to testifiers will also be included as part of the record as exhibits. We would ask that you have for any handouts at least 10 copies. If you don't have 10 copies with you, we will provide. The page will go ahead and make additional copies for you. Testimony for each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, and then those who are in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will give an opportunity to make a closing statement if they wish to do so. We ask that we-- you begin your testimony by stating and spelling your first and last name so we can have it accurate for the record. We will be using the four light-- four light-- four minimum light system today-- four-minute light system today. When you begin your testimony, the light on the table will be green. It will turn yellow when there is one minute left and turn red when we-- when you are done or at the four-minute mark, we ask that you wrap up your final thoughts so we can keep this moving and flowing in an orderly manner. I would remind everyone, including senators, to turn off their cell phones or put them on vibrate. With that, we will begin our hearing with LB821. Senator Brewer, welcome to your Urban Affairs Committee. And I will be turning this over to Senator Hunt, as I have to run up to Bill Drafting because I was not here this morning.

HUNT: Welcome, Senator Brewer. Is this your first time in front of Urban Affairs?

BREWER: Yes, it is my first time.

HUNT: We are so happy to have you here. And you are invited open whenever you're ready.

BREWER: All right. Thank you, and good afternoon, fellow senators of the Urban Affairs Committee. This is my first time. Tom Brewer. For the record, that's T-o-m B-r-e-w-e-r, I represent 13 counties of the 43rd Legislative District of western Nebraska. I'm here today to introduce LB821. I'm introducing this bill on behalf of the city of Rushville, one of my striving metropolises. This bill would change the law so city planning and zoning commissions would not have to hold

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quarterly meetings if there was no new business for the commission. They would also have to have at least one meeting a year. It is a waste of time and a lot of trouble just to open a meeting to close a meeting to meet a particular requirement. Most city planning commission members in Nebraska are volunteers. And on my end of the state, most of them are going to have to travel considerable distances through possibly bad weather and hazardous conditions to get to a location where a meeting is commonly canceled. We want to make sure citizens perform this important work are not wasting their time. I was concerned that if a citizen wanted to be heard on an agenda that the planning commission would still allow them to be able to be heard. After asking questions on this, if there is someone interested, the meeting could not be canceled. It would be considered new business. I'm asking the-- I asked the committee legal counsel to verify this is true. And it turns out it is, it would be considered new business. I believe that there will be folks in the League of Municipalities that will follow me that may also be available to answer any questions. With that said, I would be available to answer any questions you would have. Thank you.

HUNT: Thank you, Senator Brewer. Are there any questions from the committee? Seeing none, thank you.

BREWER: All right, thank you.

HUNT: Are you planning to stay to close?

BREWER: I have to go to Education Committee--

HUNT: OK.

BREWER: --so I will waive that. Thank you.

HUNT: Thank you, sir. First proponent for LB821. Welcome to your Urban Affairs Committee.

CHRISTY ABRAHAM: Thank you so much, Senator Hunt and members of the committee. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, and I'm here representing the League of Nebraska Municipalities. And I first just want to thank Senator Brewer and his staff for reaching out to us about this bill. They contacted us happily midsummer and said, what do you think of this idea? So we were able to put this idea through our League legislative committee structure and asked folks, you know, would you be okay with the change that said you didn't have

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to meet quarterly, you could just meet when there was necessary business? And they just absolutely wanted to throw Senator Brewer a party. It turns out that the smaller communities like Rushville, but other smaller communities, the smaller second-class cities and villages, they have a really hard time getting folks not only to serve on their planning commission, but to come and make the quorum. So they thought it was just a great change, that they would really only need to meet at minimum once a year or when there was necessary business to do. So this bill is strongly supported by the League, and we just wanted to thank Senator Brewer again for introducing it. And I'm happy to answer any questions you might have.

HUNT: Thank you, Ms. Abraham. Are there any questions from the committee? Senator Arch.

ARCH: I have, I have a question, thank you.

CHRISTY ABRAHAM: Sure.

ARCH: What type of items come before a planning committee in all these various cities?

CHRISTY ABRAHAM: You know, that's a great question. When cities have zoning ordinances, often what the state law says is, before the city council or village board can make a final determination on, like, a change in a zoning ordinance or even a variance of some kind, there has to be a recommendation from the planning commission first that then goes to the governing body to make the final decision. And some of our dear communities, they just don't have a lot of activity in that area. You know, our, our really small communities aren't having a lot of new construction or new buildings, unfortunately. So there isn't a lot of need for variances or changes in the zoning ordinances. So there just isn't oftentimes a lot of business to be done.

ARCH: Thank you.

CHRISTY ABRAHAM: You're welcome.

HUNT: Thank you, Senator Arch. Any other questions? Seeing none, thank you for your testimony today.

CHRISTY ABRAHAM: Thank you so much.

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HUNT: Next proponent of LB821. Seeing none, any opponents? Seeing none, anybody here in the neutral capacity? Seeing none. And Senator Brewer has chosen to waive his closing. We have no letters for the record on LB821. So with that, I will close this hearing on LB821. Next, we will move to LB885 introduced by Senator Bolz. Whenever you're ready.

BOLZ: Good afternoon, committee. When I was first elected, someone warned me that you should always be suspicious of a bill that someone brings you and says that it's just a really small, little change. Please don't be suspicious of this bill, because this is the smallest, littlest change I think I've ever brought to any committee. If you recall, last year we made some, some minor changes to the Civic and Community Center Financing Act. One of those small changes gave a little more flexibility to projects that are related to historic preservation. And as part of that flexibility, we had an assurance from the historic-- History Nebraska, the State Historic Preservation Officer, that they were in compliance with expectations for historical sites. This bill makes a very small change to say that those applications should be taken first to the State Preservation Officer, confirmed that they meet those rules and regulations, and then submitted to the Department of Economic Development. And the Department of Economic Development may approve that they, those projects, if they are in compliance. The change is that previously we said that the application would be submitted to the Department of Economic Development and there had to be a back and forth with the State Preservation Officer. So this is a technical change to a previous consent calendar bill. I would ask for the committee's favorable recommendation for LB885.

HUNT: Thank you, Senator Bolz. Any questions from the committee? Seeing none, are you gonna stay to close? And she is choosing to waive closing.

BOLZ: Thank you.

HUNT: First proponent of LB885. Welcome.

TREVOR JONES: Thanks. Senator Hunt and members of the committee, my name is Trevor Jones, T-r-e-v-o-r J-o-n-e-s. I am director and CEO of History Nebraska, which is the Nebraska State Historical Society, and I also serve as the State Historic Preservation Officer. And we are in favor of this change. We are in favor of the previous change that

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broadened the use of these funds, and we feel that this small change that you're looking at just streamlines the process. It's not an undue burden for us to look at applications before they, they go forward. We think that this provision to have historic preservation as part of this process is good because, by conforming to the Secretary of Interior standards, it also opens up these projects for matching funds from federal tax credits and our Nebraska Historic Tax Credit, our state tax credit. So it's just a simple change. It streamlines the process, so rather than it having to go to DED and then back to us and then from us back to DED, it goes to us first for approval then we send it on. And then if we approve it, they'll consider that grant request on its own merits, knowing that it's been vetted for its historic capacity. So we don't have any problems with it and are happy to support this.

HUNT: Thank you very much. Any questions from the committee? Seeing none, thank you for being here today. Next proponent for LB885. Welcome to your Urban Affairs Committee. Nice to see you.

LYNN REX: Thank you. Senator Hunt, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We, too, are here in support of this measure. As indicated by Senator Bolz, it's a technical cleanup of a consent calendar bill last year. We think it only makes sense to streamline this. And so I'd be happy to answer any questions you have and encourage you to advance the bill, so hopefully we can get it moving on.

HUNT: Thank you. Any questions from committee? Seeing none, thank you.

LYNN REX: Thanks so very much. Thank you.

HUNT: Any other proponents for LB885? Seeing none, any opponents? Anybody here in the neutral capacity? Seeing none, Senator Bolz has chosen to waive closing. We have a letter for the record of support from the Nebraska Department of Economic Development. And with that, I will close the hearing on LB885 and open the hearing on LB795, introduced by Senator Matt Hansen.

M. HANSEN: Thank you. Good afternoon, Vice Chair Hunt and fellow members of the Urban Affairs Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LB795, a bill that makes one small update

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to the Enterprise Zone Act. Enterprise zones consist of areas of economic distress designated by the Department of Economic Development for preference on various business incentive and grant programs. In order to qualify as an enterprise zone, an area has to demonstrate various measures of economic distress, including unemployment rate at at least double statewide unemployment as measured by the most recent census. LB795 simply allows for this designation to be used using data from the American Community Survey's five-year estimate because the 10-year decennial census no longer asks about unemployment. I would like to thank legal counsel for draft-- helping to prepare this bill and keeping the statutes up-to-date. With that, I'd close, and be happy if you have any questions.

HUNT: Thank you, Senator Hansen. Are there any questions from the committee? Seeing none on this one. First proponent of LB795. Welcome.

CHRISTY ABRAHAM: Thank you, Senator Hunt. My name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, I'm here representing the League of Nebraska Municipalities. We just want to reiterate what Senator Hansen said. You know, it's our understanding also that the census is no longer going to be collecting this unemployment data. So we need another source for which municipalities can rely when they're applying for these enterprise zones. So we're very grateful for this change and urge your support of it. Thank you so much.

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

BRIESE: Thank you. And thank you for being here.

CHRISTY ABRAHAM: Sure.

BRIESE: You say that some areas are not covered by the decennial census relative to unemployment?

CHRISTY ABRAHAM: It's my understanding, Senator Briese, and I apologize, I am not an expert. But the census no longer collects the unemployment data that it's necessary for the municipalities to apply for these. But the American Community Survey does collect that information. And I understand that that survey does a really great job and-- and anyway, it collects the information. Why am I trying to make a qualifier? Sorry, it does a good job. It collects the information. So we sort of need that other source in order to get to that data.

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BRIESE: In some situations, it might be the only source we have?

CHRISTY ABRAHAM: Yes.

BRIESE: OK, thank you.

CHRISTY ABRAHAM: Thank you, Senator.

HUNT: Thank you, Senator Briese. Any other questions? Seeing none, thank you.

CHRISTY ABRAHAM: Thank you.

HUNT: Any other proponents for LB795? Seeing none, is anybody here in opposition? Seeing none, anyone in the neutral capacity? Seeing none. Senator Hansen, would you like to close? He waives closing. We have no letters for the record, and so I will close the hearing on LB795. Next up, LB796 introduced, again, by Senator Hansen.

M. HANSEN: Good afternoon, Vice Chair Hunt and fellow members of the Urban Affairs Committee. My name is Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm before you today to introduce LB796, a bill that aims to update the process when there is a claim against the city of the primary class. This bill was brought to me by the city of Lincoln, and I note the city attorney's office will be testifying behind me. But let me provide a brief overview. During this past interim this committee introduced LR112, an interim study to examine statutes in Chapter 15, governing cities of the primary class, of which Lincoln is the only city at the moment. During this work, it was discovered that there were two separate groups of statutes in Chapter 15 regarding claims against the cities of the primary class that appear to be in conflict. LB796 would merge and clarify procedures under these two sets of statutes so that all claims against the cities of the primary class follow the same procedures. It was at the same time over the interim that the city of Lincoln att-- city of Lincoln attorney's office met with my office to discuss how the conflict between these two sets of statutes work on the ground. Basically, it seems that a certain type of contract claim is exempted from the appeals to district court. LB796 clarifies that these types of claims can be appealed to the district court after a final decision is made by the city council. LB796 also makes the change that when a claim against the city is appealed to the district court then the court should make a decision based on the record already presented to the local governing body or board, which is the

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city council. Allowing for-- usually the city council, excuse me. Allowing for a claimant to present new or different evidence at a court trial diminishes the findings of the city council, as they didn't get to see the new evidence and make a decision with that evidence. The court is clearly entitled to hear the appeal, but it should be with the same evidence the city council used to make their decision. Without this change, the cities are afraid that someone could withhold evidence until the appeal in district court, and they feel that the city council or the board should be able to consider the fact finders while the district court can just act like any other appellate court in determining law based on those facts. The system should be amenable to claimants since the city councils tend to be more open than courts in the evidence they allow. I know the city attorney's office and the State Bar Association are working behind the scenes to find agreement on this last issue in particular. With that, I'd be happy to stop there and take any questions from the committee.

HUNT: Thank you, Senator Hansen. Are there any questions from the committee? Seeing none, thank you.

M. HANSEN: Thank you.

HUNT: First proponent for LB796. Welcome.

CHRIS CONNOLLY: Thank you, Madam Chair, members of the committee. My name is Chris Connolly, C-h-r-i-s C-o-n-n-o-l-l-y, chief assistant city attorney for the city of Lincoln. Thank you for your time this afternoon. First, I'd like to thank Senator Hansen for bringing this bill forward. We really appreciate this. We are in the process of doing LB799, which we'll talk about here in a little bit. In this bill, we're trying to address some issues that should be considered separate from LB799. Specifically, this bill deals with the claims process for claims other than tort claims and appeals of those claims for cities of the primary class. As currently written, Section 15-841 calls for an appeal process in Sections 15-1201 to 15-1205 in the event that the claimant does not get satisfactory resolution of the claim. The bill would expand access to the courts by allowing claims that currently can't be brought under sections 15-1201 to 15-1205. The bill would also provide some clarity and certainty about how these cases are handled in the district court. However, we are aware the Nebraska State Bar Association has concerns with how the court hearing would be handled. The kind of evidence to be presented to the court is where the friction lies. We want to pervert-- preserve open access to

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the courts, but we would like to see more predictability in what to expect at a court hearing. To that end, we would like to sit down with the Bar Association and discuss the details of what evidence can be used in these hearings. We've had some contact with representatives of the Bar Association and believe that discussions can be fruitful here. We ask for some time to allow the relevant parties to get together to see if a compromise can be worked out. Thank you for your time, and I'll try to answer any questions you have.

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

BRIESE: Thank you. And thanks for being here, Mr. Connolly. Currently tort claims can be appealed?

CHRIS CONNOLLY: I'm sorry, what kind of claims?

BRIESE: Tort claims.

CHRIS CONNOLLY: Tort claims, they-- tort claims are handled differently. They will go through the Political Subdivisions Tort Claims Act, and so that's, that's not part of the process that we're talking about here.

BRIESE: OK.

HUNT: Any other questions?

CHRIS CONNOLLY: These generally involve other kinds of contract claims or, or other claims. There's a number of variety of claims, it could be assessments, it could be dog cases. There's a variety of cases that could, that this, this process applies to, although it's not used very often.

BRIESE: OK. Section 15-841 calls for an appeal process in Sections 15-1201 to 15-1205. There, there is an appeal process in place for certain types of claims?

CHRIS CONNOLLY: Correct. But if you go to 15-1201, it talks about how there's a-- you can do your appeal here except for claims in 15-840 to 15-842. And so it takes those back out again.

BRIESE: OK, thank you.

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HUNT: Thank you, Senator Briese. Any other questions from the committee? Seeing none, thank you for being here. Next proponent for LB796. Seeing none, any opponents for LB796? Welcome.

ANN POST: Thank you. Good afternoon, my name is Ann Post, I'm an attorney with Baylor Evnen Law Firm here in Lincoln. So that is at 1248 O Street, Suite 600. I'm here on behalf of the Nebraska Bar Association in opposition of LB796. The reason that we're here and have chosen to oppose this bill today is because of the effect that this bill is going to have on the average citizen. So let me walk you through the effect as we see it that this bill is going to have on the average citizen. Often there will be an action of a city council or the planning commission where the average-- the citizen gets notice, a letter, two weeks beforehand, maybe two weeks, assuming they actually get the notice right away. Sometimes it goes through a process to actually get to someone. Two weeks before them noticing-- giving them notice that the city council is going to take some sort of action and that there will be a public hearing where they can testify. So they get that notice, they look at that notice and they decide that they're going to go to the city council and they're gonna tell their story. They show up at the meeting and they're there and they have their five minutes to tell their story. They don't present witnesses, they don't take depositions beforehand, they don't get expert testimony. They don't know the legal words and phrases they should use to best frame their case before it goes in front of a judge. They have five minutes and they tell their story, like I get to do before you today. And so the problem is, is that under this bill, assuming that that decision goes against them, that five minutes is all they have. When they take that appeal to it-- when that decision goes against them and they want to further appeal that, they want to find some way to have more consideration of that decision, they're limited to those five minutes. They can take that, they can take that record to any attorney to help represent them. But after those five minutes, that's all they had. There's no chance to put any evidence into the record. And a judge is left looking at those five minutes of testimony where nothing was structured the way where I, as an attorney, would structure things to allow a judge to make a decision, to present the best case, to use those legal terms, and structure it in a way to show the effect that this decision had on my client and how it worked within the legal framework. So but that citizen under this, the judge is stuck to the record that, that was created and so that citizen is left with no other way to really address their issue. So this is why the bar as

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opposed to the bill as written today. We understand-- I understand that there has been discussions about sitting down with the city of Lincoln and discussing these concerns and working out a way to address them. And so we are, the bar is willing to do that and to sit down and talk about that. And so with that, that is our opposition. We're happy to be part of the process of this bill moving forward. Also, what was passed out to you is a letter from Bill Blake of Blake Austin law firm. He is a member of the Bar Association and has been an attorney in the real estate and municipal law context for 45 years and also served as former attorney of the city of Lincoln. He was unable to be here today, but asked that I pass out this letter which provides his testimony in opposition to this bill. So with that, I'd be happy to take any questions.

HUNT: Thank you very much, Ms. Post. Are there any questions from the committee? Senator Briese.

BRIESE: Thank you, Senator Hunt. Thank you for being here. So you're suggesting we should open up the fact-finding process in an appellate situation?

ANN POST: Yes. Currently under-- and I know that the city of Lincoln says that there is some confusion about when we open up the fact-finding process and when we don't. But what I'm saying is that those five minutes is not enough to give someone the same type of record that you would have from a trial, the same type of record that you would present to a judge, especially when you often have people who aren't aware that that's all the time they're going to get, that's the only record they can create. Remember, when you go in front of a city council to oppose a zoning decision, it's not a courtroom. You're not usually aware that you're gonna, later on gonna be stuck with that record in the same way you would be if it were a court proceeding. So you show up, you say your piece, the rules of evidence are much more liberal. But you only have five minutes. So there's just not the same chance to create the record. Nor is there, nor is the meeting structured to create the type of record you would create in a trial.

BRIESE: Thank you.

HUNT: Thank you. Any other questions? Seeing none, thank you for your testimony today. Is there anyone else here in opposition to LB796?

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Anyone here in the neutral capacity? Seeing none, Senator Hansen, you're invited to close on LB796.

M. HANSEN: Yes, thank you. I'll close real quick. So just to clarify, there's kind of two different-- there's five different sections and the opposition seems to be exclusively to Section 4. Sections 1 through 3, are just kind of correlating two section sets-- two different sets of statute to make sure the process is clear. I will say, I will say this kind of, kind of gets into this concept of what is an appeal. So, you know, if I had, if I had a court case in county court and I appealed, I don't necessarily get to introduce new evidence on an appellate court. And here we're kind of doing the same proxy, even though what is, where you appeal from the city council and then you have the appellate court is what is traditionally our trial court. And that's where it gets a little interesting. But as I said, people are interested in talking and maybe there is some, some clarity we could bring. So I'm happy to help and foster those discussions. With that, I will be happy to take any questions.

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

ARCH: I just have one quick question. I'm sure you saw that in the committee memo there's also some, a technical comment regarding the bill we're about to hear on the cleanup. That will be part of those discussions as well, if we have to harmonize those two things.

M. HANSEN: Yes. So, absolutely. So kind of the backstory here is this got brought as a separate bill because we thought it might be a bit too much just to put in 79 [SIC]. And as we saw, there was opposition, so we were probably correct in that assessment. And so we'll make sure it all lines up with LB799 in the end.

ARCH: Thanks.

HUNT: Thank you, Senator Arch. Any other questions from the committee? Seeing none, thank you, Senator Hansen.

M. HANSEN: Thank you.

HUNT: We have no letters for the record on the LB796, so I will close this hearing and we'll move on to LB799, which is an Urban Affairs

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Committee bill that will be introduced by our committee counsel, Trevor Fitzgerald. Welcome.

TREVOR FITZGERALD: I think I scared off half the room. Good afternoon, Vice Chairwoman Hunt and members of the Urban Affairs Committee. For the record, my name is Trevor Fitzgerald, that's T-r-e-v-o-r F-i-t-z-g-e-r-a-l-d, and I'm introducing LB799 on behalf of the committee. In 2015, the Urban Affairs Committee began a multi-year effort to update and modernize statutes governing the various classes of municipalities. Over the past few years, the committee has introduced bills to update statutes governing cities of the first class in Chapter 16, cities of the second class and villages in Chapter 17, and some but not all classes of municipalities in Chapter 19. In 2019, the committee introduced LR112, an interim study to examine statutes in Chapter 15 that govern cities of the primary class. Municipalities are classified in Nebraska into five different categories based off population. And as the committee just heard, the city of Lincoln is currently the only city of the primary class. LB799 is the work product of LR112 and would amend sections of statute in Chapter 15 to make a variety of cleanup changes. Because LB799 amends more than 160 separate sections, I will not review each individual change contained in the bill. There is a section-by-section summary in your materials. The changes can largely be grouped into 10 categories. First, the bill changes and corrects terminology. For example, changing "governing body" to "city council," "municipality" to "city," "primary class city" to "city of the primary class." Second, the bill changes subject verb agreement in a number of places, i.e. singular to plural or vice versa. Third, the bill clarifies references to cities' corporate limits and extraterritorial zoning jurisdiction or ETJ. Currently, statutes refer to the ETJ in several different ways. Some use the terminology of "extraterritorial zoning jurisdiction," some just use "zoning jurisdiction," and some use a lengthy reference to all property located in this case, for a city of the primary class, within a three-mile radius of city limits. Similar to how past cleanup bills have handled the issue, LB799 would change all references to the ETJ to use the term extraterritorial zoning jurisdiction and then amend Section 15-901 to define the default ETJ of a city of the primary class as the unincorporated area three miles beyond and adjacent to its corporate boundaries. Fourth, the bill clarifies references to legal newspapers. As the committee has found with previous cleanup bills, various sections of statute refer to the newspapers used for legal notices in different ways. Some say "located

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in the city," some say "published in the city," some say "of general circulation of the city." Additionally, some statutes specify that notice must be published in a "legal newspaper," while the others just specify "a newspaper." LB799 would use the same phrasing in all cases: Published for period X in a legal newspaper in or of general circulation in the city. The bill uses the term legal newspaper, since there is an existing statutory definition of legal newspaper. And according to the Nebraska Press Association a couple of years ago, every newspaper in the state of Nebraska, at least at that time, currently met that definition. Fifth, the bill corrects references to various city officials, clearly identifying the city council, city clerk, city attorney, et cetera. Sixth, the bill corrects gender references, typically replacing "his" with "his or her." Seventh, eighth and ninth, the bill corrects internal statutory references, eliminates a number of run-on sentences and harmonizes references to other statutory sections within Chapter 15. Finally, LB799 replaces or eliminates antiquated, obsolete, or unnecessary language in a number of places. Among the antiquated and archaic language eliminated under the bill are references to mule and oxen teams, telegraph poles, hitching posts and rails, huckstering, which I'm-- apparently is defined as promoting or selling something of a questionable value. So I guess it's your legal definition of a snake oil salesman. And then my favorite, of course: imprisonment at hard labor. The bill, bill also repeals potentially unconstitutional language regarding the desecration of the Sabbath day. While Sabbath desecration laws were found to be constitutional by the U.S. Supreme Court in 1961 if they were enacted for a secular purpose, a number of courts nationwide have struck down Sabbath desecration laws and ordinances because they were found to have a religious purpose or were found to be arbitrary, discriminatory, or unreasonable. And actually, following the Supreme Court decision in 1961, several Nebraska cities had their Sabbath desecration laws declared unconstitutional, including Grand Island, Omaha and Scottsbluff. And as a note, we repealed similar language for cities of the first class about three years ago. Lastly, the bill also outright repeals several sections of statute dealing with street railway companies. Apparently, in the early 1900s, when the city of Lincoln previously had a streetcar system, there was a fairly complex set of statutes governing the relationship between the city and the private companies that operated the street cars. Because these provisions are clearly antiquated and obsolete, LB799 with repeal all but one section of the street railway statutes and amend Section 15-729 to provide that as city of the primary class has general

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authority to authorize or permit the use of roads, streets, highways, alleys, and other public rights of way for street railway systems. Prior to the introduction of LB799, the bill was reviewed both by the League of Municipalities and, more importantly, by the city attorney and other city officials in the city of Lincoln. A copy of the draft bill was also shared with the Lincoln Independent Business Association, commonly known as LIBA. There are several individuals here to testify behind me, including the city of Lincoln and the League of Municipalities, but I would be happy to answer any questions the committee may have at this time.

HUNT: Thank you, Mr. Fitzgerald. Any questions from the committee? These are some of my favorite bills because the antiquated language ones are really--

TREVOR FITZGERALD: There's some real gems in there.

HUNT: Kind of brings some levity to the work that we do sometimes. So thank you very much, Mr. Fitzgerald. First proponent for LB799.

CHRIS CONNOLLY: Vice Chair.

HUNT: Welcome, sir.

CHRIS CONNOLLY: Members of the committee, again, my name is Chris, C-h-r-i-s, Connolly, C-o-n-n-o-l-l-y, chief assistant city attorney for the city of Lincoln. Thank you, again, for your time today. Before I get into why we are in support of LB799, I want to thank your legal counsel, Mr. Fitzgerald. He did an outstanding job working on this bill. Doing a cleanup bill is tedious and challenging. We know this because we do a cleanup bill for the Lincoln Municipal Code nearly every year. The work is tedious and challenging because every word and every phrase needs to be examined to determine if the language is still relevant, generally understood by the public, and enforceable. It gets my eyes spinning when I do this. But Mr. Fitzgerald does a great job with it. Deleting such terms as "huckstering" and "tippling shops" are pretty easy, but catching a term such as "proprietor" and replacing it with "owner" is more difficult because you need to see and understand the context of the surrounding language. The city of Lincoln supports LB799. Updating language and fixing small errors is important in maintaining a good comprehensive set of statutes. We have not requested, nor does this bill contain any substantive or controversial changes. All the changes are designed to make the

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statutes easier to understand and follow. Thank you for introducing this bill. If you have questions, I'll be happy to answer them.

HUNT: Thank you, Mr. Connolly. Any questions from the committee? Seeing none, appreciate you being here today. Next proponent for LB799. Welcome back.

CHRISTY ABRAHAM: Thank you, Senator Hunt. Members of the Urban Affairs Committee, my name is Christy Abraham, C-h-r-i-s-t-y A-b-r-a-h-a-m, here representing the League of Nebraska Municipalities. And I just want to echo that we are so thankful for this committee for doing all of the work to update all of the municipal statutes. I know it's been a multi-year project and they're in such much better shape now than when this committee started it. So thank you so much for doing that. And, and like your introducer and the other testifier, I was fascinated that you were giving up the ability to regulate huckstering in the city of Lincoln. But apparently that is no longer a problem and so it's being eliminated. But all the changes are great and the League is in strong support of this bill. So thanks again to this committee for all of their work.

HUNT: Thank you. Any questions from the committee? Seeing none, appreciate it.

CHRISTY ABRAHAM: Thanks so much.

HUNT: Next proponent LB799. Seeing none, any opponents? Any fans of huckstering? Anybody here in the neutral capacity? All right. We have no letters for the record. Legal counsel waives closing. And with that, I will close the hearing on LB799 and close this public hearing today. Thank you all for coming.