

showed a consistent practice in the State of Nebraska of broad base voter representation by allowing individuals other than residential ratepayers the right to vote for directors. After the 235 study was completed, the Nebraska Supreme Court decided a case involving the McCook Public Power District. This was the Supreme Court's first interpretation of several chartered territory statutes and substantially differed from what had been the historical practice of public power districts in establishing chartered territory. Due to that decision, I believe it is in the best interests of the citizens of Nebraska to enact LB 949 in order to clearly provide that public power districts may organize their chartered territory to provide broad base voter representation which has been historically accepted in Nebraska and in order to assure a reasonable process for administering elections. On December 6, 1984, the Nebraska Power Review Board, in response to a matter before it involving the chartered territory of Nebraska Public Power District, adopted a resolution suggesting that either the Legislature or the power industry should consider more comprehensive territory for certain public power districts and in particular Nebraska Public Power District because NPPD's operations are so complex and have such a significant impact on so many communities and counties. The Power Review Board noted that electrical energy plays such an important part in Nebraska's future that the base of people who elect directors should be as broad as possible. LB 949 will establish two categories of public power districts. First, those serving more than 50 counties and, second, those serving 50 counties or less. Power districts engaged in the operation of electric generation, transmission or distribution facilities or combination thereof in 50 counties or less will continue to include at a minimum their operating territory and may include other areas as may be authorized. LB 949 will expressly authorize but not require such districts to exercise limited discretion to include or exclude all municipalities which have a population of less than 1,500, which are within a county where such district operates and provides electric service but are not otherwise in such district's "operating area". I think it is important to point out that in the final analysis the chartered territory of each public power district is subject to approval by the Nebraska Power Review Board. On February 28, 1986, the Attorney General's Office provided an opinion regarding certain proposed amendments to LB 949 which have now been deleted. There is also an inference in the Attorney General's Opinion that distinguishing between 50 counties and 50 counties or less is unconstitutionally arbitrary. However, in the Wittler v. Baumgartner case in 1966,